

Queensland



# PETROLEUM ACT 1923

**Reprinted as in force on 17 August 1999  
(includes amendments up to Act No. 15 of 1999)**

**Warning—see last endnote for uncommenced amendments**

**Reprint No. 4A**

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# Information about this reprint

This Act is reprinted as at 17 August 1999. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

Queensland



**PETROLEUM ACT 1923**

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# PETROLEUM ACT 1923

[as amended by all amendments that commenced on or before 17 August 1999]

**An Act to make better provision for encouraging and regulating the mining for petroleum and natural gas in the State and the conveying of petroleum and natural gas, wherever recovered**

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Petroleum Act 1923*.

### Definitions

2. In this Act—

“**access**”, to a facility, means the right to a service provided by the facility, and includes the right to have the facility connected to another facility.

“**access agreement**”, for a facility, means a written agreement between a facility owner and a facility user, or between facility users, for access to the facility.

“**access dispute**” see section 129.<sup>1</sup>

“**access principles**”, for a facility, means—

- (a) the principles for access to the facility—
  - (i) approved under section 70A(3)(a)(i) or 112(2); or
  - (ii) decided under sections 109(3) or 110(3); or

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<sup>1</sup> Section 129 (What is an access dispute)

*Petroleum Act 1923*

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- (b) if the access principles have been—
- (i) reviewed under section 113—the new access principles approved under section 112(2) or decided under section 113(3); or
  - (ii) amended under part 8, division 3A—the amended access principles approved under section 114A or 114B.

**“access provider”**, for a facility, means an owner or user of the facility who has given, or is able to give, someone else a capacity entitlement under an access agreement for the facility.

**“approved arbitrator”** means an arbitrator approved by the Minister.<sup>2</sup>

**“associated facility”** means a petroleum facility (other than a pipeline) used, or proposed to be used, in association with a pipeline.

**“authority to prospect”** means an authority to prospect under this Act.<sup>3</sup>

**“award”** has the same meaning as in the *Commercial Arbitration Act 1990*.

**“barrel”**, when used quantitatively in relation to petroleum, means a container of a capacity of 34.9726 imp gal at 60°F.

**“capacity entitlement”** means capacity available to a facility user under an access agreement.

**“casinghead petroleum spirit”** means any liquid hydrocarbons obtained from natural gas by separation or by any chemical or physical process.

**“corporation sole”** means the corporation sole under this Act.<sup>4</sup>

**“crude oil”** means petroleum oil in its natural state before it has been refined or otherwise treated but from which water and other foreign substances may have been extracted.

**“developable capacity”**, of a facility, means the amount by which the facility’s nominal capacity is likely to increase if the facility owner makes economically and technically feasible changes to the facility’s specified configuration.

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<sup>2</sup> See section 130 (Approved arbitrators).

<sup>3</sup> See section 18 (Authority to prospect).

<sup>4</sup> See section 11 (Incorporation of Minister).

“**drilling**” means drilling or boring.

“**entry permission**” see section 67.<sup>5</sup>

“**executive officer**”, of a corporation, means a person who is concerned with or takes part in the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

“**facility**” means—

- (a) a licensed pipeline; or
- (b) a pipeline owned by the corporation sole; or
- (c) a proposed pipeline for which—
  - (i) an application for a pipeline licence has been made; or
  - (ii) there are access principles; or
- (d) an associated facility declared under a regulation to be a facility for this Act;

but does not include a pipeline declared under a regulation not to be a facility for this Act.

“**facility owner**”, for a facility, includes a person (other than the owner) who operates the facility.

“**facility user**”, for a facility, means a person who has access to the facility under an access agreement.

“**indicative access conditions**” means conditions that must be in an access agreement for a facility.<sup>6</sup>

“**indicative tariff**”, for a facility, means the basic tariff for the facility.

“**land**” includes land covered by water, and whether by sea or otherwise.

“**lease**” means a petroleum lease granted under this Act.

“**lessee**” means the holder of a petroleum lease.

“**licence**” means a pipeline licence.

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<sup>5</sup> Section 67 (Permission to enter land)

<sup>6</sup> See section 112 (Access principles—approving or deciding).

*Petroleum Act 1923*

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**“licensee”** means the holder of a licence.

**“mark the land”** means mark the land covered by a permit by firmly fixing in the ground a substantial post or monument set in an L trench at each angle or corner.

**“natural gas”** means gas consisting primarily of hydrocarbons, and obtained from boreholes or from crude oil.

**“nominal capacity”** means a facility’s maximum practical throughput under a specified configuration.

**“non-discriminatory”** see section 4.<sup>7</sup>

**“occupier”** means the person in actual occupation of any private land or improved land, or, if there is no person in actual occupation, the person entitled to possession thereof.

**“on”** land includes within, under and over the land.

**“payable”**, as applied to petroleum, means petroleum of such quantity and quality that it can under ordinary circumstances be won with profit.

**“permit”** means a prospecting petroleum permit under this Act, and, in sections 35 and 36,<sup>8</sup> includes an authority to prospect under this Act.

**“permittee”** means the holder of a permit.

**“petroleum”** means any—

- (a) naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state; or
- (b) naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) naturally occurring mixture of 1 or more hydrocarbons, whether in a gaseous, liquid, or solid state, and 1 or more of the following—
  - (i) hydrogen sulphide;
  - (ii) nitrogen;

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<sup>7</sup> Section 4 (Meaning of “non-discriminatory”)

<sup>8</sup> Sections 35 (Rights to water etc.) and 36 (Private land—compensation before commencement of drilling)

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(iii) helium;

(iv) carbon dioxide;

and includes any petroleum defined by paragraphs (a) to (c) that has been returned to a natural reservoir, but does not include, and is hereby declared never did include—

(d) shale from which mineral oil may be extracted or produced;

(e) mineral oil extracted or produced from shale or coal or other rock by some chemical or thermal process;

(f) hydrocarbons and other substances or matter occurring in association with shale or coal and necessarily mined, extracted, produced or released by or in connection with mining for shale or coal or the extraction or production of mineral oil therefrom.

**“Petroleum Advisory Board”** or **“board”** means the Petroleum Advisory Board as and when constituted under this Act.

**“petroleum deposits”** means the petroleum-producing or petroleum-bearing sands or strata.

**“pipeline”** means the whole or part of a pipe or a system of pipes for conveying petroleum, wherever recovered, and all ancillary equipment and works connected therewith, including flow lines from wells, gathering lines and main lines and installations in connection therewith such as tanks, reservoirs, pumps, racks and loading facilities, structures supporting the line, pump houses, and apparatus to afford protection against corrosion, but does not include flare lines and similar pipelines at wells being drilled for petroleum.

**“pipeline licence”** see section 69.<sup>9</sup>

**“private land”** means land other than unallocated State land.

**“proposed facility user”** see section 5.<sup>10</sup>

**“refinery permission”** see section 66.<sup>11</sup>

**“related corporation”** has the same meaning as in the Corporations Law.

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<sup>9</sup> Section 69 (Pipeline licences)

<sup>10</sup> Section 5 (Meaning of “proposed facility user”)

<sup>11</sup> Section 66 (Oil refineries)

**“representative”** means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

**“review event”** means—

- (a) for a pipeline licensed before 11 March 1995—a day or event stated in the licence (or, if no day or event is stated, declared under a regulation) to be a review event for the pipeline; or
- (b) for a pipeline licensed on or after 11 March 1995—a day or event stated in the licence as a review event for the pipeline; or
- (c) for a pipeline owned by the corporation sole—a day or event declared under a regulation to be a review event for the pipeline; or
- (d) for an associated facility—a day or event declared under a regulation to be a review event for the facility.

**“shared technical information”**, for a facility, means information it is necessary for an access provider to give to someone else for the facility’s safe, efficient and reliable operation.

**“spare capacity”** see section 6.<sup>12</sup>

**“specified configuration”** means—

- (a) for a licensed pipeline—a configuration specified in the licence (or, if no configuration is specified, declared under a regulation); or
- (b) for another facility—a configuration declared under a regulation.

**“state of mind”**, of a person, includes—

- (a) the person’s knowledge, intention, opinion, belief or purpose; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

**“sublease”**, for a lease over land covered by a unitisation arrangement, means a sublease of all or part of—

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<sup>12</sup> Section 6 (Meaning of “spare capacity”)



- (a) the leased land; or
- (b) petroleum produced under the lease.

**“unallocated State land”** has the same meaning as in the *Land Act 1994*.

**“unitisation arrangement”** means an arrangement among lessees, acceptable to the Minister, for—

- (a) ordered production and sharing of petroleum from land covered by the leases; and
- (b) apportionment of entitlements.

### **Words and expressions used in Mineral Resources Act**

**3.** Words and expressions used in the *Mineral Resources Act 1989* have the same respective meanings in this Act.

#### **Meaning of “non-discriminatory”**

**4.(1)** Information about access to a facility is given to a person on a **“non-discriminatory”** basis for this Act if each person given information is given substantially the same information about—

- (a) the access principles for the facility; and
- (b) the spare and developable capacity of the person giving the information.

**(2)** Information is substantially the same for subsection (1) if a person given different information will not be disadvantaged merely because of the difference.

**(3)** Also, information given to a person about spare or developable capacity is substantially the same for subsection (1) even though the capacity has changed since someone else was given the information.

#### **Meaning of “proposed facility user”**

**5.(1)** A person who gives an access provider for a facility a written notice requiring the access provider to start negotiations with the person, within a stated reasonable time, for access to the facility’s spare or developable capacity is a **“proposed facility user”** for the facility.

(2) Also, a facility user for the facility who gives an access provider for the facility a written notice requiring the access provider to start negotiations with the person, within a stated reasonable time, for continuing or increasing the facility user's capacity entitlement is a **“proposed facility user”** for the facility.

### **Meaning of “spare capacity”**

**6.(1)** At a particular time, an access provider for a facility has **“spare capacity”** for the facility if—

- (a) for a facility owner—the facility's nominal capacity is not fully used; or
- (b) for a facility user—the facility user's capacity entitlement is not being fully used.

(2) However, **“spare capacity”** does not include—

- (a) capacity available to someone else under—
  - (i) an option under an agreement; or
  - (ii) an access agreement for the facility; or
  - (iii) an award that is to be given effect for the facility; or
- (b) capacity that will be available to someone else under an access agreement for the facility that has not been signed; or
- (c) for a facility owner—capacity the facility owner requires for operational, or the owner's, purposes; or
- (d) for a facility user—capacity the facility user requires for the user's purposes.

### **Application of Act**

**7.(1)** Nothing in the *Explosives Act 1999* shall apply to the storage and use of explosives in connection with the exploration for and production of petroleum under and subject to this Act.

(2) To the extent necessary to give operation and effect to the provisions of the *Amoco Australia Pty. Limited Agreement Act 1961*, and the agreement to which that Act relates, and to ensure that no provision of this

Act shall affect or prejudice in any way that Act or that agreement, it is hereby declared that every provision of this Act shall be read subject to the *Amoco Australia Pty. Limited Agreement Act 1961*, and the agreement to which that Act relates.

### **Act applies out to coastal waters of the State**

**7A.** This Act applies to land and land covered by water that is seaward of the coastline of the State at mean low water and landward of the inner limit of the territorial sea of Australia.

## **PART 2—PETROLEUM ADVISORY BOARD**

### **Appointment of Petroleum Advisory Board**

**8.(1)** For the purpose of making any inquiry or investigation which may be deemed necessary, or for such other purposes as the Governor in Council may think fit, it shall be lawful for the Governor in Council from time to time to appoint a board, to be called the Petroleum Advisory Board, consisting of such persons as the Governor in Council may approve.

**(2)** In the event of such board being constituted, regulations may be made prescribing the tenure of office of the members of such board, the duties and responsibilities thereof, the regulation of meetings, proceedings and the conduct of business of such board, the appointment of a secretary or other officers, if necessary, and generally such other matters or things which may be considered necessary or expedient so to prescribe.

**(3)** For the purpose of any such inquiry or investigation the board, if and when so constituted, and each and every member thereof, shall have the same powers, authorities, and protection as a commission under the *Commissions of Inquiry Act 1950*.

## **PART 3—RIGHTS AND POWERS OF THE CROWN**

### **Petroleum the property of the Crown**

9. Notwithstanding anything to the contrary contained in any Act or in any grant, instrument of title, or other document, it is hereby declared that petroleum on or below the surface of all land in Queensland, whether alienated in fee simple or not so alienated from the Crown, and if so alienated whensoever alienated, is and always has been the property of the Crown.

### **Reservations in grants**

10. All grants, leases, licences, and other instruments of tenure under any Act relating to unallocated State land, other than permits and leases under this Act, issued after the passing of this Act shall contain a reservation of all petroleum on or below the surface of the land comprised therein, and also a reservation of all rights of access for the purpose of searching for and for the operations of obtaining petroleum in any part of the land, and all rights of way for access and for pipelines and other purposes requisite for obtaining and conveying petroleum in the event of petroleum being obtained in any part of the land.

### **Incorporation of Minister**

11.(1) The corporate entity established by the *Petroleum Act 1923*, section 54A<sup>13</sup> is hereby preserved and continued in existence as a corporation sole constituted by the Minister under the name and style the secretary for mines.

(2) The corporation sole—

- (a) has perpetual succession and an official seal;
- (b) is capable in law of suing and being sued;

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<sup>13</sup> The *Petroleum Act 1923*, section 54A (Power of Minister to construct etc. pipelines) was omitted and replaced by the *Petroleum Amendment Act 1988*, section 13.

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- (c) has power to take, acquire, hold, sell, lease, let and exchange land, goods and property of every description;
- (d) has power to make and perform contracts, to employ agents and servants and to do such other acts as are necessary or convenient to the proper discharge and performance of the functions, powers and duties committed to it by this Act;

and shall be deemed always to have had such capacity and powers.

(3) In the discharge and performance of its functions, powers and duties under this Act the corporation sole represents the Crown.

(4) All courts, judges and persons acting in a judicial capacity shall take judicial notice of the seal of the corporation sole affixed to any document and, until the contrary is proved, shall presume that the seal has been duly affixed.

### **General authority of corporation sole**

**12.(1)** The corporation sole is and shall be deemed always to have been authorised—

- (a) to search for, recover, acquire and refine petroleum;
- (b) to dispose of petroleum and petroleum products;
- (c) to construct, own, maintain and operate pipelines and oil refineries;
- (d) to distribute petroleum and petroleum products;
- (e) to do all acts necessary or convenient to the effectual exercise of any of the foregoing authorities.

(2) It is not competent to the corporation sole to exercise an authority referred to in subsection (1)(a) to (d) until it has obtained the approval of the Governor in Council to the exercise of that authority.

(3) Where an approval relates to the construction, maintenance or operation of a pipeline or an oil refinery, the approval shall include a description of the lands on, over or under which the pipeline or refinery is to be situated sufficient in the opinion of the Governor in Council to identify those lands.

(4) Such description may be expressed by means of or be supplemented by reference to a plan or map of the lands concerned.

(5) The rights, powers, authorities and entitlements had by the corporation sole under this Act may be exercised by it or on its behalf on, over or under any land in Queensland or within the coastal waters of the State (within the meaning of the *Coastal Waters (State Powers) Act 1980* (Cwlth)).

### **Corporation sole to have powers etc. of holder of authority etc.**

**13.(1)** Where the corporation sole engages or proposes to engage in an activity for which any other person so engaging would be required by this Act to hold an authority to prospect or a lease or licence then, in addition to all rights, powers, authorities and entitlements expressly conferred on it by this Act the corporation sole has and may exercise for the purpose of so engaging all the rights, powers, authorities and entitlements conferred by this Act on the holder of an authority to prospect or, as the case may be, of a lease or licence in relation to such activity as if—

- (a) the corporation sole were that holder; and
- (b) the land on, over or under which the activity is or is to be engaged in were land specified in the authority to prospect, lease or, as the case may be, the licence.

(2) Where the rights, powers, authorities and entitlements of a holder of an authority to prospect or of a lease or licence in relation to any activity are subject to any prescribed strictures or conditions, the corporation sole, in the exercise of any of those rights, powers, authorities or entitlements, shall be subject to and shall comply with such strictures and conditions.

(3) However, in no case shall the corporation sole be liable—

- (a) to pay royalty; or
- (b) to pay compensation to the Crown; or
- (c) to suffer any penalty or forfeiture or to be prosecuted for an offence against this Act; or

- (d) to have any authority conferred on it by this Act withdrawn otherwise than by an Act; or
- (e) to act as a common carrier in relation to a pipeline.

### **Entry by corporation sole**

**14.(1)** For the purpose of searching for or recovering petroleum the corporation sole, by its agents and servants, may enter upon and occupy temporarily or permanently—

- (a) unallocated State land;
- (b) land held from the Crown on any tenure or used under licence from the Crown.

**(2)** The authority conferred by subsection (1) includes authority to be accompanied in the exercise thereof by such persons, animals, vehicles, plant and equipment as are necessary or desirable to attain the object of the entry.

**(3)** Nothing in this section shall be taken to authorise entry by the corporation sole upon land that is subject to a subsisting authority to prospect or lease granted under this Act, except with the agreement of the holder for the time being of the authority or lease.

**(4)** Compensation shall not be payable in respect of entry or occupation (pursuant to subsection (1)) upon or of land held or used under an instrument of title or licence that reserves to the Crown petroleum in or on the land, except on account of permanent deprivation of possession of such portion of the surface thereof and of improvements on such portion as is required by the corporation sole for any purpose other than the actual searching for or recovering petroleum and the exercise of surface rights of ingress to and egress from the site of such activity.

### **Extent of liability of corporation sole**

**15.(1)** The corporation sole shall incur no liability in law to any person on account of loss or injury caused by anything done or omitted by the corporation sole or its servants in connection with the exercise of any of the rights, powers, authorities and entitlements of the corporation sole unless negligence on the part of the corporation sole or its servants is proved.

(2) A person shall not be entitled to recover against the corporation sole or its servants damages in respect of loss or injury caused by—

- (a) anything done or omitted by the corporation sole or its servants for the purpose of discharging or performing any of the functions, authorities, powers or duties of the corporation sole under this Act; or
- (b) anything arising out of employment by the corporation sole for the purpose of discharging or performing any of the functions, authorities, powers or duties of the corporation sole under this Act;

unless—

- (c) in the case of injury to the person—when so required by the corporation sole, the person alleged to be injured submits to examination by a legally qualified medical practitioner nominated by the corporation sole and furnishes to the medical practitioner all information that the medical practitioner requires to enable the medical practitioner to assess the full extent and nature of the injury; or
- (d) in the case of loss of property—when so required by the corporation sole, the plaintiff permits a person nominated by the corporation sole to have access to and to inspect the property in respect of which loss is alleged to have been suffered and furnishes to that person all facilities and information that the person requires to enable the person to assess the full extent and nature of the loss and the amount (if any) expended or required to be expended in repairing the property.

(3) Noncompliance with the provisions of subsection (2) shall not prejudice the recovery of damages if the court that is hearing the action for damages finds that there was reasonable excuse for the noncompliance.

(4) The legally qualified medical practitioner to whose examination a person is required by subsection (2)(c) to submit is authorised to make all relevant examinations of that person, to carry out all relevant tests on that person and to take all relevant specimens from that person that the medical practitioner requires to enable the medical practitioner to assess the full extent and nature of the injury to that person.



**Land resumptions**

**16.(1)** The Minister may cause land proposed to be taken for any purpose of this Act to be inspected by such persons as the Minister thinks fit.

**(2)** A person authorised by the Minister to inspect land proposed to be taken is authorised to enter upon the land and to carry out thereon such inspection or other activity as is necessary or expedient to that person's reporting on the land's suitability for the purpose for which it is proposed to be taken.

**(3)** In assessing compensation payable to any person on account of a taking of land for any purpose of this Act no allowance shall be made for petroleum known or supposed to be in or on the land.

**PART 4—PROSPECTING PERMITS AND LEASES****Permits and leases**

**17.(1)** Subject to this Act—

- (a) the Minister may issue prospecting permits to any extent in each case not exceeding 520 km<sup>2</sup> to be covered by 1 permit; and
- (b) the Governor in Council may grant petroleum leases to any extent in each case not exceeding 260 km<sup>2</sup> demised by 1 lease;

to qualified persons covering or comprising any land within Queensland which is not excluded from permit or lease under a regulation made for the purposes of subsection (2).

**(2)** The Governor in Council may, by regulation, declare an area in respect of which a permit or lease under this Act must not be granted.

**Authority to prospect**

**18.(1)** Any person may apply to the Minister for an authority to prospect on any land and the Minister may grant such authority.

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(2) The area to be held under such authority, the terms, rent, and the conditions, provisions, and stipulations as to labour and other matters shall be fixed by the Minister.

(3) Failure to comply with any conditions, provisions, and stipulations so fixed shall render the authority liable to be cancelled by the Minister.

(4) Such authority shall entitle the holder, upon payment in advance of the rent fixed as aforesaid, and survey fee if necessary, to undertake exploration or prospecting, or geological or geological and geophysical investigation or testing, of favourable geological structures, or generally to do all things in respect of the search for and discovery of petroleum or for the due development of the industry during the term of such authority.

(5) Compensation under this Act shall be payable by the holder of an authority to prospect on any private land or improved land before the holder enters thereon, and for the purpose of determining such compensation all of the provisions of this Act relating to the determination (whether by agreement or by the Wardens Court) of the compensation payable by a permittee or lessee shall, *mutatis mutandis*, apply and extend.

(6) On discovery of payable deposits of petroleum the holder of the authority shall report, within 14 days from the date of such discovery, to the Minister on the nature of the discovery.

(7) The Minister may thereupon call upon the holder of the authority to apply for a lease of the land or such part thereof as the Minister may deem advisable or to continue prospecting operations.

(8) Notwithstanding that pursuant to a subsisting proclamation under section 17(2), any land an authority to prospect whereon has been granted, is proclaimed as being not open to permit or lease—

- (a) upon application by the holder of the authority to prospect, a permit may be granted in respect of such land or part thereof; or
- (b) upon the holder of the authority declaring that payable deposits of petroleum have been discovered within the limits of such land or any part thereof and making application in that behalf, a lease may be granted in respect of such land or part thereof.

**Variation of authority to prospect**

**19.(1)** The Minister may pursuant to agreement with the holder of an authority to prospect, from time to time vary any condition, provision or stipulation as specified in the authority whereupon, until a further variation is duly made, the condition, provision or stipulation as so varied is taken to be the condition, provision or stipulation specified in the authority.

**(2)** A copy of every variation is to be given to the holder of the authority.

**Renewal of authority to prospect**

**20.(1)** Upon application of the holder of an authority to prospect made to the Minister at least 30 days (or such shorter period as the Minister in a particular case permits) prior to the expiration of the term of the authority current at the material time, the Minister may from time to time grant a renewal of the authority for such term and upon such rental, conditions, provisions and stipulations as the Minister determines.

**(2)** Where an application for renewal of an authority to prospect is duly made by the holder but the application has not been disposed of by the Minister before the date on which the term of the authority then current would, but for this subsection, have expired (the “**expiry date**”) the authority, subject to subsection (3), continues in force until the application is disposed of by the Minister, who may grant a renewal of it notwithstanding that the expiry date has passed.

**(3)** The provisions of this Act applicable to and in respect of the authority to prospect and the holder thereof apply to and in respect of the authority and its holder during the period the authority is continued in force under subsection (2).

**Surrender of authority to prospect**

**21.(1)** The holder of an authority to prospect may at any time surrender the holder’s interest in an authority to prospect or any part of the land comprising the authority to prospect but a surrender in respect of part of the land comprising an authority to prospect may only be surrendered if that part can be identified from the land comprising the balance of the authority to prospect by the same or similar means whereby the land comprising the authority to prospect is described and identified by the authority to prospect.

(2) Where an authority to prospect is surrendered in respect of part only of the land comprising the authority to prospect, the authority to prospect is to be amended by excising that part and otherwise as may be required to conform with this Act and the authority to prospect continues in respect of the balance of the area.

(3) In the case of a surrender of an authority to prospect (in whole or in part) all adjustments between the Crown and the holder in respect of the payment of rental, fees or other moneys are at the discretion of the Minister who, for this purpose, may demand of the holder such sums as the Minister specifies and recover the same by action in the Wardens Court as a debt due to the Crown.

(4) Where the purpose of the holder's surrender of an interest in the whole or part of the land comprising an authority to prospect is to be granted a new authority to prospect over land that includes or is included in the authority to prospect or part surrendered, the holder may continue to carry on prospecting operations on or in the land included in the authority to prospect or part surrendered subject to and in accordance with the authority to prospect, as if that authority to prospect continued to relate to that land or part thereof until the application for a new authority to prospect is granted or refused by the Minister (whichever event is the first to occur) and in the event of the application being refused the surrender is to be taken to be void and the authority to prospect, which but for this provision would have been affected thereby, revives in respect of the authority to prospect or part purportedly surrendered and continues for the balance of its term then outstanding as if the surrender had never been effected.

### **Cancellation of authority to prospect**

22. If the holder of an authority to prospect fails to pay the rental or any other moneys payable thereunder or in respect thereof by the due date for payment or fails to comply with any stipulation or condition specified in the authority and by the holder to be observed or performed, the Minister may, by writing directed to the holder, cancel the authority to prospect and upon receipt of the writing by the holder the authority terminates.

**Application by holder of authority to prospect for authority to extend to others**

**23.(1)** Upon application of the holder of an authority to prospect and upon the applicant complying with the provisions of this Act relating to such an application, the Minister may, in the Minister's absolute discretion and upon such stipulations and conditions as the Minister determines, approve that all the entitlements of the holder under this Act with respect to the whole of the land the subject of the authority to prospect shall vest in—

- (a) another person or other persons; or
- (b) the holder and another person or other persons;

specified in the application.

**(2)** An application referred to in subsection (1) shall be made in the prescribed form to the Minister and shall be signed by all persons in whom the entitlements of the holder of the authority to prospect shall vest if the application is approved and shall be accompanied by the authority to prospect in question.

**(3)** Upon giving his or her approval to an application made under subsection (1), the Minister shall cause particulars of the vesting of the entitlements of the holder of the authority to prospect to be entered in the appropriate register and on the authority to prospect.

**(4)** Upon the vesting of the entitlements of the holder of an authority to prospect under this section, the authority to prospect is not thereby terminated and the person or persons in whom the entitlements are vested become the holder of the authority to prospect.

**Qualification of permittees and lessees**

**24.** The following persons shall be qualified to apply for and hold a permit or lease, namely—

- (a) any natural person;
- (b) any company;
- (c) any lawful association of the abovementioned persons.

**Limit to number of permits and leases**

**25.(1)** For the purposes of this section the State shall be deemed to be divided into 3 divisions by the 20th and 24th parallels of latitude.

**(2)** A person shall not be entitled to apply for, acquire, or hold in any one division of the State a number of leases or permits, or an aggregated number of leases and permits, in excess of 5 at any time when the number of permits or leases, or the aggregated number of permits and leases, held by the person in any other division of the State exceeds 5.

**(3)** Save as prescribed by subsection (2) the number of permits or leases which any person may apply for, acquire, and hold shall not be limited.

**(4)** Where 1 company or corporation is a member of, or holds any beneficial interest in, another company or corporation, then this section shall apply to each such company or corporation as if it held in its own right all leases or permits, or leases and permits held by them respectively.

**(5)** All leases acquired by the original permittee within the area comprised in the original permittee's permit and all subdivisions of such leases shall, for the purposes of this section, be deemed to be one lease.

**PART 5—PROVISIONS RELATING TO PERMITS****Particulars of application for permit**

**26.(1)** The application for a permit shall state—

- (a) the applicant's full name, address, and occupation;
- (b) that the applicant is a qualified person as hereinbefore provided;
- (c) full details of all rights, title, and interest which the applicant has or holds (whether directly or indirectly or whether as a shareholder or stockholder of any company or corporation or in any other capacity whatsoever) in any other permits or leases under this Act, disclosing the full nature and extent of every such right, title, and interest.

(2) The application shall be accompanied by a plan and description locating the land applied for in a reasonably compact form and according to the legal land surveys, if the land has been surveyed; or, if the land is an unsurveyed area, then in an approximately rectangular block the length of which shall not exceed  $2\frac{1}{2}$  times its width.

(3) Lands which are not contiguous may be included in 1 application where conditions are such that because of any prior disposition or by reason of any apparently unfavourable geological structures or conditions a reasonable area of contiguous land is not available.

(4) Where the land is unsurveyed, if deemed necessary a survey more fully identifying the land may be required before the permit is granted.

(5) The application shall be lodged with the nearest warden, addressed to the Minister, and shall, unless excused by the Minister, be accompanied by 3 references signed by persons of good repute as to the applicant's business and good financial standing.

(6) The applicant shall pay to the warden, when lodging the application, a sum equal to 40c for every square kilometre of land or part thereof applied for, which sum if the permit is granted shall be applied in and towards the first year's rent or, if the permit is refused or a lesser area than is applied for is granted under the permit, shall be returned to the applicant wholly or proportionately as the case may require.

(7) Before a permit is granted by the Minister the applicant shall deposit with the Minister a sum of not less than \$2 000 as security for compliance by the applicant with this Act and with the conditions of the permit and for the protection of the interests of owners and occupiers of such improved land or private land (if any) as may be included in the area applied for.

(8) The amount of the deposit may be increased by the Minister in any case where in the Minister's opinion the circumstances warrant an increase.

### **Warden to report**

27. On receipt of an application the warden shall forward to the Minister the application, references, and other prescribed documents together with the warden's report thereon.

**Action by Minister**

**28.(1)** On receipt of the application, documents, and report from the warden, the Minister shall deal with the application.

**(2)** Prior to dealing with the application the Minister may require such geological or other information and opinions concerning the land comprised in such application as the Minister deems necessary.

**(3)** The Minister may, in the Minister's discretion, refuse any application for a permit, or may approve of the same either in its entirety or in part and on such terms and conditions as the facts appear to the Minister to warrant.

**(4)** Upon approval by the Minister of the application, or upon its being amended to the satisfaction of the Minister and approved in its amended form, the Minister may grant a prospecting permit under this Act to such applicant as appears to the Minister to be entitled thereto.

**Form of permit**

**29.(1)** Every permit shall be in the form prescribed, with such variations as the Minister may in special cases require, and shall confer upon the permittee the exclusive right to prospect for and obtain petroleum, and for no other purpose, upon and under the land covered thereby, for a period of 2 years or such extended period as may be granted as hereinafter provided, provided that the permittee duly complies with this Act and with the terms and conditions of the permit.

**(2)** The period in respect of the permit shall commence on the first day of that month which next follows the day on which the application shall have been lodged with the warden.

**Extension of permit**

**30.(1)** If for any good reason the permittee is unable with the exercise of reasonable diligence to test the land within 2 years, application for an extension for a further period not exceeding 2 years may be filed within the currency of the permit.

**(2)** Such application shall be accompanied by satisfactory evidence on oath as to the causes that make such extension necessary and as to what efforts have been made to comply with the conditions of the permit.



(3) The application for extension shall be addressed to the Minister and filed in the office of the nearest warden or with the chief executive.

(4) The Minister may, if satisfied that good reasons have been shown for the extension of the permit, extend the permit for such time not exceeding a further period of 2 years as the Minister thinks proper and upon such terms and conditions as the Minister thinks proper.

(5) However, the Minister may, upon application as provided in the case of an extension in the first instance and if satisfied that good reasons have been shown for a further extension of the permit, extend the permit for such further period not exceeding 2 years as the Minister thinks proper and upon such terms and conditions as the Minister thinks proper.

(6) In addition, in any case in which the term of a permit has been extended pursuant to the provisions of this section the Minister may, if in the Minister's opinion payable deposits of petroleum have been discovered, require the permittee to apply for the area comprised in the permit or a part thereof as a lease, and the requirement of the Minister shall be obeyed accordingly.

(7) All the provisions of this Act relating to permits shall apply to the permit as so extended, save and except such of them as have already been completely fulfilled by the permittee.

### **Marking land**

**31.** The permittee shall, within 90 days from the commencement of the period of the permit as hereinbefore prescribed, mark the land so that the boundaries can be readily traced on the ground, and shall post in a conspicuous place upon the land a notice setting forth that such permit has been granted, and a description of the land and the area covered thereby.

### **Rent**

**32.(1)** The permittee shall pay annually in advance by way of rent in respect of the permit a sum equal to 40c for each square kilometre or part thereof covered by the permit.

(2) Such rent shall be deemed to commence and become due from the commencement of the period of the permit as hereinbefore prescribed.

**Duty of permittee**

**33.(1)** The permittee shall within 4 months from the commencement of the period of the permit as hereinbefore prescribed proceed to have made geological or geological and geophysical examination of the land with a view to the determination of geological structure favourable to boring, and shall within 6 months of such commencement of the period of the permit furnish to the Minister satisfactory proof that such geological or geological and geophysical examination has been commenced.

**(2)** The permittee shall carry out scout drilling when directed by the Minister so to do.

**(3)** The permittee shall furnish to the Minister from time to time, in such form as may be directed by the Minister or as may be prescribed, full and complete data setting forth the results of geological or geological and geophysical examination or other investigation, or any tests or examination, logs of boring, or any other information or evidence obtained by or given to such permittee, or any further particulars, statistics, or information as may be required by the Minister during the period covered by the permit or any extension thereof.

**(4)** Failure to comply with the above provisions shall render the permit liable to be cancelled by the Minister in the Minister's absolute discretion, and the Minister's decision in cancelling such permit shall be final and conclusive and without appeal, and on such cancellation by the Minister such permit shall lapse and determine accordingly.

**(5)** Geological or geological and geophysical examination and scout drilling carried out to the satisfaction of the Minister in terms of this section may be taken into account in allowing exemption from the observance of the requirements of section 34.

**Commencement of drilling**

**34.(1)** The permittee shall within 1 year from the commencement of the period of the permit as hereinbefore prescribed install upon some portion of the land a substantial and adequate drilling outfit and commence drilling, and shall, within 2 years from the date of the permit, drill at least 1 well to a depth of at least 600 m, unless payable deposits of petroleum are discovered at lesser depth, or, if the Minister so approves, drill wells in the land to an aggregate depth of at least 600 m and so as adequately to prospect the land.

(2) However, upon application by the permittee in that behalf the Minister, in any case in which the circumstances seem to the Minister just and equitable, may, in the Minister's absolute discretion, grant such extended period, not exceeding in respect of such extension a term of 1 year at any one time or 4 years in all, beyond the period prescribed by this section.

(3) In addition, nothing in subsection (2) shall confer upon any permittee a right to claim any such extension of time, but the Minister shall have an absolute and unfettered discretion to approve or refuse any such application for such extension of time, and the Minister's decision shall be final and conclusive and without appeal.

### **Rights to water etc.**

**35.(1)** The permittee shall have the right—

- (a) to take and divert water from any natural spring, lake, pool, or watercourse situated on or flowing through any land (including any private land or improved land) covered by the permit and to use such water for any purpose necessary or incidental to the permittee's prospecting and mining operation; and
- (b) to cut and use any timber on such land for building or construction works or firewood or other necessary purposes; and
- (c) to depasture on such land all stock used in connection with the permittee's prospecting and mining operation;

subject, however, to any conditions prescribed with respect to payment for water, timber, or agistment in cases where the making of such payment is deemed necessary.

### **Private land—compensation before commencement of drilling**

**36.(1)** If the permittee determines to drill on any portion of private land or improved land covered by the permit the permittee shall, before commencing such drilling, apply to the nearest Wardens Court to determine the amount of compensation payable by the permittee in respect of operations during the first year of the period of the permit.

(2) At the end of such first year the warden shall determine what further compensation (if any) should be paid in respect of operations during such first year, and shall also determine the amount of compensation payable for the balance of the period of the permit.

(3) The applicant shall state and describe in such application the area of the surface of private land or improved land required and the purpose for which it is required, and shall give such further information as the Wardens Court shall require.

(4) Notice of such application shall be given by the warden to the owner or occupier of the private land or improved land, or, if the land is vacant, shall be affixed in some conspicuous place on the land.

(5) Such notice shall state a day upon which the application will be heard.

### **Expiration of permit**

37. If a permittee fails to discover petroleum during the period of the permit or any extension thereof the permit shall thereupon terminate.

### **Cancellation of permit**

38.(1) The Minister, if the Minister has cause to believe that a permittee has failed to comply or is not making reasonable endeavours to comply with any provisions of this Act relating to permits or with any of the provisions or conditions of the permit, may at any time during the currency thereof order the warden to call upon the permittee to show cause why the permittee's permit should not be cancelled.

(2) The warden shall thereupon give at least 14 days notice to the permittee or the permittee's agent to appear before the warden and show cause why the permit should not be cancelled, and having heard the matter in open court shall forward the evidence to the Minister, who, if satisfied that it is just to do so, may cancel the permit, and the decision of the Minister in the matter shall be final and without appeal.

### **Effect of termination of permit**

39. Upon the termination of a permit, whether by expiration or

cancellation, the land covered thereby shall automatically revert to its original status.

## **PART 6—PROVISIONS RELATING TO LEASES**

### **Lease to holder of authority to prospect or permittee**

**40.(1)** Subject to subsection (5), a holder of an authority to prospect or a permittee may apply to the Minister for the grant to the applicant, or to the applicant and other qualified persons nominated by the applicant, of a lease or leases of such area of land as is reasonably required to develop and produce payable deposits of petroleum within the land the subject of the authority to prospect or permit.

**(2)** If the applicant and any other persons nominated by the applicant are qualified persons and the applicant—

- (a) declares that deposits of petroleum that the applicant believes on reasonable grounds to be payable have been discovered within the land the subject of the application; and
- (b) lodges with the Minister a proposed program for developing and producing petroleum from any field within the land;

the applicant is entitled to have a lease granted to the applicant and the other persons (if any) nominated by the applicant.

**(3)** On compliance with subsection (2), the relevant land is taken, for the purposes of subsection (1), to contain payable deposits of petroleum capable of development and production.

**(4)** A lease is to be granted by the Governor in Council.

**(5)** The lands in respect of which a lease is granted under subsection (4)—

- (a) shall not exceed 260 km<sup>2</sup> in area; and
- (b) unless otherwise approved by the Governor in Council shall be bounded by boundaries which are a rectilinear figure the sides whereof (which may be of any number) are formed by parts of

meridians of longitude and by chords, each subtending a minute of arc, of parallels of latitude and described by whole minutes of latitude and longitude; and

- (c) shall be described and marked on a plan in such manner that they can be readily identified.

(6) The Governor in Council may, if in the Governor in Council's opinion the special circumstances of the particular case render it necessary or desirable so to do, approve that lands which are not contiguous may be included in one lease.

(7) The applicant for the lease shall, when and as required by the Minister, and may at the applicant's option (but in either case at the applicant's own expense) survey and mark upon the ground, in accordance with the relevant regulations, all or any portion of the boundaries of the lease.

(8) When such survey and marking is accepted as correct by the Minister, the boundaries or portion of the boundaries as so marked shall be the boundaries or, as the case may be, that portion of the boundaries of the lease.

### **Preferent right to further lease**

**41.(1)** Upon the grant of a lease of a part of the land covered by a permit, the remainder of the land covered by the permit shall remain covered by the permit until the expiration of 12 months from the date of the lease first granted to the permittee, notwithstanding that the period of the permit calculated as hereinbefore prescribed may have expired, and during such period of 12 months the permittee shall be entitled to a preferent right to a lease of the remainder or any portion of such remainder of the land covered by the permittee's permit.

(2) If after the expiration of such period of 12 months the period of the permit calculated as hereinbefore prescribed has not expired, so much of the land as has not been acquired under a lease or leases by the permittee shall remain covered by the permit until the termination of the permit.

**Lease to person other than a holder of an authority to prospect or permittee**

**42.(1)** Upon application in that behalf made as prescribed by subsection (8) by a person—

- (a) who establishes to the satisfaction of the Governor in Council that the person has discovered payable deposits of petroleum within the limits of the land specified in the application; and
- (b) who is a qualified person as hereinbefore provided in this Act;

the Governor in Council shall, subject to subsections (2) to (7), grant to such person a lease of the lands specified in the application.

**(2)** An applicant under this section shall not be granted a lease of—

- (a) land comprised in a subsisting authority to prospect, permit or lease (whether granted before, on or after the date of the enactment of this section);
- (b) land comprised in an area which, pursuant to a subsisting proclamation under section 17(2), is proclaimed as being not open to permit or lease;
- (c) land the area whereof exceeds 260 km<sup>2</sup>.

**(3)** Unless the Governor in Council otherwise approves, the land in respect whereof the application is made shall be bounded by boundaries which are a rectilinear figure the sides whereof (which may be of any number) are formed by parts of meridians of longitude and by chords, each subtending a minute of arc, of parallels of latitude and described by whole minutes of latitude and longitude.

**(4)** The Governor in Council may, if in the Governor in Council's opinion the special circumstances of the particular case render it necessary or desirable so to do, approve that lands which are not contiguous may be included in one lease.

**(5)** The land in respect whereof the application is made shall be described and marked upon a plan in such manner that it can be readily identified.

**(6)** The applicant shall, when and as required by the Minister, and may at the applicant's option (but in either case at the applicant's own expense) survey and mark upon the ground, in accordance with the relevant regulations, all or any portion of the boundaries of the lease.

(7) When such survey and marking is accepted as correct by the Minister, the boundaries or portion of the boundaries as so marked shall be the boundaries or, as the case may be, that portion of the boundaries of the lease.

(8) An application under this section shall be made to the warden at Brisbane, and shall be heard by the warden in open court on a date not earlier than 2 months after the making thereof.

(9) The said warden shall fix such date and shall give not less than 14 days prior public notice thereof by advertisement in a newspaper published in Brisbane and in a newspaper circulating in the locality in which the land specified in the application is situated.

(10) The said warden may in open court adjourn the hearing of the application from time to time.

(11) The said warden may give to such persons as the warden deems advisable notice of the date fixed by the warden for hearing the application and of any adjournment of such hearing by the warden.

(12) The said warden shall make or cause to be made a record of the evidence heard by the warden and shall transmit such record to the Minister together with a finding as to whether or not the applicant has proved to the warden's satisfaction that the applicant has discovered payable deposits of petroleum within the limits of the land specified in the application.

(13) Such finding shall not be binding upon the Governor in Council or the Minister.

### **Security in respect of leases**

**43.(1)** Before the grant of a lease, the applicant therefor shall deposit with the Minister such security (being to the amount of not less than \$10 000) as the Minister shall fix for the compliance by the lessee with the provisions of this Act and of the terms and conditions of the lease and for the payments of any compensation or damages which may be or become payable by the lessee to any owner or occupier of improved land or private land comprised in the lease.

(2) The security may be in the form of cash deposit financial institution's cheque or bank draft payable to the Treasurer, Commonwealth treasury bonds or inscribed stock, guarantee, indemnity, or bond in a form approved



by the Crown solicitor, by a financial institution, bonding, or insurance company approved by the Crown solicitor, or any other security approved by the Crown solicitor, or partly in 1 form and partly in another form or other forms.

(3) The Crown solicitor may at any time upon application by the lessee, through the Minister, approve of the substitution for any security held under this section of other security in such form as may be approved by the Crown solicitor.

(4) If a deposit is in such form as will require exchange to be paid in Brisbane, then such exchange shall when necessary be added to the amount thereof.

(5) If the security is in the form of inscribed stock or other security not transferable by delivery it shall be accompanied by a duly executed and stamped transfer of such stock or security to the Treasurer.

(6) When the deposit is in cash it shall be placed in an interest-bearing trust account at a financial institution in the name of the Treasurer to be operated on only in accordance with the provisions of this Act.

(7) Interest (if any) accruing on the security deposit shall be made available to the lessee when collected by the Treasurer.

(8) If any security furnished under this section shall become unacceptable to the Minister or the Crown solicitor or if any surety shall fail to furnish reports as to the surety's financial condition, from time to time, as requested by the Minister, the lessee shall, within 30 days of demand, furnish such additional or alternative security as may be required by the Minister or the Crown solicitor up to an amount equal to the amount of the security.

(9) Upon the breach by the lessee of any provision of this Act or any term or condition of the lease, so much of the security deposited as the Minister shall determine shall be forfeited to the Crown.

(10) If the lessee fails to pay any amount of compensation or damages recovered against the lessee by an owner or occupier of improved land or private land included in the lease, so much of the security deposited as is necessary to pay such amount of compensation or damages may, by direction of the Minister, be forfeited to the Crown and, in such case, such amount of compensation or damages shall be paid to the owner or occupier aforementioned entitled thereto from consolidated fund.

(11) At the expiration of 1 year following upon the termination of a lease (whether by effluxion of time, surrender, or forfeiture of the lease) the Minister shall refund to the person who was the lessee immediately prior to the termination of the lease, the security held in respect of the lease immediately prior to the date of such refund.

### **Form etc. of lease**

44. Every lease shall—

- (a) be in the form prescribed, with such variations as the Governor in Council may in special cases approve; and
- (b) confer upon the lessee the exclusive right to prospect for, mine, extract, recover, remove, and dispose of all petroleum in or under the land demised, with the right to construct and maintain thereon all works buildings plant waterways (including any pipelines for conveying water) roads pipelines reservoirs tanks pumping stations and other structures necessary to the full enjoyment thereof; and
- (c) be for a term no longer than the period nominated (with reasons for the nomination) by the applicant as an appropriate term for producing in an economically viable way the petroleum from the fields within the land the subject of the lease.

### **Entitlement to renewal of lease**

45.(1) The lessee of a lease who has substantially complied with this Act, and the terms and conditions of the lease, in relation to that lease, at the expiration of the lease, is entitled, subject to subsection (2), to a renewal of the lease.

(2) A lessee referred to in subsection (1), before the expiration of the lease, is to—

- (a) declare whether deposits of petroleum, that the lessee believes on reasonable grounds to be payable, exist within the land the subject of the lease; and
- (b) lodge with the Minister a proposed program for producing petroleum from any field within the land.

(3) The renewed lease must be for a term no longer than the period nominated (with reasons for the nomination) by the lessee as an appropriate term for producing in an economically viable way the petroleum from the fields within the land the subject of the lease.

(4) The law relating to the amount and payment of royalties and of rent in force at the time of renewal applies to the renewed lease.

### **Rent**

**46.(1)** The lessee of a lease the application for which is made on or after 1 January 1982 shall pay in advance, beginning with the date of the application, an annual rental at the rate of \$20 for every square kilometre or part thereof for and in respect of the land demised.

(2) All rents shall be paid to the nearest warden unless the Minister otherwise directs.

### **Reservations, conditions and covenants of lease**

**47.(1)** Every lease shall contain the following reservations, covenants and conditions—

- (a) a reservation of power to authorise mining on the land for any purpose other than the production or obtaining of petroleum or petroleum products, but not such as to interfere with, encroach upon, or endanger operations for producing or obtaining petroleum;
- (b) a covenant by the lessee to pay the prescribed rent in accordance with this Act;
- (c) a covenant by the lessee to pay the prescribed royalty in accordance with this Act;
- (d) a covenant by the lessee to work the land demised by the lease in accordance with recognised good oilfield practice and in compliance with this Act, unless exemption or partial exemption is granted in such manner as may be prescribed;
- (e) a covenant by the lessee that, if directed by the Minister not to dispose of any petroleum or petroleum products for use or consumption outside Australia, the lessee will not so dispose of

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- any petroleum or petroleum products;
- (f) a covenant by the lessee to comply with the provisions of this Act;
  - (g) a covenant by the lessee to use the land bona fide exclusively for the purpose for which it is demised and in accordance with this Act, unless prevented from so doing by circumstances beyond the lessee's power and control;
  - (h) a covenant by the lessee not to assign, transfer, sublet, mortgage or make the subject of any trust the lease or the land or any part thereof otherwise than in accordance with this Act;
  - (i) a condition for the forfeiture of the lease in the event of any breach of any covenant or condition by the lessee and the failure of the lessee completely to remedy the same within 3 months (or such further time as the Minister may in the Minister's discretion, allow) after the Minister shall have given to the lessee notice in writing to make good the same.

(2) When an application for a lease has been approved and notwithstanding that the instrument of lease has not been executed and whether or not the applicant shall have entered upon the land as provided for in this Act, the applicant and the applicant's assigns shall be deemed to have entered into the covenants and to have accepted the reservations and conditions provided for in subsection (1) and shall in all respects be bound thereby.

**Commencement of drilling**

**48.(1)** The lessee shall each year expend on the lease in respect of drilling for petroleum or such other work as the Minister may in writing approve a total sum of money calculated at the rate of \$1 550 per square kilometre for each square kilometre or part thereof contained in the lease.

(2) The total sum is to be reduced by the value at the wellhead, as agreed or determined under section 57, of all petroleum produced from the lease in the year.

(3) Subsections (1) and (2) are complied with in relation to each of the leases that are the subject of a unitisation arrangement if those subsections are complied with in relation to the leases taken as a whole.

(4) The Minister may grant exemption in writing from the requirements of subsection (1) for such period and under such conditions as the Minister may fix.

(5) If a conservation authority appointed under this Act restricts production from the lease then the value at the wellhead mentioned in subsection (2) shall be determined on production that, in the opinion of the conservation authority, reasonably could have been expected from the lease had production not been so restricted.

(6) The lessee shall drill all necessary wells fairly to offset the wells of others on adjoining land on petroleum deposits.

### **Plans and reports**

**49.** The lessee shall furnish annually and at such intervening times as the Minister may require in the manner and form prescribed by the Minister—

- (a) a plan showing all development work and improvements on the land demised and other relative information, with a report as to all buildings, structures, and other works placed in or upon the land demised;
- (b) a statement as to the amount and grade of petroleum produced and sold during the preceding 12 months or such shorter period as may be prescribed by the Minister and the amount received therefor;
- (c) full information as to all work done in exercise of the rights conferred by the lease, all expenditure thereon, and all results obtained.

### **Compliance with and modification of program for development and production**

**50.(1)** The lessee must comply substantially with the current program for development and production of petroleum lodged with the Minister under section 40(2)(b) or 45(2)(b) or subsection (2).

(2) The lessee may, from time to time, lodge with the Minister a program in substitution for that program.

**Use and occupation of mining area on private or improved land**

**51.(1)** With respect to the use and occupation by a lessee of any of the land demised, every lessee shall—

- (a) as against the owner or occupier only of any such land, but not otherwise, be and be deemed to be in occupation of only such area of such land as the lessee from time to time requires for effectively carrying on and adequately protecting all the mining operations and the storing, refining, transporting, and communication works in connection with all the lessee's mining operations carried on or to be carried on from time to time or at any time during the term of the lease or any extension thereof, together with all rights and easements incidental to such occupation;
- (b) during such time have the right personally or by agents or workers, to take and divert water from any natural spring, lake, pool, or watercourse situated on or flowing through any such land, and may use such water for any purpose necessary or incidental to the mining operations and to the bona fide occupation of the land leased; and may cut and use any timber on any such land for building purposes, construction works, firewood, or other necessary purposes; and may depasture on such land all stock used in connection with all such mining or other operations or used by workers or employees of such lessee; subject however to any conditions prescribed with respect to payment for water timber or agistment in cases where the making of such payment is deemed necessary;
- (c) cause to be surveyed and securely fenced each surface area on any such land which the lessee requires so as to effectively carry on and adequately protect the lessee's mining operations and works.

**(2)** However, subsection (1)(c) shall not apply in relation to any unallocated State land except in so far as the Minister, in relation to any such land contained in a lease, by notice in writing to the lessee concerned, so directs.

**Surrender and determination of lease**

**52.(1)** The lessee may, with the consent of the Minister in writing, surrender and terminate the lease upon the payment of all rents royalties and other obligations due and payable to the Crown and upon payment of all wages and moneys due and payable to the workers employed by the lessee and upon proof satisfactory to the Minister that the public interest will not be impaired, but in no case shall such surrender be effective until the lessee has made full provision for conservation and protection of the property.

**(2)** Upon the acceptance of such surrender by the Minister the lessee shall be relieved of all future obligations under the lease.

**(3)** The lessee may with the like consent surrender to the Crown any legal subdivision of the area comprised within the lease.

**Proceedings for forfeiture**

**53.(1)** If the lessee fails to comply with the provisions of this Act or makes default in the performance or observance of any of the terms covenants and stipulations of the lease, and such default continues after service of written notice thereof has been given by the Minister to the lessee, then the Minister may institute appropriate proceedings for the forfeiture and cancellation of the lease in accordance with the provisions of the *Mineral Resources Act 1989*.

**(2)** But this section shall not be construed to prevent the exercise by the Minister of any legal or equitable remedy which the Minister might otherwise have.

**(3)** The waiver of any particular cause of forfeiture shall not prevent the forfeiture and cancellation of the lease for any other cause of forfeiture or for the same cause occurring at any other time.

## **PART 7—PROVISIONS APPLICABLE TO PERMITS AND LEASES**

### *Division 1—Signing applications*

#### **Signing of applications**

**54.(1)** Every application for a permit or lease made by an individual person or association of persons must be signed in person by the person or by each of them, as the case may be.

**(2)** Every application for a permit or lease by a company or corporation must be made by a duly authorised attorney, under power of attorney in that behalf.

### *Division 2—Royalties*

#### **Royalty**

**55.(1)** Any person who produces petroleum shall, subject to this Act, pay royalty to the State at the rate of 10% of the value at the wellhead of the petroleum.

**(2)** There shall be set off against the amount of royalty payable in any year under this Act the amount of rental paid under this Act in that year by the producer in respect of a lease of or a permit or authority to prospect granted in relation to the land from which the petroleum in question was produced.

**(3)** Should the amount of such rental exceed, in any year, the amount of such royalty, no royalty shall be payable by the producer in question in respect of that year.

#### **Royalty not payable in certain cases**

**56.(1)** Royalty under this Act is not payable—



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- (a) in respect of petroleum that the Minister is satisfied was unavoidably lost before the quantity of that petroleum was ascertained;
- (b) in respect of petroleum that, with the approval of the Minister, is used by the person who produces it for the purposes of petroleum-prospecting operations or operations for the recovery of petroleum;
- (c) in respect of petroleum that, with the approval of the Minister, is flared or vented by the person who produces it in connection with operations for the recovery of petroleum.

(2) Where petroleum which has been produced is, with the approval of the Minister, returned to a natural reservoir royalty under this Act is not payable in respect of that petroleum by reason of that production.

(3) Subsection (2) shall not affect the liability of any person to pay royalty in respect of petroleum that is produced from such natural reservoir.

**Ascertainment of value**

**57.** For the purposes of this Act, the value at the wellhead of any petroleum is such amount as is agreed between the Minister and the person who produces the petroleum or, failing such agreement within a period allowed by the Minister (either generally or in a particular case) as is determined by the Minister as being that value.

**Ascertainment of quantity of petroleum produced**

**58.** For the purposes of this Act, the quantity of petroleum produced by a person during a period shall be taken to be—

- (a) the quantity measured during that period by a measuring device approved by the Minister and installed at the wellhead or at such other place as the Minister approves; or
- (b) where—
  - (i) such a measuring device is not so installed; or

- (ii) the Minister is not satisfied that the quantity of petroleum produced by such person has been properly or accurately measured by such a measuring device so installed;

the quantity determined by the Minister as the quantity produced by such person during that period.

### **Assessment and payment of royalty**

**59.(1)** Royalty payable under this Act must be paid to the chief executive on a monthly basis in accordance with this section.

(2) A person who produces petroleum shall, in each month, furnish to the chief executive a statement in or to the effect of the prescribed form showing the quantity and value at the wellhead of the petroleum produced by the person during the last preceding month and such other information as the Minister requires and, at the time of furnishing such statement, shall pay the amount which, on the basis of the contents of such statement, appears to be the amount of royalty payable under this Act in respect of petroleum produced during the month to which such statement relates.

(3) Where the value at the wellhead of petroleum produced by any person has not been established as prescribed by section 57 at the time such person furnishes such a statement the person shall show in the statement furnished by the person as the value at the wellhead of the petroleum in question the value which the person calculates should be the value at the wellhead of such petroleum.

(4) A person who produces petroleum shall, upon the requisition of the chief executive or of any person authorised in that behalf by the chief executive, produce to the chief executive, such authorised person or otherwise as so required all books, accounts and other records in relation to the person's production of petroleum and the person's operations carried on in connection therewith and shall permit the chief executive, such authorised person or other person to whom production is made to examine and make copies of such books, accounts and other records.

(5) The chief executive shall cause the amount of royalty payable under this Act to be assessed and, where it is found that the amount of royalty properly payable in respect of any month is other than the amount of royalty paid in respect of that month, there shall be paid by or, as the case may require, to the person who produced the petroleum in question the

difference between the amount of royalty so paid and the amount of royalty found to be properly payable in respect of that month.

(6) A person who produces petroleum shall pay any additional royalty found to be properly payable under this Act within 30 days after the last day of the month in which it is found to be payable or within such extended time as the Minister approves.

(7) Where a person who produces petroleum fails to pay royalty under this Act at or within the time prescribed or allowed to the person for the payment thereof the person shall pay to the chief executive, in addition to the amount of royalty unpaid, an amount calculated at the rate of  $\frac{1}{3}\%$  per day upon the amount of royalty from time to time remaining unpaid, to be computed from the time such royalty became payable until it is paid.

(8) An additional amount of royalty which becomes payable as a consequence of the establishment of the value at the wellhead of the petroleum in question after a statement has been furnished under subsection (2) in relation to the production of that petroleum shall, for the purposes of subsection (7), not become payable until the date following the date on which such value is established.

### **Reduction of royalty rate**

**60.** Where the Governor in Council is satisfied that the rate of production of petroleum from a well has, from natural causes, become so reduced that, having regard to the rate of royalty prescribed by section 55, further production of petroleum from that well would be uneconomic, the Governor in Council may, by regulation, determine that for the period specified therein royalty shall be payable in respect of petroleum produced from that well at the rate (being a rate less than the rate prescribed by section 55) specified therein.

### *Division 3—Assignments and other dealings with permits and leases*

#### **Assignment etc. of lease**

**61.(1)** No permit or lease or interest in such permit or lease shall be directly or indirectly assigned, transferred, sublet, mortgaged, or made the subject of any trust, except with the prior consent of the Minister, and any

such dealing with such permit or lease made without such consent shall be void.

(2) The Minister may, upon application for consent thereto, require such information concerning any proposed such dealing as the Minister considers necessary or desirable.

(3) The Minister shall not be bound to consent to any such dealing.

(4) A mere right to receive a permit or lease is not capable of being dealt with as aforesaid.

(5) Where any lease or any interest in such lease has, with the consent of the Minister, pursuant to subsection (1), been sublet, mortgaged, or made the subject of any trust, and the Minister gives to the lessee notice in writing to make good any breach of any covenant or condition as referred to in section 47(1)(i), the Minister shall cause a copy of such notice to be forwarded to any sublessee, mortgagee, or trustee concerned.

### **Subleases under unitisation arrangements**

**62.(1)** Where a unitisation arrangement provides for all the parties to the arrangement to acquire by sublease an interest in each of the leases specified in the arrangement—

(a) a lessee may grant a sublease to the parties to the arrangement; and

(b) despite section 61(1), the Minister must consent to the sublease if the parties to the arrangement submit to the Minister a schedule of the interests in the sublease of each party under the arrangement.

(2) The schedule of interests must be recorded in the register of petroleum leases and forms part of the relevant sublease.

(3) On submission by the parties to a unitisation arrangement to the Minister of a modified schedule of interests in substitution of the schedule recorded in the register, the modified schedule must be recorded in the register and becomes the schedule of interests.

(4) Section 61(1) does not apply to a schedule of interests in a sublease submitted under subsection (1)(b) or (3).

(5) A sublease under a unitisation arrangement referred to in subsection (1), a schedule of interests and a modified schedule of interests in the sublease are exempt from stamp duty.

### **Forfeiture of excess holding**

**63.(1)** Any interest in any permit or lease held in violation of this Act shall be forfeited to the Crown by appropriate proceedings instituted by the Minister for that purpose in accordance with the provisions of the *Mineral Resources Act 1989*.

(2) However—

- (a) any ownership or interest forbidden by this Act which has been acquired as beneficiary under any will or intestacy, or by judgment or decree, may after its acquisition be held for 2 years (or during the remainder of the currency of the permit or lease, which ever is the shorter period) and not longer;
- (b) nothing herein contained shall be construed to prevent any number of lessees from combining their several interests, as far as may be necessary, for the purposes of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipeline or lines or a tramway or tramways to be operated and used by them jointly in the transportation of petroleum from their several wells or from the wells of other lessees: but any combination for any such purpose shall be subject to the approval of the Minister on application to the Minister in prescribed form for permission to form the same;
- (c) an individual qualified person may hold shares or stock in any number of companies or corporations holding permits or leases, provided that such individual does not hold a controlling interest in any of such companies or corporations.

(3) If any permit or lease or any land covered or demised thereby—

- (a) is assigned, transferred, sublet, or made the subject of a trust, except with the consent of the Minister first had and obtained; or
- (b) is possessed or controlled by any device permanently, temporarily, directly, indirectly, tacitly or in any manner whatsoever so that with the cognisance of the permittee or lessee

any such land is in anywise controlled by any combination or is or forms part of the subject of any contract, agreement, or understanding, written, oral, or otherwise, in or for the purpose of the mining or disposal of petroleum with a view to control the price or prices of petroleum; or

- (c) is held by any person in excess of the area of lands permitted by this Act;

the permit or lease shall be forfeited to the Crown by appropriate proceedings instituted by the Minister for that purpose in accordance with the provisions of the *Mineral Resources Act 1989*.

(4) Subsection (3)(a) does not apply to a sublease under a unitisation arrangement.

(5) Despite subsection (3), and for the purposes of the *Trade Practices Act 1974* (Cwlth), approval and authority are given for the parties to a unitisation arrangement to agree or enter into arrangements for petroleum produced under the unitisation arrangement to be sold or disposed of on common terms or at a common price to the same or different purchasers.

## **Trespass**

**64.(1)** Every entry upon, occupation of, or interference with any land the subject of any permit or lease or authority to prospect shall be deemed a trespass unless such entry, occupation, or interference is authorised by the Minister in pursuance of the powers vested in the Minister under this Act.

(2) However, the owner or occupier of any private land or improved land may continue in occupation, use, and enjoyment of all such land, save and except such parts thereof as are required by such permittee or lessee or holder of the authority to prospect for mining purposes and construction work under this Act.

(3) Every permittee or lessee or holder of an authority to prospect may proceed in the Wardens Court for such trespass and for damages in respect thereof.

**Reservations in favour of State**

**65.(1)** Each permit, lease or authority to prospect is taken to contain a reservation to the State of the right to grant the easements or rights of way, over land covered by the permit, lease or authority, the Governor in Council considers desirable for—

- (a) developing or working the land or other land containing petroleum deposits; or
- (b) treating and transporting petroleum deposits by or for the Government, or a lessee or permit or authority holder; or
- (c) another public purpose associated with a purpose mentioned in paragraph (a) or (b).

**(2)** Easements and rights of way under this section may be granted for joint or several use.

***Division 4—Refinery and entry permissions and pipeline licences*****Oil refineries**

**66.** The Minister may grant to a person written permission to construct and operate an oil refinery (a “**refinery permission**”) on conditions, stated in the permission, the Minister considers reasonable and appropriate including, for example, conditions about—

- (a) the construction, conduct, control, management and operation of the refinery; and
- (b) fees payable under the permission; and
- (c) circumstances in which the permission may be suspended or cancelled and the procedure for suspension or cancellation.

**Permission to enter land**

**67.(1)** This section applies if the Minister considers it necessary for someone to be able to enter land to investigate and survey it for planning for or constructing a pipeline.

(2) The Minister may, by notice, grant to a person permission (an “**entry permission**”) to enter stated land to investigate and survey it for stated purposes.

(3) The entry permission is granted on conditions, stated in the notice, the Minister considers reasonable and appropriate.

(4) The person, and anyone authorised in writing by the person, may, to the extent reasonable and necessary to achieve the purpose of the entry permission—

- (a) enter land stated in the permission; and
- (b) bring onto the land a reasonable type of transport and equipment; and
- (c) investigate and survey the land.

(5) A notice under this section is subordinate legislation.

### **What happens if someone damages improvements**

**68.(1)** If someone claiming to act under an entry permission, or on a permission holder’s authority, damages improvements on land covered by the permission, the permission holder must pay compensation for the damage.

(2) The compensation is payable to the owner or, if the land is held under a lease, licence or permit under the *Land Act 1994* or another Act, the occupier.<sup>14</sup>

(3) In a proceeding for compensation under this section, it is a defence to prove that the person responsible for the damage was not on the land with the permission holder’s approval, or on the permission holder’s authority, when the damage happened.

### **Pipeline licences**

**69.(1)** With the approval of the Governor in Council, the Minister may grant to a person a licence to construct and operate, or operate, a pipeline

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<sup>14</sup> For provisions about compensation see sections 97 (Compensation), 98 (Power to agree as to compensation) and 99 (Measure of compensation).



(a **“pipeline licence”**).

(2) The Minister may grant the licence only if—

- (a) the Minister approves proposed access principles for the pipeline—
  - (i) under part 8; or
  - (ii) in terms of an agreement mentioned in section 70A; or
- (b) a regulation declares paragraph (a) does not apply to the pipeline.

(3) Despite subsections (1) and (2), the Minister must grant a licence for a pipeline to an applicant who is a party to a unitisation arrangement if the pipeline is part of a petroleum-gathering system under the arrangement and is outside land covered by the arrangement.

(4) A pipeline licence must identify the land covered by the licence.

(5) A pipeline licence is granted on conditions, stated in the licence, the Minister considers reasonable and appropriate.

(6) The Minister must—

- (a) notify the grant of a pipeline licence by gazette notice; and
- (b) ensure a plan showing the route of the pipeline, and the land on which it may be constructed under the licence, is available for inspection at the place or places stated in the gazette notice.

### **Access principles to be approved before grant of pipeline licence**

**70.(1)** An applicant for a pipeline licence must give the Minister proposed access principles for the pipeline to which the application relates.

(2) If the Minister approves the proposed access principles, the Minister may require the applicant to apply the principles to stated access agreements for the pipeline made before the licence is granted.

(3) The applicant must comply with the requirement.

Maximum penalty—100 penalty units.

(4) A regulation may declare that this section does not apply to a stated pipeline.

**Powers that may be exercised after competitive selection process**

**70A.(1)** This section applies to a proposed pipeline, other than a pipeline that is proposed to be part of a petroleum gathering system under a unitisation arrangement, prescribed under a regulation.

**(2)** If, for the prescribed pipeline, the Minister is satisfied a competitive selection process has been completed for the grant of a pipeline licence, the Minister may agree with an applicant for the licence about—

- (a) the proposed access principles to be approved for the pipeline; or
- (b) the conditions to be stated in the licence; or
- (c) other matters relating to the pipeline under this Act or another Act about access to pipelines.

**(3)** If the Minister does agree—

- (a) the Minister may—
  - (i) approve proposed access principles in terms of the agreement; or
  - (ii) grant to the applicant a licence on conditions in terms of the agreement; or
  - (iii) make another decision for the pipeline under this Act or another Act about access to pipelines in terms of the agreement; and
- (b) the Governor in Council may—
  - (i) approve the grant of the licence by the Minister in terms of the agreement; or
  - (ii) make another decision for the pipeline under this Act in terms of the agreement.

**(4)** Subsection (3) applies despite any other provision of this Act.

**(5)** Subsection (4) does not authorise an act or omission that would otherwise be an offence against this Act other than to the extent that the agreement may provide in relation to a requirement under this Act that anything be provided to, or obtained from, the Minister.

**Pipeline licence conditions**

**71.** The conditions stated in a pipeline licence may include the following—

- (a) conditions about—
  - (i) the pipeline’s construction, control, management, operation and ownership; or
  - (ii) circumstances in which the corporation sole may take over the pipeline’s construction or operation, or ownership may vest in or be transferred to the corporation sole; or
  - (iii) fees payable under the licence; or
  - (iv) access by facility users to the pipeline; or
  - (v) circumstances in which the licence may be suspended or cancelled and the procedures for suspension or cancellation;
- (b) conditions requiring the licensee to comply with the access principles for the pipeline;
- (c) conditions stating what are review events under the licence;
- (d) conditions requiring the review by the Minister of stated licence conditions or the access principles when a stated review event happens;
- (e) conditions requiring the Minister’s approval to the expansion of the pipeline’s capacity beyond its nominal capacity;
- (f) conditions prescribed under a regulation.

**What happens on contravention of refinery permission or pipeline licence conditions**

**72.(1)** This section applies if a licensee or refinery permission holder (an “**authority holder**”) contravenes a licence or permission condition for which the licence or permission states it may be suspended or cancelled.

**(2)** The Minister may give the authority holder a written notice requiring the person—

- (a) to remedy a stated contravention of a stated condition to which this section applies within a stated reasonable time; and

(b) to pay to the State—

- (i) an amount of \$2 000, for each day the contravention continues after a stated day; or
- (ii) another amount, stated in the licence, for each period stated in the licence.

(3) If the person fails to comply with the notice, the Minister may suspend or cancel the licence or refinery permission by gazette notice.

(4) The Minister may also suspend or cancel a licence or refinery permission in other circumstances stated in the licence or permission.

(5) However, if the Minister has given a licensee approval—

- (a) to lease, sublease, or mortgage the licence; or
- (b) to create a trust over land, or an easement or right of way over land, acquired for a pipeline or refinery;

the Minister must not suspend or cancel the licence until after notice of the proposed suspension or cancellation is given to the lessee, sublessee, mortgagee or trustee.

(6) In addition, suspension or cancellation of a licence or permission does not affect the authority holder's liability under subsection (2)(b).

(7) Subsections (2), (3) and (4) apply subject to the conditions of the licence or refinery permission.

### **Recovery of amounts payable to the State**

**73.(1)** An amount payable to the State under this part may be recovered as a debt in a court having jurisdiction up to the amount of the debt.

(2) The starting of a proceeding to recover an amount owing to the State does not limit the right of the State to recover another amount that may become payable under this part because the failure continues.

(3) If the State starts a proceeding to recover part only of an amount payable at a particular time, the State is taken to have abandoned the remainder of the amount payable at the time.

**Assignment etc. of refinery permission, pipeline licence or interests in certain land**

**74.(1)** This section applies to—

- (a) a refinery permission; and
- (b) a pipeline licence; and
- (c) land, or an easement or right of way over land, acquired for use for a refinery or pipeline.

(2) A person must not directly or indirectly assign, transfer, lease, sublease, mortgage or create a trust in relation to a permission, licence, land, or an easement or right of way over land, to which this section applies without the Minister's written consent.

(3) An assignment, transfer, lease, sublease, mortgage or trust in contravention of subsection (2) is void.

(4) The Minister may require an applicant for consent under this section to give to the Minister stated reasonable information about the proposed assignment, transfer, lease, sublease, mortgage or trust.

(5) The Minister may consent or refuse to give the consent.

***Division 5—Other provisions about pipelines*****Construction etc. of pipeline**

**75.(1)** A licensee shall, as soon as practicable after the grant of the licence, make all proper endeavours to acquire by agreement with owners, holders and occupiers all rights required by the licensee in respect of lands (other than unallocated State land) for the purposes of the pipeline.

(2) Notwithstanding anything contained in the *Land Act 1994* or in any other Act, the Governor in Council may grant to a licensee any lease or easement or right of way which is required for the pipeline in respect of any unallocated State land.

(3) The grant shall be for the duration of the licence, and shall be subject to such other terms and conditions as the Governor in Council may impose and set out in the grant, and to such other terms and conditions as may be prescribed by the regulations.

(4) A licensee may, subject to this Act, construct, maintain and use a pipeline on, over, or under any land described in the licence which has been acquired, or an easement or right of way upon which has been acquired by the licensee for the purposes of the pipeline, and on, over, or under any railway, road and tramway and in, on, over, through, or across any waterway (including any foreshore or land referred to in section 77(4)).

(5) A licensee may, subject to this Act and with the prior approval of the Governor in Council, declared by gazette notice—

- (a) construct, maintain and use a pipeline on, over or under land described in the licence and specified in the approval; and
- (b) for any of those purposes or purposes incidental to those purposes, enter upon and occupy temporarily such land;

notwithstanding that at the time of such entry, occupation, construction or use the licensee has not acquired any right pertaining to or any estate or interest in the land in question other than the right conferred by this subsection.

(6) The authority conferred by subsection (5) includes authority to be accompanied in the exercise thereof by such persons, animals, vehicles, plant and equipment as are necessary or desirable to attain the purpose in question.

(7) A person other than the corporation sole shall not undertake the construction of a pipeline of which any part extends beyond the boundaries of a lease, except under and in accordance with the authority of a licence granted under this Act.

### **Acquisition of land for pipeline purposes**

**76.(1)** A licensee shall, as soon as practicable after obtaining the approval of the Governor in Council under section 75(5), take all such steps as are necessary to acquire, in accordance with this section, the land, or a lease of or an easement or right of way upon the land the subject of such approval.

(2) Any land or any easement or right of way upon any land referred to in an approval of the Governor in Council under section 75(5), which is a holding or part of a holding under the *Land Act 1994*, and which is required for the pipeline may be resumed by the Governor in Council under and in accordance with such lastmentioned Act.

(3) The cost of such resumption and the compensation payable consequent thereon shall be forthwith paid by the licensee to the Minister.

(4) Upon such payment the Governor in Council may deal with such land or easement or right of way in accordance with section 75(2).

(5) Before resuming such land or easement or right of way as aforesaid the Governor in Council may require the licensee to deposit with the Minister such moneys or other securities as are, in the opinion of the Minister, sufficient to ensure the payment by the licensee of sums to be paid by the licensee as aforesaid.

(6) All lands other than unallocated State land and all easements and rights of way (other than easements and rights of way in respect of unallocated State land) referred to in a gazette notice under section 75(5) which are required for the pipeline may be resumed and acquired by the corporation sole as if the construction, maintenance or use of the pipeline were for the purposes of this Act except that any lands taken shall vest in the Crown and any easements and rights of way taken shall be in the name and for the benefit of the licensee.

(7) All the purchase money and compensation payable in respect of lands or easements or rights of way so acquired together with all expenses incurred by the corporation sole in effecting such resumption or acquisition shall forthwith be paid by the licensee to the corporation sole and upon such payment the lands resumed or acquired shall be granted to the licensee.

(8) Before resuming or acquiring such lands or easements or rights of way as aforesaid the corporation sole may require the licensee to deposit with it such moneys or other securities as are in its opinion sufficient to ensure the payment by the licensee of sums to be paid by the licensee as aforesaid.

(9) If the Governor in Council, under this part, cancels the licence, or if the licensee fails to comply with any term or condition of the grant under this section or under section 75 of any lease or easement or right of way, the Governor in Council may, by gazette notice, cancel such grant.

(10) Where any land or any easement or right of way upon any land is resumed or acquired under this section, no compensation shall be payable upon such resumption or acquisition in respect of any enhancement or prospective enhancement of the value of such land resulting or which may result from any improvements constructed or which may be constructed on,

or anything done or which may be done with respect to the land in question by the licensee pursuant to this Act.

(11) Where damage is such that compensation therefor is claimable both upon a resumption or acquisition under this section, and under section 77 or 68, such compensation may be claimed upon the resumption or acquisition or it may be claimed under such lastmentioned section, but it shall not be claimed both upon the resumption or acquisition and under such section.

### **Rights of a licensee**

**77.(1)** A licensee may, with such assistants, and with such vehicles and things as the licensee deems necessary or convenient for the carrying out of the purposes of such entry, at all times enter upon any land described in the licence and on, over, or under which the licensee is empowered under this Act to construct a pipeline (and upon any other land giving necessary access to such land) and construct, inspect, test, operate, maintain, repair, alter, add to, or replace a pipeline belonging to the licensee.

(2) However, if the licensee damages any improvements on land (other than land, or an easement or right of way over land, acquired for use for the pipeline) the licensee must pay compensation under this Act to—

- (a) the owner; or
- (b) for land held under a lease, licence or permit under the *Land Act 1994* or another Act—the occupier; or
- (c) for unallocated State land—the State.

(3) In respect of land the subject of an easement or right of way for the purposes of the pipeline the licensee—

- (a) shall have and may exercise all the rights of entry upon land specified in subsection (1); and
- (b) may thereon construct, inspect, test, operate, maintain, repair, alter, add to, or replace the pipeline and, from time to time, take and do all such steps and things as are necessary or convenient for such purposes or any of them.

(4) The rights of a licensee under an easement or right of way for the purposes of the pipeline shall include a right that no person shall, without the prior permission of the licensee or otherwise than in compliance in



every respect with any terms, provisions, or limitations imposed by the licensee in respect of the permission erect or place any building or structure whatsoever in, on, or over the land the subject of the easement or right of way or, except for the purpose of cultivating the land in accordance with recognised good land husbandry, dig into such land.

### **Crossing of railways, roads etc.**

**78.(1)** Where it is necessary for the pipeline to be constructed on, over or under any lands the property of Queensland Rail or reserved for railway purposes or upon which there is any railway of Queensland Rail, the pipeline shall be constructed and maintained (and, where Queensland Rail, in operating the railway so requires, altered, added to, or replaced) at the expense of the licensee, to the satisfaction of Queensland Rail so as not to impede the safe working of the railways of Queensland Rail and so as not unnecessarily to obstruct the working thereof.

**(2)** The powers given to a licensee under section 77 shall, in respect of lands referred to in this section, be exercised only with the prior approval of Queensland Rail.

**(3)** Any additional expense which Queensland Rail may at any time incur in operating the railway by reason of the existence and operation of the pipeline or by reason of the exercise by the licensee of the licensee's powers under section 77 upon any of the lands referred to in this section shall be borne by the licensee.

**(4)** If any dispute arises between the licensee and Queensland Rail under subsections (1) to (3) the question shall be determined by the Governor in Council.

**(5)** Any failure by the licensee to comply with the decision of the Governor in Council made under subsection (4) shall, for the purposes of section 72, be deemed to be a failure to comply with a term or condition to which the licence is subject.

**(6)** The licensee shall indemnify Queensland Rail against any loss which Queensland Rail may incur or any payment which Queensland Rail may be required to make in respect of the loss of life of or injury to any person, or any animal, or damage to any property, by reason of the existence of the pipeline on, over, or under any of the lands aforementioned, and the

exercise by the licensee of licensee's powers under section 77 upon any of such lands.

(7) Where it is necessary for the pipeline to be constructed on, over, or under any road or any tramway the licensee shall construct and maintain the pipeline (and, where required, alter, add to, or replace the pipeline) at the expense of the licensee so as not to impede the safe and efficient use of such road or tramway, and shall to the extent necessary cause a substituted road or tramway to be made.

(8) Such construction and maintenance shall be to the satisfaction of, and such alteration, addition or replacement may be required by and shall be to the satisfaction of—

- (a) for a State-controlled road under the *Transport Infrastructure Act 1994*—the chief executive (of the department in which that Act is administered); or
- (b) in the case of other roads—the Minister; or
- (c) in the case of any tramway—the owner of such tramway.

(9) If any dispute arises between the licensee and that chief executive or the Minister or the owner of any tramway under the provisions of subsection (10) the question shall be determined by the Governor in Council.

(10) Any failure by the licensee to comply with the decision of the Governor in Council made under subsection (9) shall, for the purposes of section 72, be deemed to be a failure to comply with a term or condition to which the licence is subject.

(11) Where it is necessary for the pipeline to be constructed in, on, over, through, or across any foreshore or any land lying under the sea within Queensland waters or any land lying under any harbour (including any navigable river), whether the foreshore or land is alienated or held from the Crown or not, the provisions of the *Harbours Act 1955*, section 86, shall, except as hereinafter provided, apply with respect to the pipeline.

(12) However, the provisions of the said section 86(3) shall apply subject to such adaptations, modifications or additions as the Governor in Council in sanctioning such construction pursuant to section 86(2) of that Act may determine.

(13) Where it is necessary for the pipeline to be constructed in, on, over or under any watercourse, lake or spring the pipeline shall be constructed, maintained, altered, added to and replaced at the expense of the licensee to the satisfaction of the chief executive (of the department in which the *Primary Industries Corporation Act 1992* is administered) (in subsections (14) to (18) referred to as the “**chief executive**”) and so as not to unnecessarily—

- (a) pollute, interfere with or impede the water or the flow of water in such watercourse, lake or spring;
- (b) interfere with or damage the bed or banks of any watercourse or lake where such bed and banks are the property of the Crown.

(14) The licensee shall not carry out any work in, on, over or under any watercourse, lake or spring except—

- (a) with the consent (first had and obtained) or at the direction of the chief executive;
- (b) where in relation to such work the chief executive imposes requirements or approves plans or specifications—in compliance with all such requirements, plans and specifications.

(15) Whenever in the opinion of the chief executive the pipeline does or is likely to unnecessarily—

- (a) pollute, interfere with or impede the water or flow of water in any watercourse, lake or spring; or
- (b) interfere with or damage the bed or banks of any watercourse or lake where such bed and banks are the property of the Crown;

the chief executive may direct the licensee in writing to take within the time therein specified such measures as, in the chief executive’s opinion, are necessary to prevent such pollution, interference, impediment or, as the case may be, damage and the licensee shall comply in all respects with such direction.

(16) If any dispute arises between the licensee and the chief executive under subsections (13) to (15) the question shall be determined by the Governor in Council.

(17) Any failure by the licensee to comply with the decision of the Governor in Council made under subsection (16) shall, for the purposes of

section 72, be deemed to be a failure to comply with a term or condition to which the licence is subject.

(18) In subsections (13) to (15), “lake”, “spring” and “watercourse” has the same meaning as in the *Water Resources Act 1989*.

### **Registration and effect of easements etc.**

79.(1) Whenever an easement or right of way affecting land under the *Land Title Act 1994*, shall have been acquired by a licensee for the purposes of a pipeline, the registrar of titles shall, when the registrar of titles shall have notice thereof, record in the register particulars of the easement or right of way in respect of the land affected thereby in such manner as to preserve its priority.

(2) Notwithstanding any other Act or law and notwithstanding that any easement or right of way acquired by a licensee for the purposes of a pipeline is not being annexed to or enjoyed together with any other land—

- (a) in the case of land under the *Land Title Act 1994*—the provisions of subsection (1) shall apply;
- (b) in the case of other land—any law relating to the registration of the instrument of grant of the easement or right of way shall apply;
- (c) in any case—any easement or right of way acquired by a licensee for the purposes of a pipeline shall be a valid easement or right of way, and binding on all persons affected thereby.

(3) For the purposes of the registration of any instrument relating to any land (including any instrument of grant of an easement or right of way) acquired by a licensee for the purposes of a pipeline a plan signed by the coordinator-general shall be a sufficient plan.

### **Petroleum product pipelines**

80.(1) For encouraging, facilitating and regulating the construction of a particular petroleum product pipeline being, proposed or planned to be, constructed, the Governor in Council may, under a regulation, declare the

pipeline to be a pipeline to which all or any of sections 67 to 79 apply.<sup>15</sup>

(2) The regulation must contain a description of the lands on, over or under which the pipeline is being constructed or proposed or contemplated to be constructed.

(3) In this section—

**“petroleum product”** means a product that wholly or substantially consists of or is wholly or substantially derived from hydrocarbons and that is not petroleum as defined in section 2.

**“petroleum product pipeline”** means a system of pipes used for conveying a petroleum product and all ancillary equipment and works connected therewith such as tanks, reservoirs, pumps, loading facilities, structures supporting the line, pump houses, and apparatus to afford protection against corrosion.

## **Bond**

**81.** Every permittee and lessee shall furnish and maintain the prescribed security, whether by way of cash, bond, or otherwise howsoever, conditioned upon compliance with the terms of the permit or lease, as the case may be, and of this Act.

## **Logs of wells**

**82.** Every permittee and lessee and holder of an authority to prospect shall keep a log, in the form prescribed by the Minister, of all the wells drilled by the permittee, lessee or holder, showing the strata and character of the ground passed through by the drill, which log or a copy thereof shall from time to time be furnished to the Minister upon demand.

## **Restrictions on location of drills**

**83.(1)** A permittee or lessee or holder of an authority to prospect shall not commence drilling within 60 m of any of the outer boundaries of the land covered by the permit or comprised in the lease or held under the

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<sup>15</sup> Sections 67 to 79 are provisions relating to pipeline licences.

authority to prospect, as the case may be, unless the adjoining land is not the subject of any permit or lease or authority to prospect under this Act.

(2) However, this restriction shall not apply to any bore which is being drilled at the time such permit or lease or authority to prospect of the adjoining land is granted in respect of such adjoining land.

### **Prevention of waste etc.**

**84.(1)** Every permittee and lessee and holder of an authority to prospect shall carry on all his or her operations in a good and skilful manner in accordance with recognised and approved methods and practice to the satisfaction of the Minister and shall take all reasonable precautions to prevent waste of petroleum developed in the land and to prevent the entrance of water through wells drilled by the permittee, lessee or holder to the petroleum deposits so to destroy or injure or be likely to destroy or injure any petroleum deposits.

(2) Every permittee and lessee and holder of an authority to prospect shall carry out at his or her own expense all reasonable requirements directions and orders of the Minister relative to the prevention of waste and the protection and preservation of the land held by the permittee, lessee or holder, and neighbouring property, and for the safety, protection, and welfare of workers, and shall comply with such rules and directions as are issued by the Minister under this Act as to methods of operation.

(3) The Minister is authorised to do any and all things necessary to carry out and accomplish the purposes of this Act in that behalf.

### **Casting well**

**85.** Every permittee and every lessee and every holder of an authority to prospect unless in any case wholly or partially excused by the Minister from so doing, shall properly case each well with metal casing in accordance with the best approved methods, landing and effectually cementing 1 or more strings of the casing in clay or other water-impervious strata and generally shall take all such steps as may be reasonably necessary for effectually shutting off the escape of all water and for effectually preventing any water from penetrating any petroleum deposits, and for effectually preventing any petroleum from penetrating any aquifer.

**Water rights**

86. Notwithstanding the provisions of the *Water Resources Act 1989*—

- (a) a holder of an authority to prospect, a permittee or a lessee may, with the prior permission in writing of the Minister and subject to such terms and conditions as the Minister deems fit, which terms and conditions shall be set out in such permission, search for, obtain, store and use underground water (including artesian and subartesian water) within the limits of the land covered or demised by the authority, permit, or lease, for any of the purposes for which such authority, permit, or lease was granted and for any purpose incidental thereto;
- (b) the Minister shall before granting any such permission refer the application for permission to the chief executive (of the department in which the *Primary Industries Corporation Act 1992* is administered), who shall investigate the application and make thereon to the Minister a report, together with such recommendation as that chief executive deems fit;
- (c) any permission granted by the Minister pursuant to paragraph (a) may authorise the holder of the authority to prospect, permittee, or lessee to supply, by agreement between the parties (but subject to the obtaining by such holder, permittee, or lessee of the prior approval of that chief executive as to the quantities and usage of the water in question), to the owner or occupier of the land covered or demised by the authority, permit, or lease, or the owner or occupier of any land adjoining or in the vicinity of such land, any water obtained by such holder, permittee, or lessee, pursuant to such permission, that is surplus to the requirements of such holder, permittee, or lessee for the purposes aforementioned;
- (d) where, on any land covered or demised by an authority to prospect, permit, or lease, there is situated an artesian well or subartesian well licensed under the provisions of the *Water Resources Act 1989*, then—
  - (i) if, in the opinion of that chief executive, such well is capable of producing more water than is required by the holder of

the licence under such lastmentioned Act in respect of such well; and

- (ii) if, in the opinion of the Minister, the holder of the authority to prospect, permittee, or lessee reasonably requires such excess water or any part thereof for any of the purposes for which such authority, permit, or lease was granted or for any purpose incidental thereto;

the Minister may authorise or require the holder of the licence under the *Water Resources Act 1989*, to supply to the holder of the authority to prospect, permittee, or lessee such excess water or part thereof on such terms and conditions as may, subject to the approval of the Minister, be agreed upon between the holder of the licence and the holder of the authority to prospect, permittee, or lessee or, failing such agreement, as the Minister deems fit, and such holder, permittee, or lessee may thereupon acquire and use such excess water or part thereof for the purposes aforementioned.

### **Abandonment of well**

**87.(1)** No person shall abandon any well that has been drilled for petroleum unless, prior to the well being abandoned, it has been properly and effectively plugged so as to prevent any damage occurring to any aquifers and petroleum deposits.

**(2)** No person shall withdraw any casing from any well that has been drilled for petroleum or any well that, pursuant to permission granted under section 86, has been drilled for water, without the prior consent in writing of the Minister or, where such consent has been granted subject to any terms and conditions, otherwise than in accordance with such terms and conditions.

**(3)** The Minister may consent to any withdrawal as aforesaid subject to such terms and conditions as the Minister deems fit.

**(4)** No person shall sell or lease or grant any rights with respect to any well that has been drilled for petroleum or any well that, pursuant to permission granted under section 86, has been drilled for water, or any casing in such a well or any other fixture attached to such a well, without the prior consent in writing of the Minister or, where such consent has been



granted subject to any terms and conditions, otherwise than in accordance with such terms and conditions.

(5) The Minister may consent to any such sale, lease, or grant as aforesaid subject to such terms and conditions as the Minister deems fit.

(6) On the termination by forfeiture, surrender or expiry of an authority to prospect, permit, or lease, the ownership of any well that has been drilled for petroleum, and any well that, pursuant to permission granted under section 86, has been drilled for water, on the land covered or demised by such authority, permit, or lease, together with all casing in such well and all other fixtures attached to such well, excepting any well, casing or fixture that with the consent of the Minister has been sold pursuant to subsections (4) to (5), shall vest in the Crown, and any lease and any other rights granted under those subsections shall terminate.

(7) Thereupon no person shall use such well for any purpose or remove any casing or fixture therefrom except with the prior consent in writing of the Minister.

(8) The Minister may consent to any use or removal as aforesaid conditioned upon payment to the Minister of the value of the well, to be determined by the Minister, or such lesser sum as the Minister may determine.

(9) Upon payment as aforesaid the well or, as the case may be, casing or fixture, shall become the property of the payer.

(10) Any moneys so paid to the Minister shall upon demand be paid out to the person who was the owner of the well immediately before the ownership of the well vested in the Crown.

(11) Where the owner or occupier of the land whereon a well is situated becomes the owner of that well pursuant to this section, and obtains a licence under the *Water Resources Act 1989*, in respect of that well, the aforesaid provisions of this section shall cease to apply with respect to that well.

(12) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence against this Act.

**Conduct of operations on land**

**88.(1)** The holder of an authority to prospect, permittee or lessee shall so conduct operations under the authority, permit, or lease as not to interfere with the existing use of the land covered or demised by the authority, permit, or lease to a greater extent than may be necessary.

**(2)** In the event of any dispute the Minister may determine the extent of such interference which is so necessary.

**(3)** The holder of an authority to prospect, permittee, or lessee shall make compensation in accordance with this Act to the owner of any private land or holder under the Crown of any unallocated State land or, in the case of either private land or unallocated State land, to any person in lawful occupation thereof in respect of all damage caused by the holder, permittee or lessee to crops and improvements on such land, including any permanent artificial water supply.

**(4)** Such compensation shall include reimbursement for the occupation of that portion of the land occupied by the holder, permittee, or lessee for mining and construction works during the period of such occupation.

**(5)** In respect of any land so occupied the holder, permittee, or lessee shall do such things and take such precautions as may be prescribed to prevent any injury to such land or any property of the owner, holder or occupier of such land as aforementioned situated upon such land, and shall promptly repair any damage resulting from improper methods of mining or from any failure to do the things and take the precautions as aforesaid.

**Compliance with Act etc.**

**89.(1)** Every permittee and lessee and holder of an authority to prospect shall duly and punctually comply with this Act and with the requirements, directions, and orders of the Minister given and issued under the terms of the permit or lease or authority to prospect as the case may be.

**(2)** The permittee, lessee or holder shall conduct all mining drilling and relative productive operations, subject to the inspection of the Minister or authorised officer or representative.

**(3)** The permittee, lessee or holder shall abide by and conform to regulations in force from time to time covering the matters referred to in the permit or lease or authority to prospect, as the case may be.

(4) However, the permittee or lessee or holder of the authority to prospect shall not be held responsible for delays occasioned by causes beyond his or her control.

(5) In the event of the permittee or lessee or holder of the authority to prospect failing or neglecting to carry out the requirements of the Minister, the Minister by his or her workers and agents shall have the right to enter on the land and carry out any necessary operations at the permittee's or lessee's or holder's expense.

### **Regulations may prescribe further provisions**

90. The regulations under this Act may provide for and prescribe further provisions and conditions with respect to permits and leases and authorities to prospect.

### **Minister's powers concerning petroleum**

91. The Minister shall have and may exercise such powers and authorities with respect to controlling the recovery or distribution of petroleum as are for the time being conferred on the Minister by regulation.

### **Delivery of premises in case of forfeiture**

92. In the event of a permit being duly cancelled or a lease being duly forfeited, the permittee or lessee shall deliver up the land and improvements thereon, in good order and condition.

### **Right to mine for other minerals**

93.(1) No grant, right, licence, permit, tenement, lease, or other authority shall be granted or allowed to search or mine for mineral oil which may be extracted or produced from shale, coal or other rock by some chemical or thermal process, on any part of the lands the subject of a permit or lease under this Act.

(2) Mining for gold and other minerals therein or thereon may be allowed on such terms and conditions as the Minister may consider reasonable.

**Drills for water on lands under permit or lease**

**94.** During the currency of any permit or lease no person shall drill for water in or on any land the subject of a permit or lease, except upon and subject to such conditions as are imposed by the Minister or by regulations.

**Limits on use of water from natural source**

**95.(1)** A holder of an authority to prospect, permittee, lessee or licensee who proposes to take water from any natural source under this Act shall—

- (a) take all steps to ensure that no water is lost during such taking; and
- (b) take only such quantity of water as is properly required for his or her purpose in question;

to the intent that there shall be left in such source sufficient water to satisfy the reasonable requirements of other persons who may lawfully take water from such source.

**(2)** If any dispute arises in respect of the taking of water from such a source any party to the dispute may refer the issue to the warden having jurisdiction in relation to the area in which the source in question is situated.

**(3)** The jurisdiction of such warden in respect of such a dispute includes jurisdiction to determine—

- (a) the quantity of water to be respectively taken from the source in question by the parties to the dispute or any of them;
- (b) the time and the manner of taking such water by any party to the dispute.

**(4)** When the warden has made a determination in respect of either of the matters referred to in subsection (3)(a) or (b) the parties to the dispute who are affected thereby shall comply in all respects with such determination.

**Who bound by terms of permits and leases etc.**

**96.** Each of the obligations and benefits under any authority to prospect, permit, lease and licence shall be binding upon and extend to the heirs, executors, administrators, successors and permitted assigns of the holder of the authority to prospect, permittee, lessee, or licensee.

**Compensation**

**97.(1)** Compensation payable under this Act, whether by the corporation sole or a permittee or lessee or holder of an authority to prospect or licensee or any other person by whom compensation is payable under this Act, shall not be payable where the operations of any such person do not comprise any portion of the surface of the land.

**(2)** If any doubt exists as to who are the persons entitled to compensation, or if they or any of them can not be found, the Minister shall be deemed to represent them, and any payment in respect of compensation may be made to the Minister in trust for all persons entitled.

**Power to agree as to compensation**

**98.(1)** The permittee or lessee or holder of an authority to prospect or licensee or other person by whom compensation is payable under this Act may agree with the persons severally entitled to compensation as to the amount of such compensation.

**(2)** No such agreement shall be valid unless the same is in writing and signed by the parties thereto or their agents, and filed in the warden's office.

**(3)** If within such time as may be prescribed the parties are unable to agree upon the amount of compensation to be paid, then either party may, upon a plaint in that behalf, have the amount determined in the Wardens Court.

**Measure of compensation**

**99.(1)** Save as is by this Act otherwise provided, the compensation to be made under this Act shall be compensation for—

- (a) deprivation of the possession of the surface or of any part of the surface; and
- (b) damage to the surface or any part thereof, and to any improvements thereon, which may arise from the carrying on of operations by the Minister or the permittee or lessee thereon or thereunder; and
- (c) severance of the land from other land of the owner or occupier; and

- (d) surface rights of way; and
- (e) all consequential damages.

(2) However, in determining the amount of compensation no allowance shall be made for any petroleum known or supposed to be in or under the land.

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

### **Union of leases**

**100.(1)** Notwithstanding anything contained in this Act, the Minister may approve of the union of 2 leases, whether the areas embraced in such leases are contiguous or are not contiguous, subject to the following conditions—

- (a) an application for such union shall be made to the Minister by means of a resolution passed by a majority in number and value (calculated in each case as prescribed) of the persons registered for the time being as holders of the leases concerned;
- (b) subject to this section or as may be prescribed, all the provisions of this Act governing leases and matters and things concerning same shall apply and extend to any such union of leases, as the case may be.

(2) Regulations may be made to give full effect to the objects and provisions of this section.

### **Agreements to drill wells**

**101.(1)** Subject to this section the Minister may, at the Minister's discretion, sanction any agreement—

- (a) between holders respectively of authorities to prospect, permits, or leases in respect of lands situated in the same district; or

- (b) between the holder of any authority to prospect, permit, or lease and a person, company or corporation;

having for its object the making of provision for the drilling of any well by a party to the agreement on the land specified in that agreement.

(2) Such an agreement shall not have force or effect in law unless it is sanctioned by the Minister.

(3) However, nothing in subsections (1) to (2) shall apply with respect to any agreement entered into between the holder of an authority to prospect, permittee or lessee and a drilling contractor who holds no interest whatsoever in the authority to prospect, permit, or lease.

(4) The Minister shall not sanction, between a holder and any person, company, or corporation, any agreement whereby that person, company, or corporation acquires or holds any interest whatsoever in any authority to prospect, permit, or lease which he, she or it is prohibited from holding by section 25.

(5) For the purpose of the performance, wholly or in part, of the obligations imposed by sections 34 and 48 upon a holder who is a party to an agreement between holders sanctioned by the Minister under this section, any well which, pursuant to the agreement, is drilled on the land comprised in an authority to prospect, permit, or lease held by any other holder who is a party to the agreement shall be taken into account as if it had been drilled on the land comprised in the authority to prospect, permit, or lease in question of the holder first hereinbefore mentioned in this subsection.

(6) Regulations, including regulations prescribing the form of agreement, may be made for the purpose of carrying out the objects of this section.

### **Unit development of petroleum deposits**

**102.(1)** In this section—

**“authorised person”** means the holder of any authority to prospect, permit or lease.

**“unit development”**, used in relation to a petroleum deposit, means the coordination of operations for the recovery of petroleum from that deposit carried on or to be carried on at any place within the area of the State to which this Act applies where there is part of that deposit with

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other operations for the recovery of petroleum from that deposit carried on or to be carried on at any other place (whether within or outside the area of the State to which this Act applies) where there is part of that deposit.

(2) An authorised person may from time to time enter into an agreement in writing for or in relation to the unit development of a petroleum deposit.

(3) Such an agreement shall be of no force or effect in law until it is approved by the Minister.

(4) A person who applies for the approval of the Minister to such an agreement shall furnish to the Minister the agreement or a copy thereof.

(5) The Minister may, of the Minister's own motion or on application made to the Minister in writing by—

- (a) an authorised person whose authority to prospect, permit or, as the case may be, lease comprises land in which there is a particular petroleum deposit; or
- (b) a person who is lawfully entitled to carry on operations for the recovery of petroleum at any place outside the area of the State to which this Act applies where there is part of a petroleum deposit which extends into such area;

may, for the purpose of securing the more effective recovery of petroleum from that petroleum deposit, in writing, direct any authorised person who is authorised to recover petroleum from that petroleum deposit to enter into an agreement in writing within the period specified in the direction for or in relation to the unit development of that petroleum deposit.

(6) The provisions of subsections (2) to (4) shall apply to an agreement entered into pursuant to the direction.

(7) Where—

- (a) an authorised person who is directed under subsection (5) to enter into an agreement for or in relation to the unit development of a petroleum deposit does not enter into such an agreement within the specified period; or
- (b) an authorised person so directed enters into such an agreement which is not lodged with the Minister as prescribed or which, being so lodged, is not approved by the Minister;



the Minister may, in writing, direct the authorised person to submit to the Minister, within the period specified in the direction, a scheme for or in relation to the unit development of the petroleum deposit.

(8) At any time after the expiration of the period within which a scheme for or in relation to the unit development of the petroleum deposit is to be submitted by an authorised person under subsection (7) the Minister may, in writing, give to that authorised person such directions as the Minister considers necessary for the purpose of securing the more effective recovery of petroleum from the petroleum deposit.

(9) Where one person is an authorised person in respect of 2 or more areas of land in each of which areas there is part of the same petroleum deposit the Minister may, after consultation with the authorised person, give to the authorised person such directions in writing as the Minister considers necessary for the purpose of securing the more effective recovery of petroleum from the petroleum deposit.

(10) Where—

- (a) an agreement for or in relation to the unit development of a petroleum deposit is in force; or
- (b) the Minister has given directions under subsection (8) or (9) in respect of a petroleum deposit;

the Minister may, having regard to additional information that has become available and after consultation with the authorised person or persons (party to such agreement or, as the case may be, subject to such directions) give to such authorised person or persons such directions in writing as the Minister considers necessary for the purpose of securing the more effective recovery of petroleum from the petroleum deposit.

(11) Directions given under subsections (8) to (10) may include directions as to the rate at which and the places where petroleum is to be recovered from the petroleum deposit in question.

(12) An authorised person to whom directions are given under subsections (8) to (10) shall comply with such directions.

## **PART 8—PROVISIONS ABOUT ACCESS TO FACILITIES**

### *Division 1—Objects*

#### **Objects**

**103.** The objects of this part are—

- (a) to facilitate competitive markets in the petroleum industry for the benefit of the public and industry; and
- (b) to promote efficiency in the petroleum industry; and
- (c) to provide for access to facilities on fair commercial terms.

### *Division 2—Application of part*

#### **Application of part to pipelines**

**104.(1)** This part applies to all licensed pipelines, and pipelines owned by the corporation sole, unless a regulation declares this part does not apply to a stated pipeline.

**(2)** If a pipeline stops being the subject of a regulation under subsection (1), this part applies to the pipeline.<sup>16</sup>

**(3)** However, if this part does not apply to a pipeline that would be a facility if it was licensed, the pipeline is taken to be a facility to which this part applies if—

- (a) a person voluntarily complies with this part; or
- (b) a person is an applicant for a pipeline licence.

**(4)** Also, this part does not apply to a licensed pipeline if it is part of a petroleum gathering system under a unitisation arrangement and is outside the land covered by the arrangement.

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<sup>16</sup> See section 109 (Access principles for existing or previously exempted pipelines).

(5) A regulation under subsection (1) may be made only if, in the Minister's opinion—

- (a) it will not—
  - (i) inhibit competition; or
  - (ii) have a significant adverse effect on transportation and handling of petroleum; or
- (b) another pipeline can be economically developed to provide a service similar to the service the pipeline to be declared provides.

(6) A declaration under subsection (1) may only be terminated if the Minister considers that the Minister could not have any opinion mentioned in subsection (5)(a) or (b) about the pipeline.

### **Application of part to associated facilities**

**105.(1)** A regulation may declare an associated facility to be a facility to which this part applies.

(2) However, subsection (1) applies only if the Minister considers—

- (a) the declaration will promote competition; and
- (b) the service the associated facility provides—
  - (i) is essential for transporting and handling petroleum; and
  - (ii) can be provided safely and is economically feasible; and
- (c) it would be uneconomical to develop an associated facility to provide a service similar to a service provided by the facility proposed to be declared.

(3) Also, if this part does not apply to an associated facility that would be a facility if a regulation declared this part to apply to it, and the owner of the facility voluntarily complies with this part, the thing is taken to be an associated facility to which this part applies and the owner is taken to be a facility owner.

### **Part does not apply to some access agreements**

**106.(1)** This part does not apply to an access agreement for a capacity

within, or less than, a range prescribed under a regulation.

(2) Despite subsection (1), division 5 applies to an access agreement for a capacity within a range prescribed under a regulation.

(3) This part does not apply to an access agreement made—

- (a) before the commencement of this section for a pipeline in existence immediately before the commencement—until 1 January 2002; or
- (b) for a pipeline declared not to be a facility if the declaration is repealed—for 5 years after the repeal; or
- (c) for an associated facility declared to be a facility—for 5 years after the declaration.

(4) However, if an access agreement mentioned in subsection (3) is amended, this part applies to the agreement, unless the Minister is satisfied it does not affect access to the facility to which it relates, and the Minister approves the amendment.

### **Application of part to joint venturers**

**107.(1)** If a facility owner or user consists of 2 or more corporations participating in a joint venture, the following provisions apply—

- (a) anything that may be done under this Act by a facility owner or user may be done by 1 of the corporations for the facility owner or user;
- (b) a reference to a related corporation of a facility owner or user is a reference to a related corporation of any of the corporations;
- (c) a requirement that the facility owner or user bear costs for something is a requirement that the corporations bear the costs jointly and severally;
- (d) a provision of this Act that requires a facility owner or user to do something or prohibits a facility owner or user doing something also applies to a corporation participating in the joint venture.

(2) A regulation may declare that this section, or a stated provision of this section, does not apply to a stated facility owner or user.

***Division 3—Access principles*****Proposed access principles to be given to Minister**

**108.(1)** This section applies if—

- (a) a person voluntarily complies with this part; or
- (b) a person is an applicant for a pipeline licence.

**(2)** If subsection (1)(a) applies, the person may give to the Minister the proposed access principles for the facility.

**(3)** If subsection (1)(b) applies, the person must give to the Minister the proposed access principles for the facility.

Maximum penalty for subsection (3)—100 penalty units.

**Access principles for existing or previously exempted pipelines**

**109.(1)** This section applies to a pipeline if—

- (a) the pipeline was in existence before the commencement of this section, unless a regulation under section 104(1)<sup>17</sup> declared this part does not apply to the pipeline; or
- (b) a regulation under section 104(1) declared this part does not apply to the pipeline and the declaration is terminated.

**(2)** Within 3 months after this section first applies to a pipeline, or a longer period approved by the Minister, the owner of the pipeline must give to the Minister the proposed access principles for the pipeline.

Maximum penalty—100 penalty units.

**(3)** If, within 6 months after this section first applies to a pipeline, or a longer period approved by the Minister, the Minister does not approve proposed access principles for the pipeline, the Minister must decide the access principles for the pipeline.

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<sup>17</sup> Section 104 (Application of part to pipelines)

**Access principles for associated facilities**

**110.(1)** This section applies to an associated facility only if a regulation declares it applies to the facility.<sup>18</sup>

**(2)** Within 3 months after this section first applies to an associated facility, the owner of the facility must give to the Minister the proposed access principles for the facility.

Maximum penalty—100 penalty units.

**(3)** If, within 6 months after this section first applies to an associated facility, the Minister does not approve proposed access principles for the facility, the Minister must decide the access principles for the facility.

**Access principles may provide for different indicative tariffs**

**111.(1)** Access principles may provide for access agreements to be made providing for different tariffs for the same service.

**(2)** Access principles mentioned in subsection (1), and agreements made under the principles, are authorised for the *Trade Practices Act 1974* (Cwlth).

**Access principles—approving or deciding**

**112.(1)** This section applies if—

- (a) a provision of this Act requires proposed access principles or proposed new access principles for a facility to be given to the Minister; or
- (b) the Minister has approved access principles for a prescribed pipeline in terms of an agreement under section 70A<sup>19</sup> and the facility owner must give proposed new access principles to the Minister under section 113(2); or

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<sup>18</sup> See section 105 (Application of part to associated facilities).

<sup>19</sup> Section 70A (Powers that may be exercised after competitive selection process)

(c) the Minister must decide the access principles for a facility under section 109(3), 110(3) or 113(3).<sup>20</sup>

(2) The Minister may approve the proposed access principles or proposed new access principles for the facility or the pipeline (the “**facility**”).

*Examples of matters access principles may provide for—*

- principles for the setting of any indicative tariff
- indicative access conditions
- an indicative tariff.

(3) Before giving an approval or making a decision, the Minister must consider the following—

- (a) the objects of this part;
- (b) the legitimate business interests of the facility owner;
- (c) the legitimate business interests of existing facility users and possible future facility users;
- (d) fair and efficient market conduct with respect to tariff arrangements and access conditions for the facility;
- (e) the operational and technical requirements for the facility’s safe and reliable operation;
- (f) amounts invested in constructing and operating the facility;
- (g) the reliability of the service offered;
- (h) the cost to the facility owner of providing access, but not costs associated with losses from increased competition in upstream and downstream markets;
- (i) contractual obligations of the facility owner and facility users;
- (j) efficiency and economy in the facility’s construction, operation and use;
- (k) any additional investment in the facility by someone other than

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<sup>20</sup> Section 109 (Access principles for existing or previously exempted pipelines), 110 (Access principles for associated facilities) or 113 (Review of access principles)

the facility owner.

(4) The Minister may approve or decide an indicative tariff for the facility only if—

- (a) it is consistent with any principles for setting the tariff; and
- (b) in the Minister's reasonable opinion, it gives a proposed facility user of the facility a reasonable amount of information about—
  - (i) the charging arrangements for the facility stated in the tariff; and
  - (ii) to the extent the charging arrangements for the facility are not stated—the methodology by which the charging arrangements are to be decided.

(5) An indicative tariff that includes a methodology by which charging arrangements are to be decided must also set out when, and the circumstances in which, the charging arrangements are to come into effect.

(6) The deciding or coming into effect of charging arrangements by a methodology stated in the indicative tariff is not a review event or an amendment of the access principles.

(7) The Minister may, by written notice, ask a facility owner to give to the Minister, within a stated reasonable time, stated reasonable information necessary to enable the Minister to properly consider the proposed access principles or proposed new access principles.

(8) The facility owner must comply with the request, unless the person has a reasonable excuse for not complying.

Maximum penalty—300 penalty units.

(9) It is a reasonable excuse for subsection (8) that giving the information may tend to incriminate the person.

(10) The Minister must notify the access principles by gazette notice.

### **Review of access principles**

**113.(1)** This section applies to a facility if a review event happens.

(2) Within 3 months after a review event for a facility happens, the facility owner must review the access principles for the facility and give the



Minister the proposed new access principles.

Maximum penalty—100 penalty units.

(3) If, within 6 months after a review event happens for a facility, the Minister does not approve new access principles, the Minister must decide the access principles for the facility.

(4) However, the Minister may include in the access principles a requirement that the facility owner must pay all or part of the cost of increasing the facility's capacity only if the facility owner agrees or a licence condition requires the increase in the capacity.

(5) The Minister must notify the access principles by gazette notice.

### **Effect of access principles on agreements**

**114.** Within 6 months after notice of the access principles for a facility is gazetted, the parties to an access agreement that is inconsistent with the access principles must amend the agreement to remove the inconsistency, unless the Minister otherwise approves.

Maximum penalty—500 penalty units.

## *Division 3A—Amendment of access principles*

### *Subdivision 1—Minor amendments*

#### **Approval of minor amendment**

**114A.(1)** On the application of the owner of a facility, the Minister may approve a minor amendment of the access principles for the facility.

(2) An amendment is minor only if the Minister considers it does not adversely affect in a material way the facility owner or any user or proposed user of the facility.

(3) The Minister must notify the approval by gazette notice.

(4) A minor amendment takes effect on the later of the following—

- (a) the day the notification is gazetted;
- (b) the day stated in the notice.

*Subdivision 2—Amendments for addition to route of pipeline*

**Application of access principles to extended pipeline**

**114B.(1)** This section applies if—

- (a) the licensee of a pipeline (the “**existing pipeline**”) applies to the Minister to amend the licence to add to the route of the pipeline; and
- (b) there are access principles for the pipeline; and
- (c) the owner of the pipeline has not made a request under section 125(2).<sup>21</sup>

**(2)** On the application of the owner, the Minister may approve the application of the access principles, with or without amendment, to the extended pipeline.

**(3)** However, the Minister may only approve the application of the access principles—

- (a) if the Minister has considered the things mentioned in section 112(3)(a) to (k) that, in the Minister’s opinion, are relevant to the extended pipeline; and
- (b) for an approval of the application of the access principles with an amendment, if the Minister—
  - (i) is of the opinion that the amendment is only of a minor nature to the extent that it applies to the existing pipeline; and
  - (ii) has complied with section 112(4) and (5) for any amendment of an indicative tariff to apply to the extended pipeline.

**(4)** An approval takes effect if the licence is amended to add the addition to the route of the pipeline.

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<sup>21</sup> Section 125 (Development of facility capacity)

(5) On an approval taking effect—

- (a) if the Minister has approved the application of the access principles with an amendment—the amended access principles are approved for the extended pipeline; and
- (b) the Minister must notify the approval by gazette notice.

(6) In this section—

“**extended pipeline**” means the existing pipeline and the addition to the route of the pipeline.

### **Effect of approval on access agreements**

**114C.(1)** This section applies if an access agreement is inconsistent with amended access principles for a pipeline that have been approved under section 114B(5)(a).

(2) The parties to the agreement must, within 6 months from when notice of the approval of the application of the access principles with an amendment is gazetted, amend the agreement to remove the inconsistency, unless the Minister otherwise approves.

Maximum penalty—500 penalty units.

### *Division 4—Negotiating access to facilities*

#### **Information to be provided on non-discriminatory basis**

**115.** A facility owner or user for a facility must ensure information given to someone else interested in negotiating access to the facility is given on a non-discriminatory basis.

Maximum penalty—100 penalty units.

#### **Provision of information**

**116.** Within 21 days after receiving a request, an access provider for a facility must give anyone who reasonably requires it—

- (a) a copy of the access principles for the facility; and

- (b) information about current and anticipated future spare and developable capacity of the access provider.

Maximum penalty—100 penalty units.

### **Right to negotiate**

**117.(1)** An access provider must negotiate with a proposed facility user for making an access agreement for the spare or developable capacity of the access provider.

(2) The access provider and the proposed facility user must negotiate in good faith for reaching a fair and reasonable access agreement on terms consistent with the access principles for the facility.

(3) This section also applies to an amendment of an access agreement to remove an inconsistency with the access principles for a facility.

### **Negotiations with persons holding options**

**118.(1)** If a proposed facility user wants access to a capacity entitlement for which someone else has an option under an agreement made after the commencement of this section—

- (a) the proposed facility user must negotiate with the access provider who granted the option; and
- (b) the access provider must give the option holder written notice of intention to negotiate.

(2) An option holder given notice under subsection (1) may take part in negotiations between the access provider and the proposed facility user.

(3) If the option holder agrees to the proposed facility user being given access to all or part of the capacity to which the option relates, the access provider who granted the option may make an access agreement with the proposed facility user in accordance with the terms of the agreement with the option holder.

(4) However, an access dispute is taken to have arisen if—

- (a) the option holder refuses to negotiate; or
- (b) if the option holder takes part in negotiations—the parties to the

negotiations cannot reach agreement about access to the capacity to which the option relates.

### **Priority in negotiation**

**119.(1)** An access provider for a facility must ensure, as far as is practicable, negotiations with a proposed facility user, for an access agreement for the facility, are not unreasonably affected by negotiations with someone else started after the proposed facility user started negotiations for the agreement.

Maximum penalty—100 penalty units.

**(2)** Despite subsection (1), a facility user has priority for negotiations with the facility user's access provider, for access to spare or developable capacity when the facility user's existing access agreement ends—

- (a) to the extent the capacity sought is not more than the existing capacity entitlement in the last year before the agreement ends; and
- (b) if a new access agreement is made at least 2 years before the existing agreement ends.

### **Access agreements**

**120.(1)** If an access provider and a proposed facility user agree in writing to make an access agreement, the capacity proposed to be available under the agreement stops being spare or developable capacity on the day the access provider and proposed facility user agree in writing to make the access agreement.

**(2)** However, subsection (1) ceases to apply if an access agreement is not made within 3 months after the day the capacity stops being spare or developable capacity or a longer period, of not more than 6 months, approved by the Minister.

### **Facility user must give access provider information**

**121.(1)** A facility user for a facility must, as soon as is practicable, give the user's access provider the information the access provider reasonably

requires for the safe and reliable operation of the facility.

(2) If the person given information under subsection (1) is also a facility user, the person must ensure the information is passed on to the person's access provider as soon as is practicable.

Maximum penalty—100 penalty units.

### **Responsibilities in providing access**

**122.(1)** An access provider for a facility must not refuse to give a facility user access to the facility in accordance with the access agreement between the access provider and the facility user.

Maximum penalty—500 penalty units.

(2) If the access provider is also a facility user, the access provider must ensure, as far as is reasonably practicable, the access provider's facility user complies with the facility owner's requirements about the facility's use, including the quality of petroleum the facility may be used to transport or process.

Maximum penalty—500 penalty units.

(3) This section does not prevent an access provider refusing or restricting access in an emergency or for safety reasons.

### **Restrictions on access agreements**

**123.(1)** A person must not make an access agreement for a facility that prejudices access to a facility by a facility user who is not a party to the agreement.

Maximum penalty—100 penalty units.

(2) A person must not make an access agreement for a facility that—

- (a) provides for access in a way inconsistent with the access principles for the facility, unless the Minister otherwise approves; or
- (b) contains a provision restricting, or tending to restrict, a facility user from making access agreements, unless the Minister otherwise approves; or

- (c) provides for access that is not technically feasible or is likely to adversely affect the facility's safe and reliable operation; or
- (d) gives access to a related corporation of the access provider and gives the related corporation an unfair commercial advantage over another facility user or proposed facility user.

Maximum penalty—500 penalty units.

(3) A person must not make an access agreement for a facility that contains a provision preventing a party to the agreement renegotiating it if new or amended access principles or changed licence conditions have a potentially adverse impact on the party's rights under the agreement, unless the Minister otherwise approves.

Maximum penalty for subsection—100 penalty units.

(4) A provision of an access agreement in contravention of subsection (1) or (3) is void.

### **Register to be kept**

**124.(1)** A facility owner must keep a register of access agreements made for the facility as required by subsection (3).

Maximum penalty—20 penalty units.

(2) A facility user must keep a register of access agreements made by the facility user as required by subsection (3).

Maximum penalty—20 penalty units.

(3) The register—

- (a) must be kept at a place approved by the Minister; and
- (b) must include each facility user's name and address and agreed capacity entitlement.

(4) An access provider must allow anyone who reasonably requires information from the register to inspect it free of charge during the access provider's ordinary hours of business.

Maximum penalty—20 penalty units.

**Development of facility capacity**

**125.(1)** This section applies if a facility's nominal capacity is insufficient to meet the needs of facility users and proposed facility users.

(2) The facility owner must give the Minister a written request for approval to increase the facility's nominal capacity.

(3) Before approving the request, the Minister must consider the extent to which the facility's capacity may be increased.

(4) If the Minister decides to approve the request, the Minister must, by written notice, require the facility owner to give to the Minister, within 3 months after a stated day, proposed access principles for the increased capacity.

(5) The facility owner must comply with the request.

Maximum penalty—100 penalty units

(6) If the Minister does not approve the proposed access principles within 6 months after the day stated in the notice under subsection (4), the Minister may decide the access principles for the increased capacity.

(7) However, the Minister may include in the access principles a requirement that the facility owner must pay all or part of the cost of increasing the capacity only if the facility owner agrees.

(8) Also, if a review event happens for the facility for the nominal capacity before the increase, the facility owner is not required to review the access principles for the increased capacity merely because the review event happens.

**Restrictions on facility owner**

**126.(1)** A facility owner who owns a pipeline must not carry on a business other than the business of—

- (a) designing, constructing, maintaining, operating or owning pipelines; or
- (b) providing consultancy and support services for someone who designs, constructs, maintains, operates or owns a pipeline; or
- (c) investing in, or having an interest in, a corporation that carries on a business mentioned in paragraph (a) or (b).



Maximum penalty—100 penalty units.

(2) A facility owner must not trade in petroleum (other than to the extent necessary for the proper operation of the facility).

Maximum penalty—100 penalty units.

(3) A facility owner must—

- (a) ensure separate financial records are kept for each facility; and
- (b) except to the extent necessary to comply with any other Act or law, ensure confidential information in its records about the facility's business (other than shared technical information) is not made available to a related corporation; and
- (c) keep the records in a way enabling information about the operation of the facility to be easily extracted; and
- (d) ensure the facility's business and management is kept separate from that of a related corporation.

Maximum penalty—100 penalty units.

(4) A regulation may declare that this section, or a stated provision of this section, does not apply to a stated facility owner or a stated type of business or both.

### **Assignment of access agreements**

**127.(1)** A facility user may assign all or part of the facility user's interest in an access agreement, unless a regulation declares it may not be assigned.

(2) However, the facility user's obligations under the access agreement continue, unless the assignee and the other parties to the agreement otherwise agree.

## ***Division 5—Arbitration***

### **Application of division**

**128.** This division applies if there is an access dispute about a facility.

**What is an access dispute**

**129.(1)** An “**access dispute**” exists for a facility if—

- (a) an access provider and a proposed facility user cannot agree about the conditions for access to the facility; or
- (b) an access provider and a proposed facility user cannot agree about spare capacity for the facility; or
- (c) an access provider and a facility user cannot agree about something when renegotiating an access agreement for the facility because of new or amended access principles or licence conditions; or
- (d) a person who wants to make an access agreement for the facility for which, because of a regulation, this division applies, questions the tariff an access provider proposes to charge for transporting the person’s petroleum;<sup>22</sup> or
- (e) an access provider refuses to negotiate or deal with a proposed facility user about something mentioned in paragraph (a), (b) or (c).

**(2)** However, an access dispute does not exist merely because a proposed facility user does not accept the access principles or an access agreement consistent with the access principles for a facility.

**Approved arbitrators**

**130.(1)** The Minister may, by gazette notice, appoint a panel of persons as approved arbitrators for this Act.<sup>23</sup>

**(2)** The appointment may be for all access disputes or only stated access disputes.

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<sup>22</sup> These are access agreements to which this part does not generally apply because they are for a limited capacity.

<sup>23</sup> General rules about arbitrators and arbitration are in the *Commercial Arbitration Act 1990*.

**When may arbitrator be appointed**

**131.(1)** If, within 1 month after a person gives an access provider written notice of an access dispute, the parties to the dispute still cannot resolve the dispute, any party may, in writing, require the other party to join in appointing an arbitrator.

(2) The appointment must be made within 21 days after a requirement under subsection (1) is given.

(3) If the Minister has appointed an approved arbitrator or arbitrators, the arbitrator must be an approved arbitrator.

**Principles of arbitration**

**132.(1)** An arbitrator must take the following into account when arbitrating an access dispute for a facility—

- (a) the objects of this part;
- (b) the access principles for the facility;
- (c) the entitlements, obligations, capacity needs and legitimate business interests of the access provider involved in the dispute;
- (d) the capacity needs and legitimate business interests of a proposed facility user involved in the dispute;
- (e) any special access criteria approved under a regulation that apply to the facility;
- (f) fair and efficient market conduct with respect to tariff arrangements and access conditions for the facility;
- (g) the operational and technical requirements necessary for the facility's safe and reliable operation;
- (h) the licence conditions (if any) for the facility.

(2) Also, the arbitrator must take the following into account to the extent they are relevant and consistent with subsection (1)—

- (a) amounts invested in constructing and operating the facility;
- (b) the cost to the access provider involved in the dispute, but not the costs of the access provider associated with losses from increased competition in upstream and downstream markets;

- (c) the legitimate business interests of—
  - (i) facility users; and
  - (ii) the holder of an option under an agreement; and
  - (iii) persons with whom there is an agreement to make an access agreement for the facility; and
  - (iv) persons in whose favour an award has been made that has not yet been, but is to be, given effect;<sup>24</sup>
- (d) contractual obligations of the facility owner and facility users;
- (e) efficiency and economy in the facility's construction, operation and use;
- (f) the economic value to the facility owner of additional investment the proposed facility user is willing to make, but not costs associated with losses from increased competition in upstream and downstream markets.

(3) The arbitrator may take into account anything else the arbitrator considers appropriate and reasonably consistent with subsection (1) or (2).

### **Notice to facility owner**

**133.(1)** This section applies only if an access dispute exists for a facility and the facility owner is not a party to the dispute.

(2) If the arbitrator considers the interests of the facility owner may be adversely affected by an access dispute, the arbitrator must give the facility owner written notice of the dispute.

(3) The notice must state that the facility owner may take part in the arbitration as if the facility owner were a party to the dispute.

### **Giving of relevant information to arbitrator**

**134.(1)** An arbitrator may, by written notice, direct a party to an access dispute to give to the arbitrator, within a stated reasonable time, a copy of all

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<sup>24</sup> See section 138 (Giving effect to arbitrator's award).

documents (including confidential documents) the arbitrator considers relevant to the dispute.

(2) The party must comply with the direction, unless the party has a reasonable excuse for not complying.

Maximum penalty—100 penalty units.

(3) It is a reasonable excuse for subsection (2) that production of a stated document may tend to incriminate the person.

### **Arbitrator may require confidentiality to be observed**

**135.(1)** A person who gives the arbitrator information, or produces a document, may ask the arbitrator to keep the information or the contents of the document confidential.

(2) After considering representations from the parties, the arbitrator may impose conditions limiting access to, or disclosure of, the information or document.

(3) A person must not—

- (a) contravene a condition imposed under subsection (2); or
- (b) use the information other than in the arbitration.

Maximum penalty for subsection (3)—100 penalty units.

### **Ending arbitration**

**136.(1)** An arbitrator may end an arbitration of an access dispute without making an award if—

- (a) the arbitrator reasonably believes—
  - (i) it is not a genuine dispute; or
  - (ii) it has previously been decided by arbitration and there has been no material change in the circumstances since then; or
- (b) the parties to the dispute agree to its ending by written notice given to the arbitrator.

(2) In addition, the arbitrator must return documents produced in an arbitration to the party who produced them after the arbitration ends.

(3) However, subsection (2) does not prevent an arbitrator keeping the documents until after the time for appealing against the arbitrator's decision or any appeal is decided.

### **Arbitrator's power when making an award**

**137.(1)** An arbitrator may make the award the arbitrator considers appropriate for an access dispute for a facility.

(2) The arbitrator may, in an award, deal with any issue about access relevant to the dispute.

(3) Without limiting subsection (1), the arbitrator may—

- (a) require a facility owner or facility user to give a proposed facility user access to the facility; or
- (b) state the conditions of access for a proposed facility user; or
- (c) if the award overrides an earlier award—give directions about the relationship between the awards; or
- (d) make an award that affects an option for access to a capacity entitlement.

(4) However, an arbitrator must not make an award that—

- (a) is inconsistent with the access principles or licence conditions for the facility; or
- (b) reduces, or may reduce, a facility user's capacity entitlement (other than under an option for access); or
- (c) restricts, or may restrict, a facility user's access in a way that prevents the facility user meeting the user's reasonably anticipated capacity requirements known when the access dispute arose; or
- (d) prevents, or may prevent, a facility user exercising the user's right to negotiate for increased capacity under an access agreement (other than under an option for access); or
- (e) makes, or may make, a facility user an owner of any part of the facility without the facility owner's consent.

(5) Also, an arbitrator may only make an award that adversely affects a person's existing access to a facility or an option under an agreement—

- (a) if the arbitrator has considered the likely effect of the award; and
- (b) if it is reasonably appropriate—if the arbitrator orders a stated person to pay a stated amount of compensation to a stated adversely effected person within a stated time.

(6) An award made in contravention of subsection (4) or (5) is of no effect.

(7) A regulation may prescribe things an arbitrator must or must not have regard to when making an award affecting an option for access.

### **Giving effect to arbitrator's award**

**138.(1)** This section applies if an arbitrator makes an award for an access dispute.

(2) After an award is made, the award stops being enforceable if a proposed facility user does not give an access provider a written notice accepting the award within 28 days after the award is made, or a longer period (of not more than 3 months) agreed between the parties.

(3) Unless an award stops being enforceable, the parties to the award must make an access agreement giving effect to the award within 3 months after the award is made, or, with the Minister's approval, a longer period (of not more than 6 months).

Maximum penalty—100 penalty units.

(4) In a proceeding against a person for an offence against this section, it is a defence for the person to prove that the contravention happened even though the person used reasonable endeavours to avoid the contravention.

### **Costs of arbitration**

**139.(1)** The parties to an arbitration must pay their own costs.

(2) Subsection (1) has effect despite the *Commercial Arbitration Act 1990*, section 34.

***Division 6—Provisions aiding enforcement of part*****Responsibility for acts or omissions of representatives**

**140.(1)** This section applies in a proceeding for an offence against this part.

**(2)** If it is relevant to prove a person's state of mind about a particular act or omission, it is sufficient to show—

- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
- (b) the representative had the state of mind.

**(3)** An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the Act or omission.

***Division 7—General*****Minister to be given information**

**141.(1)** Within 3 months after the end of each financial year, the facility owner for a facility must give to the Minister the prescribed required information about the facility for the financial year.

Maximum penalty—100 penalty units.

**(2)** Also, the Minister may, by written notice, ask a facility owner to give to the Minister, within 3 months after a stated date, the prescribed required information for each financial year of a stated period.

**(3)** The facility owner must comply with the request, unless the person has a reasonable excuse for not complying.

Maximum penalty—100 penalty units.

**(4)** It is a reasonable excuse for subsection (3) that giving the information may tend to incriminate the person.



(5) If a facility owner makes or amends an access agreement, the facility owner must give the Minister a copy of the agreement or amendment within 28 days after it is made or amended.

Maximum penalty—100 penalty units.

(6) If an access provider who is a facility user makes an access agreement with another facility user, or amends the agreement, the access provider must give the Minister a copy of the agreement or amendment within 28 days after it is made or amended.

Maximum penalty—100 penalty units.

(7) Within 28 days after a regulation declares a facility to be a facility to which this part applies, the facility's owner must give the Minister a copy of each access agreement in effect immediately before the day of the declaration.

Maximum penalty—100 penalty units.

(8) In this section—

**“financial year”**, for a facility, means the facility owner's financial year.

**“required information”**, for a facility owner for a facility, means the following information—

- (a) a statement of the facility's capital spending, operating costs and revenue, audited by a person acceptable to the Minister;
- (b) details of financial arrangements between the facility owner and related corporations of the facility owner;
- (c) other stated reasonable information relevant to the administration of this part.

## **PART 9—MISCELLANEOUS**

### **All statements to be verified**

**142.** All applications, statements, representations, information, and reports made under or required by the Minister under this Act shall be

verified upon oath or statutory declaration unless otherwise specified by the Minister, and such verification shall be in such form as the Minister may require or as may be prescribed.

### **Points etc. to be ascertained by reference to Australian Geodetic Datum**

**143.(1)** Where, for the purposes of this Act or of anything done or to be done under or for the purposes of this Act, it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6 378 610 m and a flattening of  $\frac{100}{29825}$  and by reference to the position of the Johnston Geodetic Station in the Northern Territory.

**(2)** Such station shall be taken to be situated at 133°12'30.0771" east longitude and at 25°56'54.5515" south latitude and to have a ground level of 571.2 m above the spheroid referred to in subsection (1).

### **Interference with pipeline etc.**

**144.** A person who destroys, damages, interferes with or operates any pipeline or refinery or part thereof or anything on the site where the search for or recovery of petroleum is carried on commits an offence against this Act, unless the person does so under the authority of the owner of the pipeline, refinery or, as the case may be, thing.

Maximum penalty—200 penalty units.

### **Interference with access**

**145.** A person who—

- (a) erects or places any building or structure in, on or over land that is occupied for any purpose of this Act or that is subject to an easement for pipeline purposes or for right of way held by the corporation sole or any other person; or
- (b) turns over or digs in land such as is specified in paragraph (a), except for the purpose of cultivating the land in accordance with recognised good land husbandry;

commits an offence against this Act, unless the person does so with permission in writing of the occupier of the land or, as the case may be, the holder of the easement first had and obtained and in accordance with the conditions (if any) of the permission.

Maximum penalty—200 penalty units.

### **Control of prospectus**

**146.(1)** In this section—

**“prospectus”** means and includes any prospectus, notice, circular, advertisement, or other document or writing prepared with a view to induce or that may have the effect of inducing any person to advance money to or towards or to invest money in any project business or enterprise for the grant or acquirement of a permit or lease or authority to prospect or licence or the commencement or carrying on of prospecting or mining operations in or under any land the subject of a permit or lease or authority to prospect or proposed so to be, or for preparing for the transport of, or transporting petroleum or petroleum products under and pursuant to a licence.

**(2)** Every prospectus directly or indirectly issued or published by or on behalf of a company or by or on behalf of any person who is or has been engaged or interested in the formation of a company, shall be dated and signed by every director of the company or every person who is named therein as a proposed director, or by the person’s agent authorised in writing, and also by every promoter and vendor.

**(3)** It shall not be lawful for any person to issue or publish any prospectus unless or until the following conditions have been complied with—

- (a) before being issued or published it shall be submitted to the Minister for approval, and upon being so approved a copy shall be filed with the Minister;
- (b) on being so submitted to the Minister it shall, if so required by the Minister, be accompanied by the report of a geologist approved by the Minister;
- (c) it shall state the names, descriptions, and addresses of the directors or proposed directors, and the minimum subscription

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upon which the directors may proceed to allotment, and the amount payable on application and allotment of each share;

- (d) it shall state the number and amount of shares and debentures issued or agreed to be issued as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up (including any shares or debentures to be issued as a consideration to the permittee, lessee, holder of the authority to prospect, promoter, or vendor) and in every case the consideration for which these shares or debentures have been issued or are proposed or intended to be issued, and the Minister may direct that such fully paid-up or partly paid-up shares shall not be offered for sale or transferable until the first bore on the area covered by the permit or comprised in the lease or held under the authority to prospect is sunk and completed;
- (e) it shall state the names and addresses of the vendors of any property purchased or acquired by the company or proposed to be so purchased or acquired, setting out in full the consideration for such purchase or proposed purchase, and distinguishing between cash shares and debentures;
- (f) money or consideration to be paid to the promoter shall be clearly and truly set out in such prospectus;
- (g) it shall, if so directed by the Minister, contain such statement relating to the area which the Minister deems to be necessary;
- (h) without the express consent of the Minister, it shall not contain any statement made in or any extract from any official document prepared by the authority of or furnished to the Governor in Council or Minister or warden or other State officer;
- (i) it shall not contain any statement to the effect that such prospectus or the proposals of the permittee or lessee or holder of the authority to prospect or directors or promoters or any person proposing to apply for a permit or lease or an authority to prospect have received the approval or sanction of the Minister;
- (j) such other conditions as the Minister may think proper.

(4) In the event of noncompliance with any of the requirements of this section, every person who is knowingly a party to the issue or publication

of the prospectus shall be liable to a penalty not exceeding \$10 per day for every day from the date of the prospectus or the day on which the prospectus should have been dated until an approved copy thereof is filed with the Minister.

(5) The Minister may institute appropriate proceedings for the recovery of the penalty by complaint in accordance with the provisions of the *Justices Act 1886*, but this provision shall not be construed to prevent the exercise by the Minister or any person aggrieved of any other remedy which the Minister or person may have by way of forfeiture, injunction, mandamus,<sup>25</sup> damages, or otherwise.

(6) This section is in addition to the Corporations Law.

### **Penalties**

**147.(1)** Any person guilty of an offence against this Act shall, if no specific penalty is provided for that offence, be liable to a penalty not exceeding 200 penalty units and, if the offence is a continuing one, a further penalty not exceeding 40 penalty units per day for each and every day during which the offence continues.

(2) All offences against this Act may be prosecuted in a summary way under the *Justices Act 1886*, upon the complaint of any person thereunto authorised in writing by the Minister.

### **Other rights of action not affected**

**148.** Nothing in this Act shall be construed to take away or prejudicially affect any right of action which any person may have for any loss or damage sustained by the person by reason of any mining operations carried on pursuant to the *Mineral Resources Act 1989* upon private land, other than for loss or damage for which compensation is payable under this Act.

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<sup>25</sup> The *Judicial Review Act 1991*, section 41 provides that the court is no longer to grant the prerogative writ of mandamus, but is to grant the relief or remedy by making an order, the relief or remedy under which is in the nature of, and to the same effect as, the writ of mandamus.

**Regulation-making power**

**149.(1)** The Governor in Council may make regulations under this Act.

**(2)** A regulation may provide for the following—

- (a) the storage and use of explosives in relation to the exploration for, and production of, petroleum;
- (b) the payment of fees under this Act and the way and purpose of their payment.

**(3)** A regulation may be made—

- (a) creating offences against the regulation; and
- (b) fixing a maximum penalty of 10 penalty units for an offence against the regulation.

**Declaration about certain permits, leases and licences**

**150.(1)** This section applies to an authority to prospect, lease, or licence, (a “**petroleum interest**”) granted before or after the commencement of this section for hydrocarbons naturally occurring in association with coal (“**coal seam gas**”).

**(2)** To remove any doubt, this Act applies, and is taken always to have applied, to the petroleum interest as if coal seam gas were petroleum.

**(3)** Without limiting subsection (2) and to further remove any doubt—

- (a) the power of the Governor in Council under this Act to grant an authority to prospect includes, and is taken always to have included, power to grant an authority to prospect for coal seam gas; and
- (b) the power of the Governor in Council under this Act to grant a lease includes, and is taken always to have included, power to grant a lease for coal seam gas to the holder of an authority to prospect; and
- (c) the power of the Governor in Council under this Act to grant a licence includes, and is taken always to have included, power to grant a licence for coal seam gas.

(4) A person is not, and never has been, authorised to extract and produce, or mine, coal seam gas merely because an Act authorises the person to mine coal.

(5) This section has effect despite the provisions of any other Act enacted before the commencement, including, for example—

- the *Mineral Resources Act 1989*
- the *Thiess Peabody Mitsui Coal Pty. Ltd. Agreement Act 1962*.

(6) Compensation is not payable by the State merely because of—

- (a) the enactment or operation of this section; or
- (b) anything done to give effect to this section.

### **Declaration about certain facilities**

**151.(1)** This section applies to a facility mentioned in the documents entitled pipeline licence no. 24 or pipeline licence no. 30 (the “**facility**” and the “**licence**”).

(2) The decisions mentioned in subsection (3) made before the commencement of this section are valid, final and conclusive, cannot be challenged, and are not subject to a writ or order of any court, tribunal, authority or person on any ground.

(3) The decisions are—

- (a) the Minister’s decision to approve, or decide, the access principles for the facility; or
- (b) the Governor in Council’s decision to approve the grant of the licence; or
- (c) the Minister’s decision to grant the licence; or
- (d) another decision for the purposes of the agreement.

(4) Subsection (2) applies whether a decision was made in terms of the agreement or under this Act or otherwise.

(5) For a decision mentioned in subsection (3)(d) made after the commencement of this section, the agreement is taken to have been made under section 70A.

(6) For subsection (5), the Minister is declared to have been satisfied a competitive selection process has been completed for the grant of the licence for the pipeline.

(7) This section expires 5 years after it commences.

(8) The *Acts Interpretation Act 1954*, section 20A applies to this section.

(9) In this section—

“**agreement**” means the agreement or agreements, made before the commencement of this section, between any Minister who is or was administering this Act and anyone else in relation to the facility.

“**challenged**” includes appealed against, reviewed, quashed, set aside, or called into question in any other way by any court, tribunal, authority or person.

### **Declaration about the Ballera to Mount Isa pipeline**

**152.(1)** Section 70A applies to the pipeline proposed to be constructed between the Ballera Gas Centre in South West Queensland and a point in the vicinity of Mount Isa.

(2) Any agreement made, before or after the commencement of this section, between the Minister and anyone else about matters under the Act relating to the pipeline is taken to be an agreement under section 70A(2).

(3) For subsection (2), the Minister is declared to have been satisfied a competitive selection process has been completed for the grant of the licence for the pipeline.

(4) This section expires 5 years after it commences.

(5) The *Acts Interpretation Act 1954*, section 20A applies to this section.

### **Papua New Guinea to Queensland pipeline**

**153.(1)** This section applies to the following parts (the “**parts**”) of the PNG to Queensland pipeline—

(a) the parts in the State;

(b) the parts seaward of the coastline of the State at mean low water and landward of the inner limit of the territorial sea of Australia.



(2) The parts are taken to be a proposed pipeline prescribed under a regulation under section 70A(1).<sup>26</sup>

(3) Section 70A(2) applies to the parts whether or not the competitive selection process—

- (a) happened before the commencement of this section; or
- (b) started before the commencement and finishes after the commencement.

(4) It is declared that for section 70A(2), the PNG–Queensland gas project selection process is taken to be a competitive selection process for the grant of a pipeline licence, unless, before the grant of the licence, the Minister declares the process is not competitive.

(5) Subsection (4) applies to things done as part of the process before or after the commencement.

(6) This section expires 5 years after it commences.

(7) The *Acts Interpretation Act 1954*, section 20A<sup>27</sup> applies to this section.

(8) In this section—

**“PNG–Queensland gas project selection process”** means the process to select builders and operators of, and persons to take an interest in, the PNG to Queensland pipeline for the project called the ‘Papua New Guinea–Queensland Gas Project’.

**“PNG to Queensland pipeline”** means the whole or part of—

- (a) the natural gas pipeline, proposed before the commencement, to be constructed from near Kutubu in Papua New Guinea to a point in the vicinity of Gladstone under the project called the ‘Papua New Guinea–Queensland Gas Project’; and
- (b) any branch line of the pipeline approved by the Minister.

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<sup>26</sup> Section 70A (Powers that may be exercised after competitive selection process)

<sup>27</sup> *Acts Interpretation Act 1954*, section 20A (Saving of operation of repealed Act etc.)

**ENDNOTES****1 Index to endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 17 August 1999. Future amendments of the Petroleum Act 1923 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 35 of 1993	23 June 1994
2	to Act No. 22 of 1995	1 July 1995
3	to Act No. 1 of 1996	3 June 1996
3A	to Act No. 77 of 1996	21 March 1997
3B	to Act No. 17 of 1997	25 July 1997
4	to Act No. 71 of 1997	9 January 1998

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1, 2
Changed names and titles	1, 3
Corrected minor errors	1, 3
Obsolete and redundant provisions	1, 3
Renumbered provisions	1, 2, 3

## 6 List of legislation

**Petroleum Act 1923 14 Geo 5 No. 26**  
 date of assent 12 November 1923  
 commenced on date of assent  
 as amended by—

**Petroleum Act Amendment Act 1927 18 Geo 5 No. 13**  
 date of assent 17 December 1927  
 commenced on date of assent

**Petroleum Acts Amendment Act 1929 20 Geo 5 No. 17**  
 date of assent 5 December 1929  
 commenced on date of assent

**Petroleum Acts Amendment Act 1939 3 Geo 6 No. 19**  
 date of assent 24 November 1939  
 commenced on date of assent

**Petroleum Acts Amendment Act 1950 14 Geo 6 No. 20**  
 date of assent 30 November 1950  
 commenced on date of assent

**Petroleum Acts Amendment Act 1955 4 Eliz 2 No. 25**  
 date of assent 10 October 1955  
 commenced on date of assent

**Petroleum Acts Amendment Act 1958 7 Eliz 2 No. 25**  
 date of assent 7 October 1958  
 commenced on date of assent

**Petroleum Acts Amendment Act 1962 No. 30**  
 date of assent 18 December 1962  
 commenced on date of assent

**Aliens Act 1965 No. 19 s 4 sch 2**  
 date of assent 27 April 1965  
 commenced on date of assent

**Petroleum Acts Amendment Act 1967 No. 37**

date of assent 6 December 1967  
commenced on date of assent

**Metric Conversion Act 1972 No. 31 s 6 sch 1**

date of assent 21 December 1972  
commenced 27 November 1976 (proc pubd gaz 27 November 1976 p 1394)

**Petroleum Act Amendment Act 1976 No. 89**

date of assent 17 December 1976  
commenced 1 January 1977 (see s 2)

**Petroleum Act Amendment Act 1981 No. 14**

date of assent 14 April 1981  
commenced on date of assent

**Mining Act and Other Acts Amendment Act 1982 No. 23 pt 4**

date of assent 29 April 1982  
commenced 1 August 1982 (proc pubd gaz 24 July 1982 p 2422)

**Mines Department (Administration) Act 1982 No. 31 s 3 sch**

date of assent 5 May 1982  
commenced on date of assent

**Mining Act and Petroleum Act Amendment Act 1983 No. 13 pt 3**

date of assent 13 April 1983  
commenced on date of assent

**Petroleum Act Amendment Act 1985 No. 101**

date of assent 13 December 1985  
commenced on date of assent

**Real Property Acts and Other Acts Amendment Act 1986 No. 26 s 4 sch**

date of assent 8 April 1986  
commenced on date of assent

**Petroleum Act Amendment Act 1988 No. 51**

date of assent 12 May 1988  
commenced on date of assent

**Petroleum Act Amendment Act 1990 No. 108**

date of assent 18 December 1990  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 September 1990 (see s 2)

**Petroleum Amendment Act 1991 No. 65**

date of assent 17 October 1991  
s 4 commenced 12 May 1988 (see s 2)  
remaining provisions commenced on date of assent

**Petroleum Amendment Act 1993 No. 35 pts 1–2**

date of assent 23 July 1993  
commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2**

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 23 July 1993 (see s 3 sch 2)

**Petroleum Amendment Act 1995 No. 22**

date of assent 11 April 1995

ss 6–7 commenced 1 July 1995

remaining provisions commenced on date of assent

**Statute Law (Minor Amendments) Act 1995 No. 51 ss 1, 4 sch**

date of assent 22 November 1995

commenced on date of assent

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**Petroleum Amendment Act 1996 No. 1**

date of assent 18 April 1996

commenced on date of assent

**Petroleum Amendment Act (No. 2) 1996 No. 77**

date of assent 12 December 1996

commenced on date of assent

**Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997  
No. 17 ss 1–2, 74 sch**

date of assent 15 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1997 (1997 SL No. 163)

**Petroleum and Gas Legislation Amendment Act 1997 No. 71 pts 1–2 sch**

date of assent 1 December 1997

commenced on date of assent

**Gas Pipelines Access (Queensland) Act 1998 No. 28 ss 1–2 pt 7 div 3**

date of assent 18 May 1998

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (automatic commencement under AIA s 15DA(2) deferred to 18 May 2000 (1999 SL No. 86 s 2))

**Explosives Act 1999 No. 15 ss 1–2, 137 sch 1**

date of assent 22 April 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 11 June 1999 (1999 SL No. 108)

## 7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 8.

### Title

amd 1997 No. 71 s 3

### Short title

s 1 sub 1995 No. 22 s 3 sch

### Definitions

**prov hdg** amd 1997 No. 71 s 1 sch

**s 2** prev s 2 amd 1927 18 Geo 5 No. 13 s 2(i); 1988 No. 51 s 3  
om R1 (see RA s 36)  
pres s 2 amd 1927 18 Geo 5 No. 13 s 2(ii); 1995 No. 22 s 4(3)  
def “**access**” ins 1995 No. 22 s 4(2)  
def “**access agreement**” ins 1995 No. 22 s 4(2)  
def “**access dispute**” ins 1995 No. 22 s 4(2)  
def “**access principles**” ins 1995 No. 22 s 4(2)  
sub 1997 No. 71 s 4(1)–(2)  
def “**access provider**” ins 1995 No. 22 s 4(2)  
def “**approved arbitrator**” ins 1995 No. 22 s 4(2)  
def “**associated facility**” ins 1995 No. 22 s 4(2)  
def “**authority to prospect**” ins 1955 4 Eliz 2 No. 25 s 2  
sub 1995 No. 22 s 4(1)–(2)  
def “**award**” ins 1995 No. 22 s 4(2)  
def “**barrel**” ins 1927 18 Geo 5 No. 13 s 2(ii)  
sub 1967 No. 37 s 2(a)  
def “**capacity entitlement**” ins 1995 No. 22 s 4(2)  
def “**casinghead petroleum spirit**” ins 1962 No. 30 s 2(1)(a)  
def “**company**” ins 1965 No. 19 s 4 sch 2  
sub 1983 No. 13 s 12  
om 1995 No. 22 s 4(1)  
def “**corporation sole**” ins 1988 No. 51 s 4  
sub 1995 No. 22 s 4(1)–(2)  
def “**Crown land**” sub 1962 No. 30 s 2(1)(b)  
om 1995 No. 22 s 4(1)  
def “**crude oil**” ins 1962 No. 30 s 2(1)(b)  
def “**declared pipeline**” ins 1985 No. 101 s 2(a)  
sub 1993 No. 35 s 3  
om 1995 No. 22 s 4(1)  
def “**developable capacity**” ins 1995 No. 22 s 4(2)  
def “**entry permission**” ins 1995 No. 22 s 4(2)  
def “**executive officer**” ins 1995 No. 22 s 4(2)  
def “**facility**” ins 1995 No. 22 s 4(2)  
amd 1996 No. 77 s 3; 1997 No. 71 s 4(3)  
def “**facility owner**” ins 1995 No. 22 s 4(2)  
def “**facility user**” ins 1995 No. 22 s 4(2)  
def “**indicative access conditions**” ins 1995 No. 22 s 4(2)

- def “**indicative tariff**” ins 1997 No. 71 s 4(2)  
 def “**indicative tariff schedule**” ins 1995 No. 22 s 4(2)  
 om 1997 No. 71 s 4(1)  
 def “**land**” ins 1962 No. 30 s 2(1)(c)  
 def “**licence**” ins 1962 No. 30 s 2(1)(d)  
 amd 1985 No. 101 s 2(b)  
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 def “**licensee**” ins 1962 No. 30 s 2(1)(d)  
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 def “**state of mind**” ins 1995 No. 22 s 4(2)  
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 def “**tariff setting principles**” ins 1995 No. 22 s 4(2)  
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 def “**unallocated State land**” ins 1995 No. 22 s 4(2)  
 def “**unitisation arrangement**” ins 1995 No. 22 s 4(2)

**Words and expressions used in Mineral Resources Act**

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**Meaning of “non-discriminatory”**

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amd 1993 No. 35 s 4  
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**Disclosure of member’s interest**

s 4C ins 1988 No. 51 s 5(b)  
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**Inquiry by pipelines tribunal**

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om 1995 No. 22 s 7

**Inquiry into transportation charges**

s 4E ins 1988 No. 51 s 5(b)  
amd 1991 No. 65 s 4  
om 1995 No. 22 s 7

**Pipelines tribunal deemed a commission of inquiry**

s 4F ins 1988 No. 51 s 5(b)  
om 1995 No. 22 s 7

**Powers following inquiry**

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**Meaning of “proposed facility user”**

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s 137 sch 1

**Act applies out to coastal waters of the State**

s 7A ins 1997 No. 71 s 5

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pt hdg ins 1927 18 Geo 5 No. 13 s 2(iii)  
amd 1988 No. 51 s 5(a); 1995 No. 22 s 6

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amd 1995 No. 22 s 3 sch

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pres s 13 ins 1988 No. 51 s 7**Entry by corporation sole****s 14** ins 1988 No. 51 s 7  
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- s 21** prev s 21 amd 1927 18 Geo 5 No. 13 s 2(vi)  
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**Cancellation of authority to prospect**

- s 22** ins 1990 No. 108 s 5

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- s 23** (prev s 9B) ins 1983 No. 13 s 13  
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- s 24** amd 1929 20 Geo 5 No. 17 s 3  
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- s 25** amd 1929 20 Geo 5 No. 17 s 5; 1939 3 Geo 6 No. 19 s 5  
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- s 26** amd 1927 18 Geo 5 No. 13 s 2(iv); 1929 20 Geo 5 No. 17 s 6; 1939  
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- s 27** sub 1939 3 Geo 6 No. 19 s 8

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- s 28** amd 1927 18 Geo 5 No. 13 s 2(v); 1929 20 Geo 5 No. 17 s 7

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- hdg prec s 29** om 1995 No. 22 s 3 sch

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- s 29** amd 1929 20 Geo 5 No. 17 s 8

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- s 30** amd 1929 20 Geo 5 No. 17 s 9; 1958 7 Eliz 2 No. 25 s 4; 1982 No. 31 s 3  
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- s 31** amd 1929 20 Geo 5 No. 17 s 10

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- s 34** prev s 22A ins 1927 18 Geo 5 No. 13 s 2(viii)  
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- s 36** prev s 36 om 1962 No. 30 s 13  
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**s 67** prev s 67 ins 1993 No. 35 s 16  
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**s 69** prev s 69 ins 1995 No. 22 s 18  
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- s 102** prev s 61C ins 1927 18 Geo 5 No. 13 s 3  
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29A(5B) .....	42(7)
29A(6) .....	42(8)
29A(6A) .....	42(9)
29A(6B) .....	42(10)
29A(6C) .....	42(11)
29A(7) .....	42(12)
29A(8) .....	42(13)
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30(2A) .....	43(3)
30(2B) .....	43(4)
30(2C) .....	43(5)
30(2D) .....	43(6)

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30(2E) .....	43(7)
30(3) .....	43(8)
30(4) .....	43(9)
30(4A) .....	43(10)
30(5) .....	43(11)
31 .....	44
31A .....	45
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33 .....	47
34 .....	48
34(1A) .....	48(2)
34(1B) .....	48(3)
34(1C) .....	48(4)
34(1D) .....	48(5)
34(2) .....	48(6)
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40E(3) .....	59(4)
40E(4) .....	59(5)
40E(5) .....	59(6)
40E(6) .....	59(7)
40E(7) .....	59(8)
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41(1A) .....	61(2)
41(1B) .....	61(3)
41(1C) .....	61(4)
41(2) .....	61(5)
41A(2) .....	62(1)
41A(3) .....	62(2)
41A(4) .....	62(3)
41A(5) .....	62(4)
41A(6) .....	62(5)
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42(1A) .....	63(2)

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42(4) .....	63(5)
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45AE .....	71
45AF .....	72
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45A .....	75
45A(2A) .....	75(3)
45A(3) .....	75(4)
45A(4) .....	75(5)
45A(4A) .....	75(6)
45A(5) .....	75(7)
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45B(2A) .....	76(3)
45B(2B) .....	76(4)
45B(2C) .....	76(5)
45B(3) .....	76(6)
45B(3A) .....	76(7)
45B(3B) .....	76(8)
45B(4) .....	76(9)
45B(5) .....	76(10)
45B(6) .....	76(11)
45C .....	77
45C(1A) .....	77(2)
45C(2) .....	77(3)
45C(3) .....	77(4)
45D .....	78
45D(1A) .....	78(2)
45D(1B) .....	78(3)
45D(1C) .....	78(4)
45D(1D) .....	78(5)
45D(1E) .....	78(6)
45D(2) .....	78(7)
45D(2A) .....	78(8)
45D(2B) .....	78(9)
45D(2C) .....	78(10)
45D(3) .....	78(11)
45D(3A) .....	78(12)



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45D(4) .....	78(13)
45D(5) .....	78(14)
45D(6) .....	78(15)
45D(7) .....	78(16)
45D(8) .....	78(17)
45D(9) .....	78(18)
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45F .....	80
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50A(ab) .....	86(c)
50A(b) .....	86(d)
51 .....	87
51(2A) .....	87(3)
51(3) .....	87(4)
51(3A) .....	87(5)
51(4) .....	87(6)
51(4A) .....	87(7)
51(4B) .....	87(8)
51(4C) .....	87(9)
51(4D) .....	87(10)
51(5) .....	87(11)
51(6) .....	87(12)
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52(1A) .....	88(2)
52(2) .....	88(3)
52(3) .....	88(4)
52(4) .....	88(5)
53 .....	89
54 .....	90
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55 .....	92
56 .....	93
57 .....	94
57A .....	95
58 .....	96
59 .....	97
60 .....	98
60(1A) .....	98(2)
60(2) .....	98(3)
61 .....	99

61(1A) .....	99(2)
61(2) .....	99(3)
61A .....	100
61B .....	101
61B(1A) .....	101(2)
61B(1B) .....	101(3)
61B(2) .....	101(4)
61B(3) .....	101(5)
61B(4) .....	101(6)
61C .....	102
61C(2A) .....	102(3)
61C(2B) .....	102(4)
61C(3) .....	102(5)
61C(3A) .....	102(6)
61C(4) .....	102(7)
61C(5) .....	102(8)
61C(6) .....	102(9)
61C(7) .....	102(10)
61C(8) .....	102(11)
61C(9) .....	102(12)
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61K .....	110
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61N .....	113
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61R .....	117
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61T .....	119
61U .....	120
61V .....	121
61W .....	122
61X .....	123
61Y .....	124
61Z .....	125
61ZA .....	126
61ZB .....	127

61ZC .....	128
61ZD .....	129
61ZE .....	130
61ZF .....	131
61ZG .....	132
61ZH .....	133
61ZI .....	134
61ZJ .....	135
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61ZM .....	138
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63(3)(f) .....	146(3)(g)
63(3)(g) .....	146(3)(h)
63(3)(h) .....	146(3)(i)
63(3)(i) .....	146(3)(j)
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## **9 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

**Gas Pipelines Access (Queensland) Act 1998 No. 28 pt 7 div 3 reads as follows—**

### *Division 3—Amendment of Petroleum Act 1923*

#### **Act amended in div 3**

**71.** This division amends the *Petroleum Act 1923*.

#### **Amendment of s 7 (Application of Act)**

**72.** Section 7—

*insert—*

‘(3) If there is an inconsistency between a provision of this Act and the Gas Pipelines Access (Queensland) Law, the Law prevails to the extent of the inconsistency.’.

#### **Amendment of s 69 (Pipeline licences)**

**73.** Section 69(2)—

*insert—*

‘(c) the pipeline is a pipeline as defined under the Gas Pipelines Access (Queensland) Law, section 2.<sup>28</sup>’.

#### **Amendment of s 70 (Access principles to be approved before grant of pipeline licence)**

**74.** Section 70—

*insert—*

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<sup>28</sup> The Law applies to pipelines for transporting natural gas.

‘(5) Also, this section does not apply to a pipeline as defined under the Gas Pipelines Access (Queensland) Law, section 2.’

**Amendment of s 104 (Application of part to pipelines)**

**75.** Section 104(1)—

*omit, insert—*

‘**104.(1)** This part applies to all licensed pipelines, and pipelines owned by the corporation sole, other than—

- (a) subject to the Gas Pipelines Access (Queensland) Law, sections 59 and 60, a pipeline as defined under section 2 of the Law; or
- (b) a pipeline declared under a regulation.