Queensland

Offshore Minerals Act 1998

Current as at 1 November 2013

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Offshore Minerals Act 1998

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Offshore Minerals Act 1998

[as amended by all amendments that commenced on or before 1 November 2013]

An Act relating to exploration for, and the recovery of, minerals (other than petroleum) in the first 3 nautical miles of the territorial sea in relation to Queensland, and for related purposes

Chapter 1 Introduction

Part 1.1 Preliminary

1 Short title

This Act may be cited as the *Offshore Minerals Act 1998*.

2 Commencement

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

3 Commonwealth–State agreement (the Offshore Constitutional Settlement)

(1) The Commonwealth and the States have agreed that—

(a) Commonwealth offshore mining legislation should be limited to the area that is outside State coastal waters; and

(b) the States should share, in the way provided by the *Offshore Minerals Act 1994* (Cwlth), in the administration of the Commonwealth offshore mining legislation; and

(c) State offshore mining legislation should apply to State coastal waters beyond the baseline for the territorial sea (that is, the first 3 nautical miles of the territorial sea); and

(d) the Commonwealth and the States should try to maintain, as far as practicable, common principles, rules and practices in regulating and controlling offshore mining beyond the baseline of Australia's territorial sea.

Note 1—

So far as the agreement is about petroleum, it is reflected in this State's legislation by the *Petroleum (Submerged Lands) Act 1982*.

Note 2—

The decimal part numbering system closely corresponds to the same decimal part numbering system in the Commonwealth Act. Also, sections 1 to 423 of this Act closely correspond to the same sections of the Commonwealth Act. Some sections of the Commonwealth Act contain provisions that are not relevant to the operation of this Act. To maximise uniformity between this Act and the Commonwealth Act, the numbers of some sections that are not relevant have not been used in the numbering of this Act, unless required for provisions particular to the State.

(2) Other Acts that provide background in this State to the agreement (commonly referred to as the *Offshore Constitutional Settlement*) are—

(a) the *Seas and Submerged Lands Act 1973* (Cwlth), the *Coastal Waters (State Powers) Act 1980* (Cwlth), the *Coastal Waters (State Title) Act 1980* (Cwlth) and the *Petroleum (Submerged Lands) Act 1967* (Cwlth); and

(b) the *Petroleum (Submerged Lands) Act 1982*.

Note 1—

The *Seas and Submerged Lands Act 1973* (Cwlth)—

- declares and enacts that the sovereignty in respect of the territorial sea and the associated airspace, seabed and subsoil is vested in and exercisable by the Crown in right of the Commonwealth;
- gives the Governor-General power to declare, by proclamation, the limits of the territorial sea;
- declares and enacts that the sovereignty in respect of waters of the sea that are on the landward side of the baseline of the territorial sea (but not within the limits of a State) and in relation to the associated airspace, seabed and subsoil is vested in and exercisable by the Crown in right of the Commonwealth;
- declares and enacts that the sovereign rights of Australia as a coastal State in relation to the continental shelf of Australia (for the purpose of exploring it and exploiting its natural resources) are vested in and exercisable by the Crown in right of the Commonwealth;
- gives the Governor-General power to declare, by proclamation, the limits of the continental shelf of Australia.

Note 2—

The *Coastal Waters (State Powers) Act 1980* (Cwlth) was enacted following a request from the Parliaments of all the States under section 51(xxxviii) of the Constitution of the Commonwealth and provides that the legislative powers exercisable under the Constitution of each State extend to the making of certain laws that would operate offshore.

Note 3—

The *Coastal Waters (State Title) Act 1980* (Cwlth) vests in each State certain property rights in the seabed beneath the coastal waters.

Note 4—

The *Petroleum (Submerged Lands) Act 1967* (Cwlth) and the *Petroleum (Submerged Lands) Act 1982* of this State make provision, based on the agreement referred to in subsection (1), for the licensing regime that applies to the exploration for and recovery of petroleum in coastal waters and offshore areas of this State.

3A Declaration for Commonwealth Act

The following are declared not to be personal property under the *Personal Property Securities Act 2009* (Cwlth)—

(a) a special purpose consent;

(b) a tenure.

Part 1.2 Interpretation

Division 1 General

4 Note etc. in the text

A note, diagram or map in this Act is provided to help understanding and does not form part of the Act.

5 Definitions—the dictionary

The dictionary in schedule 5 defines particular words used in this Act.

6 Shares in a tenure

(1) A person has a share in a tenure if the person is the holder, or 1 of the holders, of the tenure.

(2) If a holder is entitled to a particular percentage of the value of the rights conferred by a tenure, that percentage is the holder's share in the tenure.

Note—

A sole holder has a 100% share in the tenure.

(3) If—

(a) a person is a registered holder of a tenure; and

(b) the person is shown in the offshore mining register as being entitled to a specified percentage of the value of the rights conferred by the tenure;

the person's share in the tenure is taken to be the percentage specified in the register.

7 Transfer of a tenure

(1) A tenure is transferred if—

(a) the tenure has only 1 holder and the holder transfers the whole of the licensee's interest in the tenure to another person or other persons; or

(b) the tenure has 2 or more holders and the holders all transfer the whole of their interests in the tenure to another person or other persons.

(2) A share in a tenure is transferred if—

(a) the tenure has only 1 holder and the holder transfers a part of the holder's share in the tenure to another person or other persons; or

(b) the tenure has 2 or more holders and—

(i) some, but not all, of the holders transfer the whole of their shares in the tenure to another person; or

(ii) some or all of the holders transfer a part of their shares in the tenure to another person.

(3) The other person referred to in subsection (2)(b) may be an existing tenure holder.

8 Successor tenures

(1) If—

(a) a mining lease takes effect immediately after an exploration permit expires; and

(b) the holder of the mining lease immediately after it takes effect was the holder of the exploration permit immediately before it expired;

the mining lease is a successor tenure to the exploration permit.

(2) If—

(a) a mineral development licence takes effect immediately after an exploration permit expires; and

(b) the holder of the mineral development licence immediately after it takes effect was the holder of the exploration permit immediately before it expired;

the mineral development licence is a successor tenure to the exploration permit.

(3) If—

(a) a mining lease takes effect immediately after a mineral development licence expires; and

(b) the mineral development licence took effect immediately after an exploration permit expired; and

(c) the holder of the mining lease immediately after it takes effect was the holder of the mineral development licence immediately before it expired; and

(d) the holder of the mineral development licence immediately after it took effect was the holder of the exploration permit immediately before it expired;

the mining lease is a successor tenure to the exploration permit and the mineral development licence.

9 Section number not used

See note 2 to section 3(1).

10 Position on the Earth's surface

This is how the position of a point, line or area on the Earth's surface must be worked out for this Act—

(a) the position must be worked out by reference to a spheroid that—

(i) has a major (equatorial) radius of 6,378,160 metres; and

(ii) has a flattening of 100/29825; and

(b) the Johnston Geodetic Station in the Northern Territory is taken to be located 571.2 metres above the point on the surface of the spheroid that is at—

(i) 133º12'30.0771" east longitude; and

(ii) 25º56'54.5515" south latitude.

11 Section number not used

See note 2 to section 3(1).

12 Power to amend and revoke instruments

(1) A provision of this Act that confers a power to do something in writing is also taken to confer the power to revoke or amend the written document by which that thing is done.

(2) The power to revoke or amend—

(a) must also be exercised in writing; and

(b) is subject to the same procedural requirements as the original power; and

(c) is subject to the same conditions as those that governed the exercise of the original power.

Division 2 Basic concepts for this Act

13–15 Section numbers not used

See note 2 to section 3(1).

16 Coastal waters, and effect of change in baseline

(1) Subject to this section, the coastal waters of the State are constituted by the first 3 nautical miles of the territorial sea from the baseline.

(2) The coastal waters do not include any waters that are inside the baseline.

(3) If—

(a) a tenure has been granted on the basis that an area is within coastal waters; and

(b) there is a change to the baseline or, because new data is obtained or existing data is reconsidered, the location of the baseline is reassessed; and

(c) as a result of the change to, or reassessment of the location of, the baseline, the area ceases to be within coastal waters;

this Act applies as if the area were still within coastal waters.

(4) Subsection (3) continues to apply to the area only while the tenure and any successor tenure remains in force.

(5) If—

(a) an area in the offshore area under the Commonwealth Act is covered by a tenure under the Commonwealth Act; and

(b) there is a change to the baseline; and

(c) as a result of the change to the baseline, the area—

(i) ceases to be within the offshore area under the Commonwealth Act; and

(ii) falls within coastal waters;

this Act does not apply to the area.

(6) Subsection (5) continues to apply to the area only while the tenure under the Commonwealth Act and any successor tenure under that Act remains in force.

(7) This Act has effect subject to the *Mineral Resources Act 1989*, section 4.

(8) In this section—

baseline means the baseline adjacent to the coast of the State (including the coast of any island forming part of the State) as for the time being decided under the *Seas and Submerged Lands Act 1973* (Cwlth), section 7(2)(b).

Note 1—

Generally the baseline is the lowest astronomical tide along the coast but it also includes lines enclosing bays and indentations that are not bays and straight baselines that depart from the coast. See *Australia's territorial sea baseline* published 1988 by the Australian Government Printing Service.

Note 2—

The map in schedule 1 shows the coastal waters of the State.

17 Sub-blocks

(1) This is how a sub-block is constituted in coastal waters—

(a) assume that there is laid over the coastal waters a grid constituted by—

(i) lines running along meridians drawn through each degree of longitude and the minutes between those degrees; and

(ii) lines running along parallels drawn through each degree of latitude and the minutes between those degrees;

(b) take a bounded space defined by the grid;

(c) the seabed and subsoil within the coastal waters that is under that space is a sub-block.

(2) The diagram in schedule 2 shows how a sub-block is constituted.

(3) Each sub-block is identified by giving the name of the plan in the 1:1000000 map series, an identifying number of the 5 minute block and a letter identifying the 1 minute sub-block.

18 Reserved sub-block

(1) Subject to subsection (2), the Minister may declare that a sub-block in coastal waters is a reserved sub-block.

Note 1—

A reserved sub-block may be put up for tender by the Minister publishing in the *Gazette* a tender sub-block tenure notice (see sections 74 and 218).

Note 2—

The *Acts Interpretation Act 1954*, section 32C, which provides that in an Act, the singular includes the plural, allows a single declaration under this subsection to be made for 2 or more sub-blocks.

(2) A declaration under subsection (1) must not be made about a sub-block if—

(a) a tenure over that sub-block is in force; or

(b) an application for a tenure over that sub-block has been made and has not been decided.

(3) A declaration under subsection (1) must be made by gazette notice.

19 Standard sub-block

A standard sub-block is a sub-block that is not the subject of a declaration under section 18(1).

20 Tender sub-block

A tender sub-block is a sub-block that is the subject of a tender sub-block tenure notice published by the Minister under section 74 or 218.

21 Discrete area

(1) A group of sub-blocks forms a discrete area if the area formed by the sub-blocks is continuous.

(2) Two sub-blocks that are joined at 1 point only do not form a continuous area.

22 Minerals

(1) A mineral is a naturally occurring substance or a naturally occurring mixture of substances.

Editor's note—

This Act does not apply to petroleum, see section 35 (Act does not apply to exploration for or recovery of petroleum).

(2) Without limiting subsection (1), a mineral may be in the form of clay, limestone, evaporites, shale, oil-shale or coal.

(3) However, the following are not minerals under this Act—

(a) coral limestone;

(b) sand, gravel and rock.

Editor's note—

See the *Transport Infrastructure Act 1994*, section 153 (Definitions for chapter), definition *extractive material*.

23 Exploration

(1) Exploration for minerals includes any activity that is directly related to the exploration for minerals.

(2) Exploration does not include the exploration for minerals of the subsoil of coastal waters that is carried out by way of

underground mining from land in the State if that exploration is carried out under the *Mineral Resources Act 1989*.

24 Recovery

(1) Recovery of minerals includes any activity that is directly related to the recovery of minerals.

(2) Recovery does not include the recovery of minerals from the subsoil of coastal waters that is carried out by way of underground mining from land in the State if that exploration is carried out under the *Mineral Resources Act 1989*.

25 Tenure holder

(1) A reference to the holder of a tenure or the tenure holder is a reference to the person whose name is entered in the offshore mining register as the person who holds the tenure.

Note 1—

This Act is based upon the grant and registration of tenures.

Note 2—

If a tenure is granted to a person, that person's name is entered in the register (see section 333).

Note 3—

The entry in the register about a tenure will be varied if there is a change in the holder of the tenure (see section 338(4)).

(2) A tenure may be held by more than 1 person.

26 Associates

(1) The following are the associates of a tenure holder—

(a) associated contractors of the holder;

(b) associated agents of the holder;

(c) associated agents of associated contractors;

(d) associated employees of the holder;

(e) associated employees of associated contractors.

(2) A person is an associated contractor of the holder if—

(a) the person enters into an agreement with the holder for carrying out activities under the tenure; or

(b) the person enters into an agreement with a person who is an associated contractor under paragraph (a) or this paragraph for carrying out activities under the tenure.

(3) A person is an associated agent of the holder if the person is the agent of, or acts on behalf of, the holder in relation to carrying out activities under the tenure.

(4) A person is an associated agent of an associated contractor if the person is the agent of, or acts on behalf of, the associated contractor in relation to carrying out activities under the tenure.

(5) A person is an associated employee of the holder if the person is employed by the holder and, in the course of that employment, carries out activities under the tenure.

(6) A person is an associated employee of an associated contractor if the person is employed by the associated contractor and, in the course of that employment, carries out activities under the tenure.

27 Confidential information

(1) Information is confidential information if—

(a) a tenure holder has given it to the Minister; and

(b) it is in a record, return, report or document; and

(c) it relates to activities authorised by the tenure; and

(d) it relates to an area of the seabed or subsoil that is covered by the tenure or a successor tenure to the tenure.

(2) However, if—

(a) a person is required to give the Minister a report about particular sub-blocks; and

(b) the person gives the Minister a report that relates not only to those sub-blocks but also to other sub-blocks; and

(c) the Minister is required to make the report available under section 376;

the information that relates to those other sub-blocks is not confidential information.

28 Confidential sample

A sample is a confidential sample if—

(a) a tenure holder has given it to the Minister; and

(b) it was recovered in the course of activities authorised by the tenure; and

(c) it was recovered from an area of the seabed or subsoil that is covered by the tenure or a successor tenure to the tenure.

Part 1.3 Administration of the Commonwealth–State offshore area

29 Definitions

In this part—

Commonwealth–State offshore area means the Commonwealth–State offshore area for the State under the Commonwealth Act, section 13.

Editor's note—

The diagram in schedule 3 illustrates the Commonwealth–State offshore area.

30 Minister as member of Joint Authority, or as Designated Authority

(1) The Minister may perform any function that the Minister has under the Commonwealth Act or an associated revenue Act—

(a) as a member of the Joint Authority for the Commonwealth–State offshore area provided for by the Commonwealth Act, section 32(2); or

(b) as the Designated Authority for that area provided for by the Commonwealth Act, section 29(2).

(2) The Minister must perform any such function that the Minister is required to perform by the Commonwealth Act or an associated revenue Act.

31 State officer acting under delegation

An officer of the public service to whom a delegation is made under the Commonwealth Act, section 419 may perform any function that the officer has under that delegation and must perform any such function that the officer is required to perform under the Commonwealth Act.

32–34 Section numbers not used

See note 2 to section 3(1).

Part 1.4 Application of this Act

35 Act does not apply to exploration for or recovery of petroleum

This Act does not apply to the exploration for or recovery of petroleum.

Note 1—

Offshore petroleum exploration and mining are regulated by the *Petroleum (Submerged Lands) Act 1967* (Cwlth) and the *Petroleum (Submerged Lands) Act 1982*.

Editor's note—

For *petroleum*, see schedule 5 (Dictionary).

36 Section number not used

See note 2 to section 3(1).

37 Act applies to all individuals and corporations

(1) This Act applies to all individuals, including—

(a) individuals who are not Australian citizens; and

(b) individuals who are not resident in Queensland.

(2) This Act applies to all corporations, including—

(a) corporations that are not incorporated in Queensland; and

(b) corporations that do not carry on business in Queensland; and

(c) a company that, under the Corporations Act, is taken to be registered other than in Queensland.

Editor's note—

The *Penalties and Sentences Act 1992*, section 181B provides that the maximum fine for a corporation is 5 times the maximum fine for an individual.

Chapter 2 Regulation of offshore exploration and mining

Part 2.1 General

38 General prohibition on exploring and mining without appropriate authorisation

A person must not—

(a) explore for minerals in coastal waters; or

(b) recover minerals from coastal waters;

unless the exploration or recovery is authorised by a tenure or special purpose consent granted under this Act.

Maximum penalty—400 penalty units.

Notes—

1 A works licence may be necessary because *exploration* includes activities that are directly related to exploration (see section 23(1)) and *recovery* includes activities that are directly related to recovery (see section 24(1)).

2 This provision is an executive liability provision—see section 443.

39 Tenure and consents available under this Act

This Act provides for the grant of—

(a) exploration permits; and

(b) mineral development licences; and

(c) mining leases; and

(d) works licences; and

(e) special purpose consents.

Note 1—

An exploration permit is designed to cover the exploration phase of a project and authorises—

- exploration; and
- the recovery of mineral samples.

Note 2—

A mineral development licence is designed to ensure the retention of rights pending the transition of a project from the exploration phase to the commercial mining phase and authorises—

- exploration; and
- the recovery of minerals but not as part of a commercial mining operation.

Note 3—

A mining lease is designed to cover the commercial mining phase of a project and authorises—

- exploration; and
- full commercial recovery.

Note 4—

A project might make use of any of the following 3 tenure arrangements—

- an exploration permit leading to a mining lease;
- an exploration permit leading to a mineral development licence and then a mining lease;
- a mining lease (without progressing through an exploration permit/mineral development licence stage).

Note 5—

A tenure is granted over a particular area (constituted by sub-blocks). The tenure holder may need to carry out engineering or other activities outside the tenure area. If so, the tenure holder or someone else must obtain a works licence to carry out those activities.

Note 6—

If a person wants to carry out—

- a scientific investigation; or
- a reconnaissance survey; or

- the collection of only small amounts of minerals;

in coastal waters, the person must obtain a special purpose consent under part 2.6 to carry out the activity.

Note 7—

Even though a person has a tenure or special purpose consent, the person must not interfere unnecessarily with navigation, native title, fishing, resource conservation or other activities in the area (see section 44).

40 Steps involved in the grant of a fully effective tenure

(1) The following 3 steps must happen before a tenure comes into force—

(a) provisional grant of the tenure;

(b) proper acceptance of the grant;

(c) registration of the grant.

Note—

See sections 88, 154, 232 and 286.

(2) If a tenure is provisionally granted to a person, the person must do the following to properly accept the grant—

(a) give the Minister a written acceptance;

(b) lodge any security that the Minister has required;

(c) pay the fee that is payable under section 425.

Note—

See sections 70, 84, 151, 214, 228 and 283.

(3) The following 3 steps must occur before a renewal of a tenure comes into force—

(a) provisional renewal of the tenure;

(b) proper acceptance of the renewal;

(c) registration of the renewal.

Note—

See sections 89, 155, 233 and 287.

(4) If a tenure is provisionally renewed, the holder must do the following to properly accept the renewal—

(a) give the Minister a written acceptance of the renewal;

(b) lodge any security that the Minister has required;

(c) pay the fee that is payable under section 425.

Note—

See sections 114, 173, 250 and 300.

41 Approval of form of applications etc.

(1) The Minister may approve the form and the way in which the following are to be made—

(a) applications for tenures over sub-blocks in coastal waters;

(b) applications for the renewal of tenures over sub-blocks in coastal waters.

(2) An approval under subsection (1) must be made in writing.

42 Rights to minerals recovered

(1) Any minerals recovered by a tenure holder or special purpose consent holder from a sub-block covered by the tenure or consent become the property of the holder when they are recovered.

(2) If the tenure or consent authorises the exploration for and the recovery of minerals only of a particular kind, subsection (1) only applies to the recovery of minerals of that kind.

(3) Subsection (1) does not apply to the recovery of minerals by a works licence holder.

(4) The minerals recovered are not subject to the rights of any other person.

(5) Subsection (4) does not apply to rights that the tenure or consent holder transfers to the other person.

43 Effect of grant of tenure or special purpose consent on native title

(1) The grant of a tenure or special purpose consent does not extinguish native title in the tenure or consent area.

(2) While a tenure or special purpose consent is in force over an area, native title in the area is subject to the rights conferred by the tenure or consent.

(3) If compensation is payable under the *Native Title Act 1993* (Cwlth), section 23(4) in relation to the grant of a tenure or special purpose consent, the person who applied for the grant must, for section 23(5)(b) of that Act, pay the compensation.

44 Tenure etc. does not authorise unnecessary interference with other activities in the tenure area

A person who carries out activities in coastal waters under a tenure or special purpose consent granted under this Act must not do so in a way that interferes with—

(a) navigation; or

(b) the exercise of native title rights and interests; or

(c) fishing; or

(d) the conservation of the resources of the sea or the seabed; or

(e) any activities that someone else is lawfully carrying out;

to a greater extent than is necessary for—

(f) the reasonable exercise of the person's rights under the tenure or consent; or

(g) the performance of the person's duties under the tenure or consent.

Maximum penalty—134 penalty units.

Example—

The person referred to here might be the tenure or consent holder or might be an associated person.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 443A, to have also committed the offence.

Part 2.2 Exploration permits

Division 1 General

45 Exploration permits

(1) This part provides for the grant of exploration permits over sub-blocks in coastal waters.

(2) An exploration permit may be granted over a standard sub-block or over a tender sub-block.

Note—

A tender sub-block is a sub-block that has been declared available for tender. A standard sub-block is any sub-block that is not a reserved sub-block (see sections 19 and 20).

Editor's note—

See division 2 (Application for a grant of exploration permit over standard sub-blocks) or division 3 (Application for and grant of exploration permit over tender sub-block).

46 Activities authorised by an exploration permit

(1) Subject to subsection (2), an exploration permit holder may—

(a) explore for minerals in the tenure area; and

(b) take samples of minerals in the tenure area.

Note—

Under section 23(1) the concept of *exploration* extends to activities that are directly related to exploration.

(2) If the tenure is expressed to restrict the kind of minerals covered by the tenure, the holder is not permitted to explore for, or to take samples of, minerals not covered by the tenure.

(3) A restriction on the kind of minerals covered by the tenure may be inclusive (for example, only minerals A, B and C) or exclusive (for example, all minerals except A, B and C).

(4) For subsection (2), the holder does not take samples of an excluded mineral if, in the course of exploring for, or taking samples of, another mineral, the holder recovers some excluded mineral.

47 Minister may cancel or not renew exploration permit without compensation

No compensation is payable because of the cancellation or non-renewal of an exploration permit by the Minister.

Note 1—

The Minister may cancel the tenure under section 130.

Note 2—

The Minister may refuse to renew the tenure under section 108.

48 Tenure rights may be suspended

(1) The Minister must suspend particular rights conferred by an exploration permit if the Minister is satisfied that it is necessary in the public interest to do so.

(2) The Minister may suspend rights under subsection (1) for a specified period or for an indefinite period.

(3) The Minister may end a suspension at any time.

(4) A suspension or the ending of a suspension must be in writing.

(5) If the Minister—

(a) suspends rights conferred by an exploration permit; or

(b) ends a suspension;

the Minister must give the tenure holder a notice that informs the holder of the suspension or the ending of the suspension.

Note—

See section 122 for the effect of the suspension on the obligations associated with the tenure.

(6) A suspension takes effect when—

(a) the holder has been given notice of the suspension under subsection (5); and

(b) the suspension has been registered under section 337.

49 Compensation for acquisition of property due to suspension of rights

(1) If—

(a) the Minister suspends tenure rights under section 48; and

(b) the suspension results in the acquisition of property from a person; and

(c) the State and the person agree on an amount of compensation for the acquisition;

the State must pay the person the agreed amount of compensation.

(2) If—

(a) the Minister suspends tenure rights under section 48; and

(b) the suspension results in the acquisition of property from a person; and

(c) the State and the person do not agree on an amount of compensation for the acquisition; and

(d) the person brings an action for compensation against the State in the Wardens Court;

the State must pay the person the amount of compensation (if any) that is decided by the court.

(3) In this section—

acquisition of property see the Commonwealth Constitution, section 51(xxxi).

Division 2 Application for and grant of exploration permit over standard sub-blocks

50 Application for exploration permit over standard sub-block

(1) A person may apply to the Minister for an exploration permit over a standard sub-block if—

(a) the sub-block is vacant; and

(b) the sub-block is not excluded.

Note—

For *excluded sub-blocks* see section 51.

(2) A standard sub-block is vacant if no exploration permit, mineral development licence or mining lease is in force over the sub-block.

(3) A person may apply for an exploration permit over a group of standard sub-blocks if—

(a) the group forms a discrete area; and

(b) there are not more than 500 sub-blocks in the group.

Note—

The Minister may, in certain circumstances, allow an application to be made for an exploration permit covering up to 3 discrete areas (see section 53).

51 Excluded sub-blocks

(1) A sub-block is excluded if—

(a) an exploration permit over the sub-block has been surrendered or cancelled; and

(b) a period of 30 days after the day on which the tenure was surrendered or cancelled has not ended.

(2) A sub-block is excluded for a particular applicant if—

(a) the applicant previously applied for an exploration permit over the sub-block; and

(b) the application was refused; and

(c) a period of 6 months after the day on which the previous application was refused has not ended.

(3) A sub-block is excluded for a particular applicant if—

(a) the applicant was previously the holder of an exploration permit, mineral development licence or mining lease over the sub-block; and

(b) that previous tenure was surrendered or cancelled; and

(c) a period of 6 months after the day on which the previous tenure was surrendered or cancelled has not ended.

(4) A sub-block is excluded for a particular applicant if—

(a) the applicant was previously the holder of an exploration permit, mineral development licence or mining lease over the sub-block; and

(b) the holder was—

(i) required by the tenure conditions; or

(ii) given a direction under section 387 or 392;

to provide the Minister with information; and

(c) the holder provided the information; and

(d) the holder surrendered the tenure; and

(e) a period of 6 months from the day on which the holder provided the information has not ended.

52 Minister may decide that excluded sub-block is available

(1) A person who wants to apply for an exploration permit over a sub-block that is excluded may apply to the Minister for a decision under subsection (2).

(2) The Minister may decide that the person may apply for the tenure over the sub-block despite section 51.

(3) The decision must be made in writing.

53 Minister may allow application for more than one discrete area

(1) If—

(a) a person (the ***first applicant***) applies for an exploration permit; and

(b) another person (the ***second applicant***) subsequently applies for an exploration permit for a group of sub-blocks that includes a sub-block covered by the application made by the first applicant; and

(c) an exploration permit is then granted to the first applicant; and

(d) as a result of the grant, the sub-blocks for which the second applicant can be granted an exploration permit no longer form a discrete area;

the second applicant may apply to the Minister for approval for the application to proceed even though the sub-blocks it covers no longer form a discrete area.

Note—

See also section 59.

(2) Subject to subsection (3), the Minister may approve the application proceeding even though the sub-blocks that the application covers do not form a discrete area.

(3) The Minister may give an approval under subsection (2) only if the sub-blocks covered by the application form not more than 3 discrete areas.

54 How to apply

(1) The application must—

(a) be made in accordance with the approved form; and

(b) be made in the approved way; and

(c) specify the sub-blocks for which the application is made; and

(d) include details of—

(i) the activities that the applicant intends to carry out on the sub-block or sub-blocks covered by the application; and

(ii) the amount of money that the applicant intends to spend on those activities; and

(iii) the technical qualifications of the applicant and of the applicant's employees who are likely to be involved in activities authorised by the tenure; and

(iv) the technical advice available to the applicant; and

(v) the financial resources available to the applicant; and

(vi) if the tenure is to be held by more than 1 person—the share in the tenure that each prospective holder will hold; and

(e) be accompanied by maps that—

(i) relate to the sub-blocks; and

(ii) comply with the regulations; and

(f) specify an address for service of notices under this Act and the regulations.

Note 1—

For paragraphs (a) and (b) see section 41.

Note 2—

Paragraph (c): the Minister may, after consulting the applicant, vary the sub-blocks applied for (see section 59).

(2) The applicant may include in the application any other information that the applicant considers relevant.

55 Effect of inclusion of unavailable sub-block in application

If—

(a) a person applies for a tenure over a group of standard sub-blocks; and

(b) because of section 18, 50 or 51, an exploration permit can not be granted over 1 or more of the sub-blocks in the group;

the Minister may still deal with the application to the extent to which the application covers sub-blocks for which an exploration permit can be granted.

Note—

An exploration permit can not be granted over a sub-block that is not vacant or is excluded (see sections 50 and 51) or over a reserved sub-block (see section 18).

56 Payment of fee

(1) The applicant must pay the application fee prescribed under a regulation.

(2) The fee must be paid when the application is made.

(3) The Minister may refund any fee paid under subsection (1) but only if the Minister is satisfied that special circumstances exist that justify the refund of the fee.

57 Application must be advertised

(1) The applicant must advertise the application in a newspaper circulating throughout the State.

(2) The advertisement must contain—

(a) the applicant's name and address; and

(b) a map and description of the sub-blocks applied for that are sufficient for the sub-blocks to be identified; and

(c) the address of the Minister; and

(d) a statement that—

(i) the applicant has applied for an exploration permit over the sub-blocks described in the notice; and

(ii) invites comment from the public on the application; and

(iii) requests that comments be sent to the applicant and the Minister within 30 days after the day on which the advertisement is published.

(3) The advertisement must be published—

(a) as soon as possible after the applicant makes the application; and

(b) in any case, subject to subsection (4), within 14 days after the day on which the applicant makes the application.

(4) If—

(a) the applicant applies to the Minister within the 14 day period referred to in subsection (3) for an extension of the period; and

(b) the Minister extends the period;

the advertisement must be published within the period as extended by the Minister.

58 How multiple applications are dealt with

(1) Subject to subsection (2), if a sub-block is covered by 2 or more applications for an exploration or mining lease, the Minister must deal with the applications in the order in which they are made.

Editor's note—

See also section 203 (How multiple applications are dealt with).

(2) If—

(a) the applications are lodged within a particular time of each other; and

(b) the time is less than the time prescribed under a regulation;

the Minister must decide the order in which the applications are to be dealt with by drawing lots in the way prescribed under a regulation.

59 Discussions about sub-blocks applied for

(1) The Minister may ask the applicant to discuss with the Minister the sub-blocks covered by the application.

(2) The request under subsection (1) must be—

(a) made in writing; and

(b) given to the applicant.

(3) If, after discussions, the Minister and the applicant agree on the sub-blocks to be covered by the application, the applicant is taken to have applied for an exploration permit over the sub-blocks agreed on.

(4) The Minister must give the applicant written confirmation of the agreement as soon as possible after the agreement is reached.

(5) The Minister may include in the written confirmation a direction that the applicant must advertise the revised application under section 60.

(6) If the Minister and the applicant do not agree on the sub-blocks to be covered by the application—

(a) the Minister may make a written decision specifying the sub-blocks to be covered by the application; and

(b) the applicant is taken to have applied for an exploration permit over the sub-blocks specified in the decision.

(7) The Minister may include in the written decision a direction that the applicant must advertise the revised application under section 60.

(8) If the Minister makes a decision under subsection (6), the Minister must give a copy of the decision to the applicant as soon as possible after the decision is made.

60 Advertising revised application

(1) If—

(a) the application has been revised under section 59; and

(b) the applicant has been given a direction under section 59(5) or (7);

the applicant must advertise the revised application in a newspaper circulating throughout the State.

(2) The advertisement must contain—

(a) the applicant's name and address; and

(b) a map and description of the sub-blocks covered by the revised application that are sufficient for the sub-blocks to be identified; and

(c) the address of the Minister; and

(d) a statement that—

(i) the applicant has applied for an exploration permit over the sub-blocks described in the notice; and

(ii) invites comment from the public on the application; and

(iii) requests that comments be sent to the applicant and the Minister within 30 days after the day on which the advertisement is published.

(3) The advertisement must be published—

(a) if the Minister and the applicant agree on the sub-blocks applied for under subsection 59(3)—as soon as possible after the applicant is given written confirmation of the agreement under section 59(4); or

(b) if the Minister makes a decision about the sub-blocks applied for under section 59(6)—as soon as possible after the applicant is given a copy of the decision under section 59(8);

but in any case, subject to subsection (4), within 14 days after the applicant is given the confirmation or copy.

(4) If—

(a) the applicant applies to the Minister within the 14 day period referred to in subsection (3) for an extension of the period; and

(b) the Minister extends the period;

the advertisement must be published within the period as extended by the Minister.

61 Request for further information

(1) The Minister may ask the applicant for further information about the application.

(2) The request must—

(a) be in writing; and

(b) be given to the applicant; and

(c) specify the time within which the information must be provided.

(3) Information requested under subsection (1) must be provided—

(a) in writing; and

(b) within the time specified in the request.

62 Section number not used

See note 2 to section 3(1).

63 Minister may provisionally grant tenure

If the applicant does what is required by sections 54 to 61, the Minister may—

(a) provisionally grant an exploration permit to the applicant; or

(b) refuse the application.

Note—

Under section 88, the grant of the tenure can not be effective before it is registered (see section 333 for registration). The grant will not be registered until it has been properly accepted (see section 70 for *proper acceptance*).

64 Section number not used

See note 2 to section 3(1).

65 Matters to be specified in the tenure

The tenure must specify—

(a) the sub-blocks covered by the tenure; and

(b) the term of the tenure; and

(c) the tenure conditions.

Note—

For the term of a tenure see section 18.

66 Applicant must be notified

(1) The Minister must give the applicant notice of a decision under section 63.

(2) If the Minister provisionally grants an exploration permit—

(a) the Minister must give the tenure to the provisional holder; and

(b) the notice under subsection (1) must contain notification—

(i) of any decision under section 399 that the provisional holder must lodge a security; and

(ii) that the provisional grant will lapse unless the provisional holder, before the end of the primary payment period—

(A) gives the Minister a written acceptance of the grant; and

(B) lodges any security required under section 399; and

(C) pays the fee that must be paid for the tenure under section 425.

67 Amendment of conditions

(1) If the provisional holder is dissatisfied with the tenure conditions, the provisional holder may ask the Minister to amend the conditions.

(2) The request must be made within 30 days after the day on which the provisional holder is given the tenure under section 66.

(3) If a request is made under subsection (1), the Minister may amend the tenure conditions as requested and, with the consent of the provisional holder, otherwise amend the conditions.

(4) The Minister must give the provisional holder notice of a decision under this section.

68 Amendment of security requirements

(1) If the provisional holder—

(a) is notified of a security requirement; and

(b) is dissatisfied with the amount of the security required;

the provisional holder may ask the Minister to make a new decision under section 399.

(2) The request must be made within 30 days after the day on which the provisional holder is given notice under section 66.

(3) If a request is made under subsection (1), the Minister may make a new decision under section 399.

(4) The Minister must give the provisional holder notice of the new decision.

69 Extension of primary payment period

(1) If the provisional holder makes a request under section 67 or 68, the provisional holder may ask the Minister to extend the primary payment period.

(2) The request must be made within 30 days after the day on which the provisional holder is given notice under section 66.

(3) If the Minister agrees to the request, the Minister must—

(a) decide the period of the extension; and

(b) give the provisional holder a notice of the period of the extension.

70 Acceptance of grant of exploration permit for standard sub-block

(1) The provisional grant of the exploration permit is properly accepted by the provisional holder if, before the required time, the provisional holder—

(a) gives the Minister a written acceptance of the grant; and

(b) lodges any security required under section 399; and

(c) pays the fee that must be paid for the tenure under section 425.

(2) The required time under subsection (1) is the end of the primary payment period or, if the provisional holder has been granted an extension of the primary payment period under section 69, the end of the secondary payment period.

Note—

Under section 88, the grant of the tenure can not be effective before it is registered (see section 333 for registration).

71 Conditions applicable to tenure on grant

If the provisional grant of the tenure is properly accepted under section 70, it is subject to—

(a) the conditions specified in the tenure given to the applicant under section 66; or

(b) if the Minister amended those conditions under section 67—those conditions as amended.

72 Lapse of provisional grant of exploration permit

If the provisional grant of the tenure is not properly accepted under section 70, the provisional grant lapses.

Division 3 Application for and grant of exploration permit over tender sub-block

73 Matters to be decided before applications for exploration permit over tender sub-blocks invited

If the Minister proposes to invite applications for the grant of an exploration permit over reserved sub-blocks, the Minister must, before inviting the applications, decide—

(a) the procedure and criteria that the Minister will adopt to allocate the tenure; and

(b) the amount of security that will be required for the tenure under section 399; and

(c) the tenure conditions.

74 Minister may invite applications for exploration permit over tender sub-blocks

(1) Subject to subsection (2), the Minister may invite applications for the grant of an exploration permit over reserved sub-blocks.

(2) Applications may be invited for a tenure covering a group of reserved sub-blocks only if the group forms a discrete area.

(3) The Minister is to invite applications by publishing a tender sub-block tenure notice for the tenure in the gazette.

75 Tender sub-block tenure notice—exploration permit

(1) A tender sub-block tenure notice for an exploration permit must—

(a) specify the sub-blocks to be covered by the tenure; and

(b) specify the period within which applications may be made; and

(c) specify the procedure and criteria that the Minister will adopt to allocate the tenure; and

(d) specify the amount of security that the successful applicant will be required to lodge; and

(e) include a statement to the effect that information about—

(i) the security that the successful applicant will be required to lodge; and

(ii) the tenure conditions;

may be obtained from the Minister.

(2) Without limiting subsection (1)(c), the Minister may, for that paragraph, specify that the tender will be decided on the basis of either or both of the following—

(a) the nature and extent of the exploration activity proposed to be carried out;

(b) the amount of money offered for the tenure.

(3) The tender sub-block tenure notice may specify not more than 500 sub-blocks for the exploration permit.

76 Application for exploration permit over tender sub-blocks

If a tender sub-block tenure notice has been published inviting applications for an exploration permit, a person may apply to the Minister for the tenure.

77 How to apply

(1) The application must—

(a) be made in accordance with the approved form; and

(b) be made in the approved way; and

(c) be made before the end of the period specified in the tender sub-block tenure notice; and

(d) address the criteria specified under section 75(1)(c); and

(e) include details of—

(i) the technical qualifications of the applicant and of the applicant's employees who are likely to be involved in activities authorised by the tenure; and

(ii) the technical advice available to the applicant; and

(iii) the financial resources available to the applicant; and

(iv) if the tenure is to be held by more than 1 person—the share in the tenure that each prospective holder will hold; and

(e) specify an address for service of notices under this Act and the regulations.

Note—

For paragraphs (a) and (b) see section 41.

(2) The applicant may include in the application any other information that the applicant considers relevant.

78 Payment of fee

(1) The applicant must pay the application fee prescribed under a regulation.

(2) The fee must be paid when the application is made.

(3) The Minister may refund any fee paid under subsection (1) but only if the Minister is satisfied that special circumstances exist that justify the refund of the fee.

79 Request for further information

(1) The Minister may ask the applicant for further information about the application.

(2) The request must—

(a) be in writing; and

(b) be given to the applicant; and

(c) specify the time within which the information must be provided.

(3) Information requested under subsection (1) must be provided—

(a) in writing; and

(b) within the time specified in the request.

80 Section number not used

See note 2 to section 3(1).

81 Minister may provisionally grant tenure

(1) The Minister may provisionally grant an exploration permit to an applicant who has done what is required by sections 77 to 79.

(2) When provisionally granting a tenure under subsection (1), the Minister must follow the procedure and apply the criteria specified in the tender sub-block tenure notice published for the tenure under section 74.

(3) If the Minister refuses to grant a tenure under subsection (1), the Minister must give the applicant notice of the refusal.

82 Section number not used

See note 2 to section 3(1).

83 Successful applicant must be notified

(1) If the Minister provisionally grants an exploration permit under section 81 or 87, the Minister must give the provisional holder—

(a) the tenure; and

(b) notice that the provisional grant will lapse unless the provisional holder, within 30 days after the day on which the notice is given—

(i) gives the Minister a written acceptance of the grant; and

(ii) lodges any security required under section 399; and

(iii) pays the fee that must be paid for the tenure under section 425; and

(iv) if the tender is decided on the basis of the amounts of money offered for the tenure—pays to the Minister the amount that the provisional holder offered for the tenure under section 77(1)(d).

(2) The tenure must specify—

(a) the sub-blocks covered by the tenure; and

(b) the term of the tenure; and

(c) the tenure conditions.

Editor's note—

See section 88 (Initial term of exploration permit).

84 Acceptance of grant of exploration permit over tender sub-blocks

The provisional grant of an exploration permit is properly accepted by the provisional holder if, within 30 days after the day on which the provisional holder is given notice under section 83, the provisional holder—

(a) gives the Minister a written acceptance of the grant; and

(b) lodges any security required under section 399; and

(c) pays the fee that must be paid for the tenure under section 425; and

(d) if the tender is decided on the basis of the amount of money offered for the tenure—pays to the Minister the

amount that the provisional holder offered for the tenure under section 77(1)(d).

Note—

Under section 88, the grant of the tenure can not be effective before it is registered (see section 333 for registration).

85 Conditions applicable to tenure on grant

If the provisional grant of the tenure is properly accepted, the tenure is subject to the conditions decided under section 73.

86 Lapse of provisional grant of exploration permit

If the provisional grant of the tenure is not properly accepted under section 84, the provisional grant lapses.

87 Provisional grant to next applicant if grant lapses

(1) If the provisional grant of the tenure lapses under section 86, the Minister may provisionally grant the tenure to another of the applicants for the tenure.

(2) When provisionally granting a tenure under subsection (1), the Minister must follow the procedure and apply the criteria specified in the tender sub-block tenure notice published for the tenure under section 74.

Division 4 Duration of exploration permit

88 Initial term of exploration permit

(1) An exploration permit comes into force on—

(a) the day on which the grant of the tenure is registered; or

(b) if a day later than the day on which the grant of the tenure is registered is specified in the tenure as its commencement day—that specified day.

(2) The initial term of an exploration permit ends—

(a) 4 years after the day on which the tenure is provisionally granted; or

(b) if a day later than the day on which the tenure is provisionally granted is specified in the tenure as its commencement day—4 years after that specified day.

Note—

The tenure may be surrendered at any time (see section 127).

89 Term of renewal of exploration permit

(1) A renewal of an exploration permit comes into force on the later of the following days—

(a) the day on which the renewal is registered;

(b) the day on which the previous term of the tenure expires.

Note—

See division 6 for renewal.

(2) The term of a renewal of a tenure ends 2 years after the day on which the previous term of the tenure expires.

Note—

The tenure may be surrendered at any time (see section 127).

(3) In working out the previous term of the tenure, section 90 must be disregarded.

(4) An exploration permit can not be renewed more than 3 times.

90 Effect of suspension of rights on term of exploration permit

(1) If the Minister suspends rights conferred by an exploration permit for a specified period under section 48, the Minister may extend the term of the tenure.

(2) An extension of a tenure term under subsection (1)—

(a) must not be for a period that is longer than the period for which the tenure rights were suspended; and

(b) must be in writing.

(3) If the Minister extends the term of a tenure under subsection (1), the Minister must give the tenure holder a notice that informs the holder—

(a) that the tenure has been extended; and

(b) of the period of the extension.

91 Effect of application for renewal on term of exploration permit

If—

(a) an exploration permit holder applies to renew the tenure under section 101; and

(b) the current term of the tenure expires; and

(c) a renewal of the tenure does not take effect immediately after the current term expires;

the tenure remains in force after the current term expires until—

(d) a renewal of the tenure takes effect; or

(e) a provisional renewal of the tenure lapses; or

(f) the application for renewal is withdrawn or refused.

92 Effect of application for mineral development licence or mining lease on term of exploration permit

If—

(a) an exploration permit holder applies for—

(i) a mineral development licence; or

(ii) a mining lease;

over the tenure area, or part of the tenure area, of the exploration permit; and

(b) the current term of the exploration permit expires; and

(c) a grant of the mineral development licence or mining lease does not take effect before the current term of the exploration permit expires;

the exploration permit remains in force until—

(d) the grant of the mineral development licence or mining lease takes effect; or

(e) a provisional grant of the mineral development licence or mining lease lapses; or

(f) the application for the mineral development licence or mining lease is withdrawn or refused.

93 Effect of application for extension on term of tenure

(1) If—

(a) an exploration permit holder applies for an extension of the term of the tenure under section 94 or 96; and

(b) the holder has also applied to renew the tenure under section 101; and

(c) the extension application is not decided before the tenure is due to expire;

then—

(d) the renewal application lapses; and

(e) the tenure remains in force until—

(i) if the Minister extends the term of the tenure under section 95 or 97 for a specified period—30 days after the day on which that period ends; or

(ii) if the Minister refuses to extend the term of the tenure under section 95 or 97—30 days after the

day on which the holder is given notice of the refusal under section 98.

94 Extension of tenure—activities disrupted

(1) If—

(a) an exploration permit authorises the tenure holder to carry out an activity; and

(b) circumstances beyond the control of the holder prevent the holder from carrying out the activity;

the holder may apply to the Minister for an extension of the term of the tenure.

(2) The application must be made—

(a) within 30 days after the day on which the holder first became aware of the circumstances; and

(b) before the tenure expires.

95 Grant of tenure extension—activities disrupted

(1) Subject to subsection (2), if an exploration permit holder applies for an extension under section 94, the Minister must—

(a) grant an extension of the term of the tenure if the Minister is satisfied that—

(i) the holder is or has been unable to carry out the activities authorised by the tenure; and

(ii) the holder is or has been unable to do so because of circumstances beyond the holder's control; and

(iii) no excluded time is included in the period of inability for which an extension is sought; or

(b) refuse the application for extension if the Minister is not satisfied of the matters referred to in paragraph (a).

(2) The period for which the extension is granted must not be longer than the disruption period for the tenure less any excluded time for the tenure.

(3) The extension may be granted subject to whatever conditions the Minister considers appropriate.

(4) In this section—

disruption period for a tenure means the period during which the tenure holder is unable to carry out activities authorised by the tenure because of circumstances beyond the holder's control.

excluded time for a tenure means any period during which the tenure was in force because of section 90, 91, 92 or 93.

Note—

Under section 90, if the Minister has under section 48 suspended rights under a tenure for a period, the Minister may extend the term of the tenure for an equivalent period. Under section 91, the term of a tenure is automatically extended if there is an application for the renewal of a tenure undecided when the tenure is due to expire. Under section 92, the term of a tenure is automatically extended if the holder applies for a mineral development licence or mining lease over the tenure area. Under section 93, the term of a tenure is automatically extended if there is an application for an extension of the tenure undecided when the tenure is due to expire.

96 Extension of tenure—other circumstances

(1) An exploration permit holder may apply to the Minister for an extension of the term of the tenure if, under section 121, the Minister—

(a) suspends a tenure condition; or

(b) exempts the holder from complying with a tenure condition.

(2) The application must be made not later than 30 days before the tenure expires.

97 Grant of tenure extension—other circumstances

(1) Subject to subsection (2), if an exploration permit holder applies for an extension under section 96, the Minister may—

(a) grant an extension of the term of the tenure; or

(b) refuse to grant an extension of the term of the tenure.

(2) The extension must not be for a period that is longer than the period of the suspension or exemption.

(3) The extension may be granted subject to whatever conditions the Minister considers appropriate.

98 Notification of decision

(1) If the Minister grants an extension of the term of the exploration permit under section 95 or 97, the Minister must give the tenure holder a notice that informs the holder of—

(a) the grant of extension; and

(b) the period of the extension; and

(c) if the extension is subject to conditions—the conditions.

(2) If the Minister refuses an application for a tenure extension, the Minister must give the tenure holder a notice that informs the holder of—

(a) the refusal; and

(b) the reasons for the refusal.

Division 5 Voluntary surrender of part of exploration permit area

99 Voluntary surrender of sub-blocks if discrete area remains

(1) An exploration permit holder may surrender a sub-block or some of the sub-blocks covered by the tenure if the remaining sub-blocks in the tenure area form a discrete area.

Editor's note—

See section 127 (Voluntary surrender of exploration permit) for the surrender of the whole tenure.

(2) A surrender under subsection (1) must—

(a) be made in writing; and

(b) identify the sub-blocks surrendered; and

(c) be given to the Minister.

Note—

The surrender takes effect when it is registered under section 337 (see section 337(5)).

100 Voluntary surrender of sub-blocks if up to 3 discrete areas remain

(1) If—

(a) an exploration permit holder wants to surrender some of the sub-blocks covered by the tenure; and

(b) the sub-blocks remaining in the tenure area after the proposed surrender would form not more than 3 discrete areas;

the holder may apply to the Minister for approval of the proposed surrender.

(2) The application—

(a) must be in writing; and

(b) must include a surrender proposal that identifies the sub-blocks in the tenure area that the holder proposes to surrender; and

(c) may include any other information that the holder considers relevant.

(3) If the Minister agrees with the surrender proposal, the Minister may approve the surrender of the sub-blocks specified in the proposal by giving the holder notice of the approval.

Note—

The surrender takes effect when it is registered under section 337 (see section 337(5)).

(4) If the Minister does not agree with the surrender proposal, the Minister may ask the holder to discuss the proposal.

(5) If the Minister and the holder agree, after discussions, on the sub-blocks to be surrendered, the Minister may approve the surrender of the sub-blocks agreed on by giving the holder written confirmation of the agreement.

Note—

The surrender takes effect when it is registered under section 337 (see section 337(5)).

(6) If, after discussions, the Minister and the holder do not agree on the surrender proposal, no sub-blocks are surrendered.

Division 6 Application for and grant of renewal of exploration permit

101 Application for renewal of exploration permit

An exploration permit holder may apply to the Minister to renew the tenure.

Note 1—

Part of the tenure area must be surrendered on each renewal (see section 104).

Note 2—

At each renewal, the tenure conditions are reviewed (see section 118).

102 When application to be made

(1) Subject to subsections (2) and (3), the application must be made at least 30 days before the day on which the tenure is to expire.

Note—

If an application for extension of a tenure is made, the expiry of the tenure is postponed (see section 93). For expiry of a tenure see section 126.

(2) The Minister may accept an application that is made later than 30 days before the day on which the tenure is to expire if—

(a) the application is made before the day on which the tenure expires; and

(b) the Minister believes that there are reasonable grounds for accepting the application.

(3) If a tenure remains in force because of section 93(e)(ii), the application may be made at any time before the tenure ceases to be in force.

103 How to apply for renewal

(1) The application must—

(a) be made in accordance with the approved form; and

(b) be made in the approved way; and

(c) include details of—

(i) the activities carried out by the applicant under the tenure during its current term; and

(ii) the amount of money spent by the applicant in relation to the sub-blocks covered by the tenure during its current term; and

(iii) the activities that the applicant intends to carry out under the tenure during the term applied for; and

(iv) the amount of money that the applicant intends to spend on those activities during the term applied for; and

(d) specify the sub-blocks that the applicant nominates for surrender under section 104.

Note—

For paragraphs (a) and (b) see section 41.

(2) The applicant may include in the application any other information that the applicant considers relevant.

104 Mandatory reduction of tenure area on renewal of exploration permit

(1) This section deals with the mandatory reduction of the tenure area covered by an exploration permit when the tenure is renewed.

(2) Subject to subsection (4)(b), on each surrender day of an exploration permit, the tenure holder must surrender—

(a) 50% of the number of sub-blocks in the tenure area; or

(b) if 50% of that number of the sub-blocks is a whole number and a fraction—the next higher whole number of the sub-blocks.

(3) Subject to subsection (4)(a), the sub-blocks that remain in the tenure area after a surrender under subsection (2) must form a discrete area.

(4) The Minister may give permission for—

(a) the surrender of sub-blocks in a tenure area, if the tenure area remaining after the proposed surrender would consist of not more than 3 discrete areas; or

(b) a tenure area to be reduced by less than 50%, if the Minister considers that there are special circumstances present in relation to the renewal application.

105 Request for further information

(1) The Minister may ask the applicant to provide further information about the application.

(2) The request must—

(a) be in writing; and

(b) be given to the applicant; and

(c) specify the time within which the information must be provided.

(3) Information requested under subsection (1) must be provided—

(a) in writing; and

(b) within the time specified in the request.

106 Payment of fee

(1) The applicant must pay the application fee prescribed under a regulation.

(2) The fee must be paid when the application is made.

(3) The Minister may refund any fee paid under subsection (1) but only if the Minister is satisfied that special circumstances exist that justify the refund of the fee.

107 Section number not used

See note 2 to section 3(1).

108 Provisional renewal of an exploration permit

(1) The Minister must provisionally renew an exploration permit if the applicant—

(a) does what is required by sections 101 to 106; and

(b) has complied with—

(i) this Act; and

(ii) the regulations; and

(iii) the tenure conditions.

Note 1—

Under section 89, the renewal of the tenure can not be effective before it is registered (see section 334 for registration). The renewal will not be registered until it has been properly accepted (see section 114 for *proper acceptance*).

Note 2—

Under section 118, new conditions may be imposed on renewal.

(2) If subsection (1) does not require the Minister to provisionally renew the tenure, the Minister may—

(a) provisionally renew the tenure; or

(b) refuse to renew the tenure.

109 Section number not used

See note 2 to section 3(1).

110 Applicant must be notified

(1) The Minister must give the applicant notice of the Minister's decision under section 108.

(2) If the Minister provisionally renews the exploration permit under section 108, the notice must contain notification—

(a) of the conditions of the renewed tenure; and

(b) of any decision under section 399 that the applicant must lodge a security or a further security; and

(c) that the provisional renewal will lapse unless the applicant, before the end of the primary payment period—

(i) gives the Minister a written acceptance of the renewal; and

(ii) lodges any security required by the Minister under section 399; and

(iii) pays the fees that must be paid under section 425.

Note—

Section 118 provides for renewals to be granted subject to conditions.

111 Amendment of conditions

(1) If the tenure holder—

(a) has been provisionally granted a renewal of the tenure under section 108; and

(b) is notified of the tenure conditions; and

(c) is dissatisfied with the conditions;

the holder may ask the Minister to amend the conditions.

(2) The request must be made within 30 days after the day on which the holder is given notice under section 110.

(3) If a request is made under subsection (1), the Minister may amend the tenure conditions as requested and, with the consent of the holder, otherwise amend the conditions.

(4) The Minister must give the holder notice of a decision under this section.

112 Amendment of security requirements

(1) If the tenure holder—

(a) has been provisionally granted a renewal of the tenure under section 108; and

(b) is notified of a security requirement; and

(c) is dissatisfied with the amount of the security required;

the holder may ask the Minister to make a new decision under section 399.

(2) The request must be made within 30 days after the day on which the holder is given notice under section 110.

(3) If a request is made under subsection (1), the Minister may make a new decision under section 399.

(4) The Minister must give the holder notice of the new decision.

113 Extension of primary payment period

(1) If the tenure holder makes a request under section 111 or 112, the holder may ask the Minister to extend the primary payment period.

(2) The request must be made within 30 days after the day on which the holder is given notice under section 110.

(3) If the Minister agrees to the request, the Minister must—

(a) decide the period of the extension; and

(b) give the holder a notice informing the holder of the period of the extension.

114 Acceptance of renewal of exploration permit

(1) The provisional renewal of an exploration permit is properly accepted by the tenure holder if, before the required time, the holder—

(a) gives the Minister a written acceptance of the renewal; and

(b) lodges any security required under section 399; and

(c) pays the fee that must be paid under section 425.

(2) The required time under subsection (1) is the end of the primary payment period or, if the tenure holder has been granted an extension of the primary payment period under section 113, the end of the secondary payment period.

Note—

Under section 89, the renewal of the tenure can not be effective before it is registered (see section 334 for registration).

115 Conditions applicable to tenure on renewal

If the provisional renewal is properly accepted under section 114, the renewed tenure is subject to—

(a) the conditions specified in the notice given to the tenure holder under section 110; or

(b) if the Minister amended those conditions under section 111—those conditions as amended.

116 Lapse of provisional renewal of exploration permit

If the provisional renewal of an exploration permit is not properly accepted under section 114, the provisional renewal lapses.

Division 7 Obligations associated with exploration permit

117 General

(1) The sources of obligations associated with an exploration permit are—

(a) the tenure conditions; and

(b) obligations arising from directions under section 387 or 392 given by the Minister; and

(c) obligations imposed by this Act and the regulations.

Note—

For paragraph (a) see sections 118 to 120. For paragraph (c) see sections 44, 123 to 125, 372 and 391(1).

(2) If an exploration permit has 2 or more holders, all the holders are jointly and severally bound by the obligations that attach to the tenure.

118 Conditions of exploration permit

(1) The Minister may grant or renew an exploration permit subject to whatever conditions the Minister considers appropriate.

(2) If the Minister grants or renews an exploration permit subject to conditions, the conditions must be specified in the tenure.

(3) Without limiting subsection (1), the Minister may attach conditions to the grant or renewal of an exploration permit requiring the tenure holder to do the following types of things—

(a) take out insurance as required by the Minister;

(b) carry out certain work in or in relation to the tenure area during the term of the tenure;

(c) spend a specified amount of money in carrying out the work referred to in paragraph (b);

(d) lodge a security with the Minister;

(e) keep specified information;

(f) give the Minister, on request, specified information;

(g) a condition requiring the holder to take steps to protect the environment of the tenure area, including conditions about—

(i) protecting wildlife; or

(ii) minimising the effect on the environment of the tenure area and the area surrounding the tenure area of activities carried out in the tenure area;

(h) repair any damage to the environment caused by activities in the tenure area;

(i) pay a specified penalty to the State if the holder does not comply with a tenure condition.

(4) A condition under subsection (3)(d) must specify—

(a) the amount of the security required; and

(b) the kind of security required; and

(c) the way and the form in which the security is to be lodged.

(5) Without limiting subsection (3)(d), a condition under that paragraph may require the lodgment of a security in the form of a guarantee and, if a guarantee is required, the condition may specify—

(a) the kind of person who is to give the guarantee; and

(b) the terms of the guarantee.

119 No conditions requiring payment of money

Except for a condition requiring the payment of a penalty or lodgment of security, a tenure condition must not require the payment of money to the State.

120 Variation of conditions

(1) If—

(a) an exploration permit holder requests the Minister in writing to vary the tenure conditions; or

(b) an exploration permit continues in force because of section 93; or

(c) an extension of the term of an exploration permit is granted under section 95; or

(d) part of the tenure area of an exploration permit is surrendered under section 99 or 100;

the Minister may vary the tenure conditions.

(2) If the Minister gives—

(a) a direction under section 387; or

(b) an approval, consent or exemption under a regulation;

to an exploration permit holder, the Minister may vary the tenure conditions to the extent necessary to avoid inconsistency between the tenure conditions and the direction, approval, consent or exemption.

(3) The Minister may vary the tenure conditions subject to whatever conditions the Minister considers appropriate.

(4) If the Minister varies the tenure conditions, the Minister must give the tenure holder a notice that—

(a) informs the holder of the variation; and

(b) specifies the conditions that have been varied; and

(c) specifies any conditions to which the variation is subject.

121 Exemption from or suspension of conditions

(1) If—

(a) an exploration permit holder requests the Minister in writing to—

(i) suspend a tenure condition; or

(ii) exempt the holder from complying with a tenure condition; or

(b) an exploration permit continues in force because of section 93; or

(c) an extension of the term of an exploration permit is granted under section 95; or

(d) part of the tenure area of an exploration permit is surrendered under section 99 or 100;

the Minister may—

(e) suspend a tenure condition; or

(f) exempt the holder from complying with a tenure condition.

(2) If the Minister gives—

(a) a direction under section 387; or

(b) an approval, consent or exemption under a regulation;

to an exploration permit holder, the Minister may suspend a tenure condition, or exempt the holder from compliance with a tenure condition, to the extent necessary to avoid inconsistency between the tenure conditions and the direction, approval, consent or exemption.

(3) The Minister may—

(a) suspend a tenure condition; or

(b) exempt the tenure holder from complying with a tenure condition;

subject to whatever conditions the Minister considers appropriate.

(4) If the Minister—

(a) suspends a tenure condition; or

(b) exempts the tenure holder from complying with a tenure condition;

the Minister must give the holder a notice that—

(c) informs the holder of the exemption or suspension; and

(d) specifies the conditions that have been suspended or affected by the exemption; and

(e) specifies any conditions to which the suspension or exemption is subject.

Note—

A suspension or exemption of a condition can not be effective before it is registered (see section 337).

122 Automatic suspension of conditions if tenure rights are suspended

If—

(a) the Minister suspends particular rights conferred by an exploration permit under section 48; and

(b) a tenure condition is affected by the suspension;

the tenure condition is suspended for the period of the suspension of the rights.

123 Work practices

A person who is an exploration permit holder or an associate of the holder, in carrying out activities in the tenure area that are authorised by the tenure, must take all reasonable steps—

(a) to ensure that the activities are carried out at a standard that is accepted as reasonable and proper in the mining industry; and

(b) to maintain in good repair all structures and equipment erected in, or brought into, the tenure area by the person; and

(c) to remove from the tenure area any structure, equipment or other property that—

(i) belongs to the person, or is under the person's control; and

(ii) is not being used, or is not going to be used, in connection with the activities.

Maximum penalty—267 penalty units.

Notes—

1 The safety of offshore exploration activities is governed by the *Mining and Quarrying Safety and Health Act 1999*—see the definition of ***mine*** in section 9 of that Act.

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 443A, to have also committed the offence.

124 Tenure holder must keep specified records etc.

An exploration permit holder must—

(a) keep whatever records and samples; and

(b) give whatever records and samples to the Minister for inspection; and

(c) make whatever returns;

are necessary to comply with—

(d) the regulations; or

(e) the tenure conditions; or

(f) a direction given by the Minister under section 387.

Note—

Under sections 386 and 387 the Minister may direct a person to keep records and samples, to give records and samples to the Minister, and to make returns.

Maximum penalty—134 penalty units.

125 Tenure holder must help inspectors

An exploration permit holder must provide an inspector with reasonable facilities and help so that the inspector is able to carry out compliance inspections.

Note—

See sections 377 to 384 for compliance inspections.

Maximum penalty—67 penalty units.

Division 8 Expiry of exploration permit

126 General

(1) An exploration permit expires if—

(a) the term of the tenure ends without the tenure being renewed; or

(b) the tenure holder surrenders the tenure; or

(c) a mineral development licence is granted over the sub-blocks in the tenure area of the exploration permit; or

(d) a mining lease is granted over the sub-blocks in the tenure area of the exploration permit; or

(e) the tenure is cancelled.

Note—

For paragraph (a) see division 6. For paragraph (b) see section 127. For paragraph (c) see section 128. For paragraph (d) see section 129. For paragraph (e) see section 130.

(2) In subsection (1)(a), the reference to the term of the tenure includes any period during which the tenure is in force under section 90, 91, 92 or 93.

127 Voluntary surrender of exploration permit

An exploration permit holder may surrender the tenure.

Note 1—

See Division 5 for voluntary surrender of part of a tenure area.

Note 2—

The surrender takes effect when it is registered under section 337 (see section 337(5)).

128 Automatic expiry of exploration permit when mineral development licence takes effect

If—

(a) an exploration permit is in force; and

(b) a mineral development licence over all or some of the sub-blocks in the exploration permit area comes into force under section 154;

the exploration permit expires in relation to the sub-blocks covered by the mineral development licence.

129 Automatic expiry of exploration permit when mining lease takes effect

If—

(a) an exploration permit is in force; and

(b) a mining lease over all or some of the sub-blocks in the exploration permit area comes into force under section 232;

the exploration permit expires in relation to the sub-blocks covered by the mining lease.

130 Cancellation of exploration permit

(1) Subject to subsection (5), the Minister may cancel an exploration permit if the tenure holder—

(a) breaches a tenure condition; or

(b) contravenes a provision of this Act or the regulations; or

(c) breaches a condition attached to an approval under section 365(2).

(2) If the Minister proposes to cancel a tenure under subsection (1), the Minister must give the tenure holder a notice that informs the holder of the proposed cancellation.

(3) The notice must—

(a) specify the reason for the proposed cancellation; and

(b) invite the holder to make submissions about the proposed cancellation; and

(c) specify the day by which submissions may be given to the Minister; and

(d) specify an address where submissions are to be lodged.

(4) The day specified under subsection (3)(c) must be not less than 60 days after the day on which the notice is given.

(5) The Minister may cancel the tenure only if—

(a) the holder has been given a notice under subsection (2); and

(b) the Minister has considered—

(i) any submission made by the holder as provided by the notice under subsection (3); and

(ii) any steps taken by the holder to remedy the breach or contravention that led to the proposal to cancel the tenure and to prevent any similar breach or contravention from happening again; and

(c) the Minister is satisfied that no special circumstances exist that justify the tenure not being cancelled.

131 Obligations of former exploration permit holders and former associates

(1) Subject to subsection (4), if—

(a) a person was—

(i) an exploration permit holder; or

(ii) an associate of an exploration permit holder; and

(b) the tenure—

(i) expires; or

(ii) is cancelled; or

(iii) is surrendered; and

(c) an obligation associated with the tenure arising out of—

(i) a tenure condition; or

(ii) a direction given under section 387; or

(iii) this Act or the regulations; or

has not been discharged; and

(d) the person was bound by that obligation when the person was the tenure holder or an associate;

the person remains bound by the obligation until the obligation is discharged.

(2) Subsection (1) does not continue an obligation to carry out exploration or recovery activities.

(3) Subsection (1) continues an obligation that a person had to carry out exploration or recovery activities in a particular way if the person carries them out.

(4) The Minister may decide that the person is not subject to—

(a) any particular obligation under this section; or

(b) all the person's remaining obligations under this section.

(5) A decision under subsection (4) must be in writing.

Part 2.3 Mineral development licences

Division 1 General

132 Mineral development licences

This part provides for the grant of mineral development licences over sub-blocks in coastal waters.

Note—

A mineral development licence is designed to allow an exploration permit holder to retain rights over an area if—

- the holder has identified and evaluated a significant mineral deposit in the exploration permit area; and
- mining the deposit is not commercially viable in the short term; and
- there is a reasonable prospect of development of the deposit in the longer term.

See section 145 for the grounds on which a mineral development licence may be granted.

133 Activities authorised by a mineral development licence

(1) Subject to subsections (2) and (3), a mineral development licence holder may—

(a) explore for minerals in the tenure area; and

(b) recover minerals in the tenure area.

Note 1—

The mineral development licence may specify a restricted range of activities that are the only ones authorised by the tenure (see section 146(3)).

Note 2—

Under section 23(1), the concept of *exploration* extends to activities that are directly related to exploration.

Note 3—

Under section 24(1), the concept of *recovery* extends to activities that are directly related to the recovery of minerals.

(2) A mineral development licence does not authorise the recovery of minerals as part of a commercial mining operation.

(3) If the tenure is expressed to restrict the kind of minerals covered by the tenure, the holder is not permitted to explore for, or to recover, minerals not covered by the tenure.

(4) A restriction on the kind of minerals covered by the tenure may be inclusive (for example, only minerals A, B and C) or exclusive (for example, all minerals except A, B and C).

(5) For subsection (3), the holder does not recover an excluded mineral if, in the course of exploring for, or recovering, another mineral, the holder recovers some excluded mineral.

134 Minister may cancel or not renew mineral development licence without compensation

No compensation is payable because of the cancellation or non-renewal of a mineral development licence by the Minister.

Note 1—

The Minister may cancel the tenure under section 189 or 190.

Note 2—

The Minister may refuse to renew the tenure under section 165.

135 Tenure rights may be suspended

(1) The Minister must suspend particular rights conferred by a mineral development licence if the Minister is satisfied that it is necessary in the public interest to do so.

(2) The Minister may suspend rights under subsection (1) for a specified period or for an indefinite period.

(3) The Minister may end a suspension at any time.

(4) A suspension or the ending of a suspension must be in writing.

(5) If the Minister—

(a) suspends rights conferred by a mineral development licence; or

(b) ends a suspension;

the Minister must give the tenure holder a notice that informs the holder of the suspension or the ending of a suspension.

Note—

See section 181 for the effect of the suspension on the obligations associated with the tenure.

(6) A suspension takes effect when—

(a) the holder has been given notice of the suspension under subsection (5); and

(b) the suspension has been registered under section 337.

136 Compensation for acquisition of property due to suspension of rights

(1) If—

(a) the Minister suspends tenure rights under section 135; and

(b) the suspension results in the acquisition of property from a person; and

(c) the State and the person agree on an amount of compensation for the acquisition;

the State must pay the person the agreed amount of compensation.

(2) If—

(a) the Minister suspends tenure rights under section 135; and

(b) the suspension results in the acquisition of property from a person; and

(c) the State and the person do not agree on an amount of compensation for the acquisition; and

(d) the person brings an action for compensation against the State in the Wardens Court;

the State must pay the person the amount of compensation (if any) that is decided by the court.

(3) In this section—

acquisition of property see the Commonwealth Constitution, section 51(xxxi).

Division 2 Application for and grant of mineral development licence

137 Application for mineral development licence

(1) An exploration permit holder may apply to the Minister for a mineral development licence over sub-blocks within the exploration permit area.

(2) A person may apply for a mineral development licence over a group of sub-blocks only if—

(a) the group forms a discrete area; and

(b) there are not more than 20 sub-blocks in the group.

(3) The exploration permit holder may apply for 2 or more mineral development licences over different parts of the exploration permit area.

138 How to apply

(1) The application must—

(a) be made in accordance with the approved form; and

(b) be made in the approved way; and

(c) specify the sub-blocks for which the application is made; and

(d) include details of—

(i) the reasons that the applicant is applying for a mineral development licence rather than a mining lease; and

(ii) the mineral deposit that the applicant has identified and evaluated and that the applicant believes is commercially viable in the longer term; and

(iii) the applicant's assessment of the present and potential commercial viability of the mineral deposit; and

(iv) the overall work program that the applicant has already carried out under the exploration permit on the sub-blocks covered by the application; and

(v) the amount of money that the applicant has already spent under the exploration permit on and in connection with the sub-blocks covered by the application; and

(vi) the activities that the applicant intends to carry out on the sub-blocks covered by the application; and

(vii) the amount of money that the applicant intends to spend on and in connection with those activities; and

(viii) the technical qualifications of the applicant and of the applicant's employees who are likely to be involved in activities authorised by the tenure; and

(ix) the technical advice available to the applicant; and

(x) the financial resources available to the applicant; and

(e) be accompanied by maps that—

(i) relate to the sub-blocks; and

(ii) comply with the regulations; and

(f) specify an address for service of notices under this Act and the regulations.

Note—

For paragraphs (a) and (b) see section 41.

(2) The mineral deposit details given under subsection (1)(d)(ii) must include—

(a) a full description of the mineral deposit; and

(b) both factual information about the deposit and the applicant's interpretation of the factual information.

(3) The applicant may include in the application any other information that the applicant considers relevant.

139 Payment of fee

(1) The applicant must pay the application fee prescribed under a regulation.

(2) The fee must be paid when the application is made.

(3) The Minister may refund any fee paid under subsection (1) but only if the Minister is satisfied that special circumstances exist that justify the refund of the fee.

140 Application must be advertised

(1) The applicant must advertise the application in a newspaper circulating throughout the State.

(2) The advertisement must contain—

(a) the applicant's name and address; and

(b) a map and description of the sub-blocks applied for that are sufficient for the sub-blocks to be identified; and

(c) the address of the Minister; and

(d) a statement that—

(i) the applicant has applied for a mineral development licence for the sub-blocks described in the notice; and

(ii) invites comment from the public on the application; and

(iii) requests that comments be sent to the applicant and the Minister within 30 days after the day on which the advertisement is published.

(3) The advertisement must be published—

(a) as soon as possible after the applicant makes the application; and

(b) in any case, subject to subsection (4), within 14 days after the day on which the applicant makes the application.

(4) If—

(a) the applicant applies to the Minister within the 14 day period referred to in subsection (3) for an extension of the period; and

(b) the Minister extends the period;

the advertisement must be published within the period as extended by the Minister.

141 Request for further information

(1) The Minister may ask the applicant for further information about the application.

(2) The request must—

(a) be in writing; and

(b) be given to the applicant; and

(c) specify the time within which the information must be provided.

(3) Information requested under subsection (1) must be provided—

(a) in writing; and

(b) within the time specified in the request.

142 Section number not used

See note 2 to section 3(1).

143 Minister may provisionally grant tenure

If the applicant does what is required by sections 138 to 141, the Minister may—

(a) subject to section 145, provisionally grant a mineral development licence to the applicant; or

(b) refuse the application.

Note—

Under section 154, the grant of the tenure can not be effective before it is registered (see section 333 for registration). The grant will not be registered until it has been properly accepted (see section 151 for *proper acceptance*).

144 Section number not used

See note 2 to section 3(1).

145 Grounds for granting mineral development licence

(1) The Minister may provisionally grant the mineral development licence only if the Minister is satisfied that—

(a) the exploration permit holder has identified and evaluated a significant mineral deposit in the exploration permit area; and

(b) there are reasonable grounds for the holder not applying immediately for a mining lease.

(2) Without limiting subsection (1), reasonable grounds for not applying immediately for a mining lease include the following—

(a) the need to obtain government approvals (for example, relating to environmental protection) before mining activities can commence;

(b) the need to carry out further exploration or evaluation in order to establish the commercial viability of a mineral deposit found in the tenure area;

(c) the need to develop technologies before mining activities can commence;

(d) the need to arrange finance, or to secure additional capital reserves, before mining activities can commence;

(e) the existence of economic considerations (for example, the prevailing condition of the commodity market for the minerals concerned) that effectively preclude mining activities in the immediate future;

(f) the existence of political considerations that effectively preclude mining activities in the immediate future.

146 Matters to be specified in the tenure

(1) The tenure must specify—

(a) the sub-blocks covered by the tenure; and

(b) the term of the tenure; and

(c) the tenure conditions.

(2) The term specified under subsection (1)(b) must not be more than 5 years.

(3) The tenure may specify the activities that may be carried out under the tenure.

(4) If the tenure includes a specification under subsection (3), the tenure authorises only the specified activities.

147 Applicant must be notified

(1) The Minister must give the applicant notice of a decision under section 143.

(2) If the Minister provisionally grants a mineral development licence—

(a) the Minister must give the tenure to the provisional holder; and

(b) the notice under subsection (1) must contain notification—

(i) of any decision under section 399 that the provisional holder must lodge a security; and

(ii) that the provisional grant will lapse unless the provisional holder, before the end of the primary payment period—

(A) gives the Minister a written acceptance of the grant; and

(B) lodges any security required under section 399; and

(C) pays the fee that must be paid for the tenure under section 425.

148 Amendment of conditions

(1) If the provisional holder is dissatisfied with the tenure conditions, the provisional holder may ask the Minister to amend the conditions.

(2) The request must be made within 30 days after the day on which the provisional holder is given the tenure under section 147.

(3) If a request is made under subsection (1), the Minister may amend the tenure conditions as requested and, with the consent of the provisional holder, otherwise amend the conditions.

(4) The Minister must give the provisional holder notice of a decision under this section.

149 Amendment of security requirements

(1) If the provisional holder—

(a) is notified of a security requirement; and

(b) is dissatisfied with the amount of the security required;

the provisional holder may ask the Minister to make a new decision under section 399.

(2) The request must be made within 30 days after the day on which the provisional holder is given notice under section 147.

(3) If a request is made under subsection (1), the Minister may make a new decision under section 399.

(4) The Minister must give the provisional holder notice of the new decision.

150 Extension of primary payment period

(1) If the provisional holder makes a request under section 148 or 149, the provisional holder may ask the Minister to extend the primary payment period.

(2) The request must be made within 30 days after the day on which the provisional holder is given notice under section 147.

(3) If the Minister agrees to the request, the Minister must—

(a) decide the period of the extension; and

(b) give the provisional holder a notice of the period of the extension.

151 Acceptance of grant of mineral development licence

(1) The provisional grant of a mineral development licence is properly accepted by the provisional holder if, before the required time, the provisional holder—

(a) gives the Minister a written acceptance of the grant; and

(b) lodges any security required under section 399; and

(c) pays the fee that must be paid for the tenure under section 425.

(2) The required time under subsection (1) is the end of the primary payment period or, if the provisional holder has been granted an extension of the primary payment period under section 150, the end of the secondary payment period.

Note—

Under section 154, the grant of the tenure can not be effective before the grant is registered (see section 333 for registration).

152 Conditions applicable to tenure on grant

If the provisional grant of the tenure is properly accepted under section 151, it is subject to—

(a) the conditions specified in the tenure given to the applicant under section 147; or

(b) if the Minister amended those conditions under section 148—those conditions as amended.

153 Lapse of provisional grant of mineral development licence

If the provisional grant of the tenure is not properly accepted under section 151, the provisional grant lapses.

Division 3 Duration of mineral development licence

154 Initial term of mineral development licence

(1) A mineral development licence comes into force on—

(a) the day on which the grant of the tenure is registered; or

(b) if a day later than the day on which the grant of the tenure is registered is specified in the tenure as its commencement day—that specified day.

(2) The initial term of a mineral development licence expires at the end of the period specified in the tenure under section 146(1).

Note 1—

For the maximum initial term see section 146(2).

Note 2—

The tenure may be surrendered at any time (see section 187).

(3) The period runs from—

(a) the day on which the tenure is provisionally granted; or

(b) if a day later than the day on which the tenure is provisionally granted is specified in the tenure as its commencement day—that specified day.

155 Term of renewal of tenure

(1) A renewal of a mineral development licence comes into force on the later of the following days—

(a) the day on which the renewal is registered; or

(b) the day on which the previous term of the tenure expires.

Note—

See division 5 for renewal.

(2) The term of a renewal of a tenure expires at the end of the period specified in the notice under section 169.

Note 1—

For the maximum term of renewal see section 169(3).

Note 2—

The tenure may be surrendered at any time (see section 187).

(3) The period runs from the expiry of the previous term of the tenure.

(4) In working out the period referred to in subsection (3), section 156 must be disregarded.

156 Effect of application for renewal on term of mineral development licence

If—

(a) a mineral development licence holder applies to renew the tenure under section 159; and

(b) the current term of the tenure expires; and

(c) a renewal of the tenure does not take effect immediately after the current term expires;

the tenure remains in force after the current term expires until—

(d) a renewal of the tenure takes effect; or

(e) a provisional renewal of the tenure lapses; or

(f) the application for renewal is withdrawn or refused.

157 Effect of application for mining lease on term of mineral development licence

If—

(a) a mineral development licence holder applies for a mining lease over the tenure area, or part of the tenure area, of the mineral development licence; and

(b) the current term of the mineral development licence expires; and

(c) a grant of the mining lease does not take effect before the current term of the mineral development licence expires;

the mineral development licence remains in force until—

(d) the grant of the mining lease takes effect; or

(e) a provisional grant of the mining lease lapses; or

(f) the application for the mining lease is withdrawn or refused.

Division 4 Voluntary surrender of part of mineral development licence area

158 Voluntary surrender of sub-blocks if discrete area remains

(1) A mineral development licence holder may surrender a sub-block or some of the sub-blocks covered by the tenure if the remaining sub-blocks in the tenure area form a discrete area.

Note—

See section 187 for the surrender of the whole tenure.

(2) A surrender under subsection (1) must—

(a) be made in writing; and

(b) identify the sub-blocks surrendered; and

(c) be given to the Minister.

Note—

The surrender takes effect when it is registered under section 337 (see section 337(5)).

Division 5 Application for and grant of renewal of mineral development licence

159 Application for renewal of mineral development licence

A mineral development licence holder may apply to the Minister to renew the tenure.

Note—

At each renewal, the tenure conditions are reviewed (see section 177).

160 When application to be made

(1) Subject to subsection (2), the application must be made at least 6 months before the day on which the tenure is to expire.

(2) The Minister may accept an application that is made later than 6 months before the day on which the tenure is to expire if—

(a) the application is made before the day on which the tenure expires; and

(b) the Minister believes that there are reasonable grounds for accepting the application.

161 How to apply for renewal

(1) The application must—

(a) be made in accordance with the approved form; and

(b) be made in the approved way; and

(c) include details of—

(i) the reasons that the applicant is applying to renew the mineral development licence rather than applying for a mining lease; and

(ii) the activities carried out by the applicant under the tenure during its current term; and

(iii) the amount of money spent by the applicant in relation to the sub-blocks covered by the tenure during its current term; and

(iv) the results obtained by the applicant from carrying out the activities referred to in subparagraph (ii); and

(v) the activities that the applicant intends to carry out under the tenure during the term applied for; and

(vi) the amount of money that the applicant intends to spend in relation to activities authorised by the tenure during the term applied for.

Note—

For paragraphs (a) and (b) see section 41.

(2) The applicant may include in the application any other information that the applicant considers relevant.

162 Request for further information

(1) The Minister may ask the applicant to provide further information about the application.

(2) The request must—

(a) be in writing; and

(b) be given to the applicant; and

(c) specify the time within which the information must be provided.

(3) Information requested under subsection (1) must be provided—

(a) in writing; and

(b) within the time specified in the request.

163 Payment of fee

(1) The applicant must pay the application fee prescribed under a regulation.

(2) The fee must be paid when the application is made.

(3) The Minister may refund any fee paid under subsection (1) but only if the Minister is satisfied that special circumstances exist that justify the refund of the fee.

164 Section number not used

See note 2 to section 3(1).

165 Provisional renewal of mineral development licence

The Minister may—

(a) provisionally renew the tenure; or

(b) subject to section 168, refuse to renew the tenure.

Note 1—

Under section 155, the renewal of the tenure can not be effective before it is registered (see section 334 for registration). The renewal will not be registered until it has been properly accepted (see section 173 for *proper acceptance*).

Note 2—

Under section 177, new conditions may be imposed on renewal.

166 Section number not used

See note 2 to section 3(1).

167 Matters that may be taken into account

In deciding whether to renew the tenure, the Minister may have regard to—

(a) whether mining activities are commercially viable in the mineral development licence area; and

(b) whether the applicant has complied with—

(i) this Act; and

(ii) the regulations; and

(iii) any tenure conditions.

168 Refusal of application for renewal

(1) If the Minister proposes to refuse to renew the tenure, the Minister must give the applicant notice of the proposed refusal.

Note—

The mineral development licence remains in force until the application for renewal has been finally decided (i.e. until the Minister decides whether or not to renew the tenure) (see section 156).

(2) The notice must—

(a) give details of the Minister's reasons for the proposal not to renew the tenure; and

(b) invite the applicant to make written submissions on the proposed non-renewal to the Minister; and

(c) specify the day by which submissions may be made to the Minister.

(3) The day specified under subsection (2)(c) must be at least 30 days after the day on which the notice under subsection (1) is given to the applicant.

(4) The Minister, in deciding whether to refuse to renew the tenure, must have regard to any submissions made by the applicant in response to the notice under subsection (1).

169 Applicant must be notified

(1) The Minister must give the applicant notice of the Minister's decision under section 165.

(2) If the Minister provisionally renews the tenure under section 165, the notice must contain notification—

(a) of the term of the renewal; and

(b) of the conditions of the renewed tenure; and

(c) of any decision under section 399 that the applicant must lodge a security or a further security; and

(d) that the provisional renewal will lapse unless the applicant, before the end of the primary payment period—

(i) gives the Minister a written acceptance of the renewal; and

(ii) lodges any security required under section 399; and

(iii) pays the fee that must be paid under section 425.

Note—

Paragraph (b)—section 177 provides for renewals to be granted subject to conditions.

(3) The term specified under subsection (2)(a) must not be more than 5 years.

170 Amendment of conditions

(1) If the tenure holder—

(a) has been provisionally granted a renewal of the tenure under section 165; and

(b) is notified of the tenure conditions; and

(c) is dissatisfied with the conditions;

the holder may ask the Minister to amend the conditions.

(2) The request must be made within 30 days after the day on which the applicant is given notice under section 169.

(3) If a request is made under subsection (1), the Minister may amend the tenure conditions as requested and, with the consent of the holder, otherwise amend the conditions.

(4) The Minister must give the holder notice of a decision under this section.

171 Amendment of security requirements

(1) If the tenure holder—

(a) has been provisionally granted a renewal of the tenure under section 165; and

(b) is notified of a security requirement; and

(c) is dissatisfied with the amount of the security required;

the holder may ask the Minister to make a new decision under section 399.

(2) The request must be made within 30 days after the day on which the holder is given notice under section 169.

(3) If a request is made under subsection (1), the Minister may make a new decision under section 399.

(4) The Minister must give the holder notice of the new decision.

172 Extension of primary payment period

(1) If the tenure holder makes a request under section 170 or 171, the holder may ask the Minister to extend the primary payment period.

(2) The request must be made within 30 days after the day on which the holder is given notice under section 169.

(3) If the Minister agrees to the request to extend the primary payment period, the Minister must—

(a) decide the period of the extension; and

(b) give the holder a notice informing the holder of the period of the extension.

173 Acceptance of renewal of mineral development licence

(1) The provisional renewal of a mineral development licence is properly accepted by the tenure holder if, before the required time, the holder—

(a) gives the Minister a written acceptance of the renewal; and

(b) lodges any security required under section 399; and

(c) pays the fee that must be paid under section 425.

(2) The required time under subsection (1) is the end of the primary payment period or, if the tenure holder has been granted an extension of the primary payment period under section 172, the end of the secondary payment period.

Note—

Under section 155, the renewal of the tenure can not be effective before it is registered (see section 334 for registration).

174 Conditions applicable to tenure on renewal

If the provisional renewal is properly accepted under section 173, the renewed tenure is subject to—

(a) the conditions specified in the notice given to the tenure holder under section 169; or

(b) if the Minister amended those conditions under section 170—those conditions as amended.

175 Lapse of provisional renewal of mineral development licence

If the provisional renewal of a mineral development licence is not properly accepted under section 173, the provisional renewal lapses.

Division 6 Obligations associated with mineral development licence

176 General

(1) The sources of obligations associated with a mineral development licence are—

(a) the tenure conditions; and

(b) obligations arising from directions under section 387 or 392 given by the Minister; and

(c) obligations imposed by this Act and the regulations.

Note—

For paragraph (a) see sections 177 to 179. For paragraph (c) see sections 44, 177 to 185, 372 and 391(1).

(2) If a mineral development licence has 2 or more holders, all the holders are jointly and severally bound by the obligations that attach to the tenure.

177 Conditions of mineral development licence

(1) The Minister may grant or renew a mineral development licence subject to whatever conditions the Minister considers appropriate.

(2) If the Minister grants or renews a mineral development licence subject to conditions, the conditions must be specified in the tenure.

(3) Without limiting subsection (1), the Minister may attach conditions to the grant or renewal of a mineral development licence requiring the tenure holder to do the following types of things—

(a) take out insurance as required by the Minister;

(b) carry out certain activities in or in relation to the tenure area during the term of the tenure;

(c) spend a specified amount of money in carrying out the activities referred to in paragraph (b);

(d) lodge a security with the Minister;

(e) keep specified information;

(f) give the Minister, on request, specified information;

(g) take steps to protect the environment of the tenure area, including conditions about—

(i) protecting wildlife; or

(ii) minimising the effect on the environment of the tenure area and the area surrounding the tenure area of activities carried out in the tenure area;

(h) repair any damage to the environment caused by activities in the tenure area;

(i) pay a specified penalty to the State if the holder does not comply with a tenure condition.

(4) A condition under subsection (3)(d) must specify—

(a) the amount of the security required; and

(b) the kind of security required; and

(c) the way and the form in which the security is to be lodged.

(5) Without limiting subsection (3)(d), a condition under that provision may require the lodgment of a security in the form of a guarantee and, if a guarantee is required, the condition may specify—

(a) the kind of person who is to give the guarantee; and

(b) the terms of the guarantee.

178 No conditions requiring payment of money

Except for a condition requiring the payment of a penalty or lodgment of a security, a tenure condition must not require the payment of money to the State.

179 Variation of conditions

(1) If—

(a) a mineral development licence holder requests the Minister in writing to amend the tenure conditions; or

(b) part of the tenure area of a mineral development licence is surrendered under section 158;

the Minister may vary the tenure conditions.

(2) If a Minister gives—

(a) a direction under section 387; or

(b) an approval, consent or exemption under a regulation;

to a mineral development licence holder, the Minister may vary the tenure condition to the extent necessary to avoid inconsistency between the tenure conditions and the direction, approval, consent or exemption.

(3) The Minister may vary the tenure conditions subject to whatever conditions the Minister considers appropriate.

(4) If the Minister varies the tenure conditions, the Minister must give the tenure holder a notice that—

(a) informs the holder of the variation; and

(b) specifies the conditions that have been varied; and

(c) specifies any conditions to which the variation is subject.

180 Exemption from or suspension of conditions

(1) If—

(a) a mineral development licence holder requests the Minister in writing to—

(i) suspend a tenure condition; or

(ii) exempt the holder from complying with a tenure condition; or

(b) part of the tenure area of a mineral development licence is surrendered under section 158;

the Minister may—

(c) suspend a tenure condition; or

(d) exempt the holder from complying with a tenure condition.

(2) If the Minister gives—

(a) a direction under section 387; or

(b) an approval, consent or exemption under a regulation;

to a mineral development licence holder, the Minister may suspend a tenure condition, or exempt the holder from compliance with a tenure condition, to the extent necessary to avoid inconsistency between the tenure conditions and the direction, approval, consent or exemption.

(3) The Minister may—

(a) suspend a tenure condition; or

(b) exempt the tenure holder from compliance with a tenure condition;

subject to whatever conditions the Minister considers appropriate.

(4) If the Minister—

(a) suspends a tenure condition; or

(b) exempts the tenure holder from complying with a tenure condition;

the Minister must give the holder a notice that—

(c) informs the holder of the exemption or suspension; and

(d) specifies the conditions that have been suspended or affected by the exemption; and

(e) specifies any conditions to which the suspension or exemption is subject.

Note—

A suspension or exemption of a condition does not take effect until registered (see section 337).

181 Automatic suspension of conditions if tenure rights are suspended

If—

(a) the Minister suspends particular rights conferred by a mineral development licence under section 135; and

(b) a tenure condition is affected by the suspension;

the tenure condition is suspended for the period of the suspension of the rights.

182 Significant changes in circumstances to be reported to Minister

(1) A mineral development licence holder must notify the Minister of any change of circumstances that significantly affects the long term viability of mining activities in the mineral development licence area.

Note—

The Minister may cancel the mineral development licence if the Minister believes that circumstances have changed so that mining activities can now commence (see section 190).

(2) Subsection (1) applies to a change of circumstances whether favourable or unfavourable to the long term viability of mining activities in the mineral development licence area.

183 Work practices

A person who is a mineral development licence holder, or an associate of the holder, in carrying out activities in the tenure area that are authorised by the tenure, must take all reasonable steps—

(a) to ensure that the activities are carried out at a standard that is accepted as reasonable and proper in the mining industry; and

(b) to maintain in good repair all structures and equipment erected in, or brought into, the tenure area by the person; and

(c) to remove from the tenure area any structure, equipment or other property that—

(i) belongs to the person, or is under the person's control; and

(ii) is not being used, or is not going to be used, in connection with the activities.

Maximum penalty—267 penalty units.

Notes—

1 The safety of offshore exploration activities is governed by the *Mining and Quarrying Safety and Health Act 1999*—see the definition *mine* in section 9 of that Act.

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 443A, to have also committed the offence.

184 Tenure holder must keep specified records etc.

A mineral development licence holder must—

(a) keep whatever records and samples; and

(b) give whatever records and samples to the Minister for inspection; and

(c) make whatever returns;

are necessary to comply with—

(d) the regulations; or

(e) the tenure conditions; or

(f) a direction given by the Minister under section 387.

Note—

Under sections 386 and 387 the Minister may direct a person to keep records and samples to give records and samples to the Minister, and to make returns.

Maximum penalty—134 penalty units.

185 Tenure holder must help inspectors

A mineral development licence holder must provide an inspector with reasonable facilities and help so that the inspector is able to carry out compliance inspections.

Note—

See sections 377 to 384 for compliance inspections.

Maximum penalty—67 penalty units.

Division 7 Expiry of mineral development licence

186 General

A mineral development licence expires if—

(a) the term of the tenure ends without the tenure being renewed; or

(b) the tenure holder surrenders the tenure; or

(c) a mining lease is granted over the sub-blocks in the tenure area of the mineral development licence; or

(d) the tenure is cancelled.

Note—

For paragraph (a) see division 5. For paragraph (b) see section 187. For paragraph (c) see section 188. For paragraph (d) see sections 189 and 190.

187 Voluntary surrender of mineral development licence

A mineral development licence holder may surrender the tenure.

Note 1—

See division 4 for voluntary surrender of part of a tenure area.

Note 2—

The surrender takes effect when it is registered under section 337 (see section 337(5)).

188 Automatic expiry of mineral development licence when mining lease takes effect

If—

(a) a mineral development licence is in force; and

(b) a mining lease over all or some of the sub-blocks in the mineral development licence area comes into force under section 232;

the mineral development licence expires in relation to the sub-blocks covered by the mining lease.

189 Cancellation of mineral development licence—breach of condition etc.

(1) Subject to subsection (5), the Minister may cancel a mineral development licence if the tenure holder—

(a) breaches a tenure condition; or

(b) contravenes a provision of this Act or the regulations; or

(c) breaches a condition attached to an approval under section 365(2).

(2) If the Minister proposes to cancel a tenure under subsection (1), the Minister must give the holder a notice that informs the holder of the proposed cancellation.

(3) The notice must—

(a) specify the reason for the proposed cancellation; and

(b) invite the holder to make submissions about the proposed cancellation; and

(c) specify the day by which submissions may be made to the Minister; and

(d) specify an address where submissions are to be lodged.

(4) The day specified under subsection (3)(c) must be not less than 60 days after the day on which the notice is given.

(5) The Minister may cancel the tenure only if—

(a) the holder has been given a notice under subsection (2); and

(b) the Minister has considered—

(i) any submission made by the holder as provided by the notice under subsection (3); and

(ii) any steps taken by the holder to remedy the breach or contravention that led to the proposal to cancel the tenure and to prevent any similar breach or contravention from happening again; and

(c) the Minister is satisfied that no special circumstances exist that justify the tenure not being cancelled.

190 Cancellation of mineral development licence—mining activities viable

(1) If the Minister believes that mining activities should commence in a mineral development licence area, the Minister must ask the tenure holder to explain to the Minister why the holder should not apply for a mining lease over the mineral development licence area.

(2) A request under subsection (1) must—

(a) be in writing; and

(b) specify the day by which the holder must give the explanation to the Minister.

(3) The day specified under subsection (2)(b) must be at least 30 days after the day on which the request is given to the holder.

(4) An explanation provided in response to a request under subsection (1) must be in writing.

(5) The Minister may cancel the mineral development licence if—

(a) a request is made under subsection (1); and

(b) either—

(i) the holder does not give the Minister an explanation in response to the request by the day specified in the request; or

(ii) the holder gives the Minister an explanation in response to the request but the Minister does not consider the explanation to be satisfactory.

(6) If the Minister cancels a mineral development licence under subsection (5), the Minister may specify the day on which the cancellation takes effect.

(7) Without limiting subsection (6), the Minister, in deciding the day on which the cancellation is to take effect, may have regard to the time needed by the holder to obtain the grant of a mining lease over the mineral development licence area.

191 Obligations of former mineral development licence holders and former associates

(1) Subject to subsection (4), if—

(a) a person was—

(i) a mineral development licence holder; or

(ii) an associate of a mineral development licence holder; and

(b) the tenure—

(i) expires; or

(ii) is cancelled; or

(iii) is surrendered; and

(c) an obligation associated with the tenure arising out of—

(i) a tenure condition; or

(ii) a direction given under section 387; or

(iii) this Act or the regulations;

has not been discharged; and

(d) the person was bound by that obligation when the person was the tenure holder or an associate;

the person remains bound by the obligation until the obligation is discharged.

(2) Subsection (1) does not continue an obligation to carry out exploration or recovery activities.

(3) Subsection (1) continues an obligation that a person had to carry out exploration or recovery activities in a particular way if the person carries them out.

(4) The Minister may decide that the person is not subject to—

(a) any particular obligation under this section; or

(b) all the person's remaining obligations under this section.

(5) A decision under subsection (4) must be in writing.

Part 2.4 Mining leases

Division 1 General

192 Mining leases

(1) This part provides for the grant of mining leases over sub-blocks in coastal waters.

(2) A mining lease may be granted over—

(a) a vacant standard sub-block; or

(b) certain sub-blocks that are not vacant; or

(c) a tender sub-block.

Note 1—

A tender sub-block is a sub-block that has been declared available for tender. A standard sub-block is any other sub-block (see sections 19 and 20).

Note 2—

An exploration permit or mineral development licence holder may apply for a mining lease over the same area or part of the same area.

Editor's note—

For paragraphs (a) and (b) see division 2 (Application for and grant of mining lease over standard sub-blocks) and for paragraph (c) see division 3 (Application for and grant of mining lease over tender sub-block).

193 Activities authorised by a mining lease

(1) Subject to subsection (2), a mining lease holder may—

(a) recover minerals in the tenure area; and

(b) explore for minerals in the tenure area.

Note 1—

Under section 23(1) the concept of *exploration* extends to activities that are directly related to exploration.

Note 2—

Under section 24(1) the concept of *recovery* extends to activities that are directly related to the recovery of minerals.

(2) If the tenure is expressed to restrict the kind of minerals covered by the tenure, the holder is not permitted to recover, or to explore for, minerals not covered by the tenure.

(3) A restriction on the kind of minerals covered by the tenure may be inclusive (for example, only minerals A, B and C) or exclusive (for example, all minerals except A, B and C).

(4) For subsection (2), the holder does not recover an excluded mineral if, in the course of recovering, or exploring for, another mineral, the holder recovers some excluded mineral.

194 Minister may cancel or not renew mining lease without compensation

No compensation is payable because of the cancellation or non-renewal of a mining lease by the Minister.

Note 1—

The Minister may cancel the tenure under section 265.

Note 2—

The Minister may refuse to renew the tenure under section 242.

195 Tenure rights may be suspended

(1) The Minister must suspend particular rights conferred by a mining lease if the Minister is satisfied that it is necessary in the public interest to do so.

(2) The Minister may suspend rights under subsection (1) for a specified period or for an indefinite period.

(3) The Minister may end a suspension at any time.

(4) A suspension or the ending of a suspension must be in writing.

(5) If the Minister—

(a) suspends rights conferred by a mining lease; or

(b) ends a suspension;

the Minister must give the tenure holder a notice that informs the holder of the suspension or the ending of a suspension.

Note—

See section 258 for the effect of the suspension on the obligations associated with the tenure.

(6) A suspension takes effect when—

(a) the holder has been given notice of the suspension under subsection (5); and

(b) the suspension has been registered under section 337.

196 Compensation for acquisition of property due to suspension of rights

(1) If—

(a) the Minister suspends tenure rights under section 195; and

(b) the suspension results in the acquisition of property from a person; and

(c) the State and the person agree on an amount of compensation for the acquisition;

the State must pay the person the agreed amount of compensation.

(2) If—

(a) the Minister suspends tenure rights under section 195; and

(b) the suspension results in the acquisition of property from a person; and

(c) the State and the person do not agree on an amount of compensation for the acquisition; and

(d) the person brings an action for compensation against the State in the Wardens Court;

the State must pay the person the amount of compensation (if any) that is decided by the court.

(3) In this section—

acquisition of property see the Commonwealth Constitution, section 51(xxxi).

Division 2 Application for and grant of mining lease over standard sub-blocks

197 Application for mining lease over vacant standard sub-block

(1) A person may apply to the Minister for a mining lease over a standard sub-block that is vacant.

(2) A standard sub-block is vacant if no exploration permit, mineral development licence or mining lease is in force over the sub-block.

(3) The application must not cover more than 20 sub-blocks.

(4) If the application is for a tenure over a group of sub-blocks, the sub-blocks must form a discrete area.

198 Holder of exploration permit or mineral development licence may apply for mining lease

(1) An exploration or mineral development licence holder may apply to the Minister for a mining lease over all or some of the sub-blocks in the tenure area of the exploration or mineral development licence.

(2) A person may apply for a mining lease under subsection (1) over a group of sub-blocks only if—

(a) the group forms a discrete area; and

(b) there are not more than 20 sub-blocks in the group.

(3) The holder may apply for 2 or more mining leases over different parts of the tenure area of the exploration or mineral development licence.

199 How to apply

(1) An application under section 197 or 198 must—

(a) be made in accordance with the approved form; and

(b) be made in the approved way; and

(c) specify the sub-blocks for which the application is made; and

(d) include details of—

(i) the activities that the applicant intends to carry out on the sub-block or sub-blocks covered by the application; and

(ii) the amount of money that the applicant intends to spend on those activities; and

(iii) the technical qualifications of the applicant and of the applicant's employees who are likely to be involved in activities authorised by the tenure; and

(iv) the technical advice available to the applicant; and

(v) the financial resources available to the applicant; and

(vi) if the tenure is to be held by more than 1 person—the share of the tenure that each prospective holder will hold; and

(e) be accompanied by maps that—

(i) relate to the sub-blocks; and

(ii) comply with the regulations; and

(f) specify an address for service of notices under this Act and the regulations.

Note—

For paragraphs (a) and (b) see section 41.

(2) The applicant may include in the application any other information that the applicant considers relevant.

200 Effect of inclusion of unavailable sub-block in application

If—

(a) a person applies under section 197 or 198 for a tenure over a group of sub-blocks; and

(b) because of section 18, 197 or 198 a mining lease can not be granted over 1 or more of the sub-blocks in the group;

the Minister may still deal with the application to the extent to which the application covers sub-blocks for which a mining lease can be granted.

Note—

A mining lease can not be granted over a sub-block that is not vacant or over a reserved sub-block (see section 18).

201 Payment of fee

(1) The applicant must pay the application fee prescribed under a regulation.

(2) The fee must be paid when the application is made.

(3) The Minister may refund any fee paid under subsection (1) but only if the Minister is satisfied that special circumstances exist that justify the refund of the fee.

202 Application must be advertised

(1) The applicant must advertise the application in a newspaper that circulates throughout the State.

(2) The advertisement must contain—

(a) the applicant's name and address; and

(b) a map and description of the sub-blocks applied for that are sufficient for the sub-blocks to be identified; and

(c) the address of the Minister; and

(d) a statement that—

(i) the applicant has applied for a mining lease over the sub-blocks described in the notice; and

(ii) invites comment from the public on the application; and

(iii) requests that comments be sent to the applicant and the Minister within 30 days after the day on which the advertisement is published.

(3) The advertisement must be published—

(a) as soon as possible after the applicant lodges the application; and

(b) in any case, subject to subsection (4), within 14 days after the day on which the applicant lodges the application.

(4) If—

(a) the applicant applies to the Minister within the 14 day period referred to in subsection (3) for an extension of the period; and

(b) the Minister extends the period;

the advertisement must be published within the period as extended by the Minister.

203 How multiple applications are dealt with

(1) Subject to subsection (2), if a sub-block is covered by 2 or more applications for a mining or exploration permit, the Minister must deal with the applications in the order in which they are made.

Note—

See also section 58.

(2) If—

(a) the applications are lodged within a particular time of each other; and

(b) the time is less than the time prescribed under a regulation;

the Minister must decide the order in which the applications are to be dealt with by drawing lots in the way prescribed under a regulation.

204 Request for further information

(1) The Minister may ask the applicant for further information about the application.

(2) The request must—

(a) be in writing; and

(b) be given to the applicant; and

(c) specify the time within which the information must be provided.

(3) Information requested under subsection (1) must be provided—

(a) in writing; and

(b) within the time specified in the request.

205 Section number not used

See note 2 to section 3(1).

206 Minister may provisionally grant tenure

If the applicant does what is required by sections 199, 201, 202 and 204, the Minister may—

(a) provisionally grant a mining lease to the applicant; or

(b) subject to section 208, refuse the application.

Note—

Under section 232, the grant of the tenure can not be effective before it is registered (see section 333 for registration). The grant will not be registered until it has been properly accepted (see section 214 for *proper acceptance*).

207 Section number not used

See note 2 to section 3(1).

208 Refusal of application for mining lease made under section 198

(1) If the Minister proposes to refuse an application for a mining lease made under section 198, the Minister must give the applicant notice of the proposed refusal.

(2) The notice must—

(a) specify the reason for the proposed refusal; and

(b) invite the applicant to make written submissions about the proposed refusal; and

(c) specify the day by which submissions may be made to the Minister; and

(d) specify an address where submissions are to be lodged.

(3) The day specified under subsection (2)(c) must be not less than 30 days after the day on which the notice is given.

(4) The Minister may refuse to grant an application for a mining lease made under section 198 only if—

(a) the applicant has been given a notice under subsection (1); and

(b) the Minister has considered any submission made by the applicant; and

(c) the Minister is satisfied that no special circumstances exist that justify the tenure being granted.

209 Matters to be specified in the tenure

(1) The tenure must specify—

(a) the sub-blocks covered by the tenure; and

(b) the term of the tenure; and

(c) the tenure conditions.

(2) The term specified under subsection (1)(b) must not be more than 21 years.

210 Applicant must be notified

(1) The Minister must give the applicant notice of the Minister's decision under section 206.

(2) If the Minister provisionally grants a mining lease—

(a) the Minister must give the tenure to the provisional holder; and

(b) the notice under subsection (1) must contain notification—

(i) of any decision under section 399 that the provisional holder must lodge a security; and

(ii) that the provisional grant will lapse unless the provisional holder, before the end of the primary payment period—

(A) gives the Minister a written acceptance of the grant; and

(B) lodges any security required by the Minister under section 399; and

(C) pays the fee that must be paid for the tenure under section 425.

211 Amendment of conditions

(1) If the provisional holder is dissatisfied with the tenure conditions, the provisional holder may ask the Minister to amend the conditions.

(2) The request must be made within 30 days after the day on which the provisional holder is given the tenure under section 210.

(3) If a request is made under subsection (1), the Minister may amend the tenure conditions as requested and, with the consent of the provisional holder, otherwise amend the conditions.

(4) The Minister must give the provisional holder notice of a decision under this section.

212 Amendment of security requirements

(1) If the provisional holder—

(a) is notified of a security requirement; and

(b) is dissatisfied with the amount of the security required;

the provisional holder may ask the Minister to make a new decision under section 399.

(2) The request must be made within 30 days after the day on which the applicant is given notice under section 210.

(3) If a request is made under subsection (1), the Minister may make a new decision under section 399.

(4) The Minister must give the provisional holder notice of the new decision.

213 Extension of primary payment period

(1) If the provisional holder makes a request under section 211 or 212, the provisional holder may ask the Minister to extend the primary payment period.

(2) The request must be made within 30 days after the day on which the provisional holder is given notice under section 210.

(3) If the Minister agrees to the request, the Minister must—

(a) decide the period of the extension; and

(b) give the provisional holder a notice of the period of the extension.

214 Acceptance of grant of mining lease for standard sub-block

(1) The provisional grant of the mining lease is properly accepted by the provisional holder if, before the required time, the provisional holder—

(a) gives the Minister a written acceptance of the grant; and

(b) lodges any security required under section 399; and

(c) pays the fee that must be paid for the tenure under section 425.

(2) The required time under subsection (1) is the end of the primary payment period or, if the provisional holder has been granted an extension of the primary payment period under section 213, the end of the secondary payment period.

Note—

Under section 232, the grant of the tenure can not be effective before it is registered (see section 333 for registration).

215 Conditions applicable to tenure on grant

If the provisional grant of the tenure is properly accepted under section 214, it is subject to—

(a) the conditions specified in the tenure given to the applicant under section 210; or

(b) if the Minister amended those conditions under section 211—those conditions as amended.

216 Lapse of provisional grant of mining lease

If the provisional grant of the tenure is not properly accepted under section 214, the provisional grant lapses.

Division 3 Application for and grant of mining lease over tender sub-block

217 Matters to be decided before applications for mining lease over tender sub-blocks invited

(1) If the Minister proposes to invite applications for the grant of a mining lease over reserved sub-blocks, the Minister must, before inviting the applications, decide—

(a) the procedure and criteria that the Minister will adopt to allocate the tenure; and

(b) the amount of security that will be required for the tenure under section 399; and

(c) the initial term of the tenure; and

(d) the tenure conditions.

(2) The term decided under subsection (1)(c) must not be more than 21 years.

218 Minister may invite applications for mining lease over tender sub-blocks

(1) Subject to subsection (2), the Minister may invite applications for the grant of a mining lease over reserved sub-blocks.

(2) Applications may be invited for a tenure covering a group of reserved sub-blocks only if the group forms a discrete area.

(3) The Minister is to invite applications by publishing a tender sub-block tenure notice for the tenure in the gazette.

Note 1—

A mining lease may cover not more than 20 tender sub-blocks (see section 219).

Note 2—

A mining lease might be made available by a tender sub-block notice if a mineral deposit in the area had already been identified and sufficient information was already available to justify the issue of a mining lease rather than an exploration permit.

219 Tender sub-block tenure notice—mining lease

(1) A tender sub-block tenure notice for a mining lease must—

(a) specify the sub-blocks to be covered by the tenure; and

(b) specify the period within which applications may be made; and

(c) specify the procedure and criteria that the Minister will adopt to allocate the tenure; and

(d) specify the amount of security that the successful applicant will be required to lodge; and

(e) specify the initial term of the tenure; and

(f) include a statement to the effect that information about—

(i) the security that the successful applicant will be required to lodge; and

(ii) the tenure conditions;

may be obtained from the Minister.

(2) Without limiting subsection (1)(c), the Minister may, for that paragraph, specify that the tender will be decided on the basis of either or both of the following—

(a) the nature and extent of the exploration activity proposed to be carried out;

(b) the amount of money offered for the tenure.

(3) The tender sub-block tenure notice may specify not more than 20 sub-blocks for the mining lease.

220 Application for mining lease over tender sub-blocks

If a tender sub-block tenure notice has been published inviting applications for a mining lease, a person may apply to the Minister for the tenure.

221 How to apply

(1) The application must—

(a) be made in accordance with the approved form; and

(b) be made in the approved way; and

(c) be made before the end of the period specified in the tender sub-block tenure notice; and

(d) address the criteria specified under section 219(1)(c); and

(e) include details of—

(i) the technical qualifications of the applicant and of the applicant's employees who are likely to be involved in activities authorised by the tenure; and

(ii) the technical advice available to the applicant; and

(iii) the financial resources available to the applicant; and

(iv) if the tenure is to be held by more than 1 person—the share in the tenure that each prospective holder will hold; and

(f) specify an address for service of notices under this Act and the regulations.

Note—

For paragraphs (a) and (b) see section 41.

(2) The applicant may include in the application any other information that the applicant considers relevant.

222 Payment of fee

(1) The applicant must pay the application fee prescribed under a regulation.

(2) The fee must be paid when the application is made.

(3) The Minister may refund any fee paid under subsection (1) but only if the Minister is satisfied that special circumstances exist that justify the refund of the fee.

223 Request for further information

(1) The Minister may ask the applicant for further information about the application.

(2) The request must—

(a) be in writing; and

(b) be given to the applicant; and

(c) specify the time within which the information must be provided.

(3) Information requested under subsection (1) must be provided—

(a) in writing; and

(b) within the time specified in the request.

224 Section number not used

See note 2 to section 3(1).

225 Minister may provisionally grant tenure

(1) The Minister may provisionally grant a mining lease to an applicant who has done what is required by sections 221 to 223.

(2) When provisionally granting a tenure under subsection (1), the Minister must follow the procedure and apply the criteria specified in the tender sub-block tenure notice published for the tenure under section 218.

(3) If the Minister refuses to grant a tenure under subsection (1), the Minister must give the applicant notice of the refusal.

226 Section number not used

See note 2 to section 3(1).

227 Successful applicant must be notified

(1) If the Minister provisionally grants a mining lease under section 225 or 231, the Minister must give the provisional holder—

(a) the tenure; and

(b) notice that the provisional grant will lapse unless the provisional holder, within 30 days after the day on which the notice is given—

(i) gives the Minister a written acceptance of the grant; and

(ii) lodges any security required under section 399; and

(iii) pays the fee that must be paid for the tenure under section 425; and

(iv) if the tender is decided on the basis of the amounts of money offered for the tenure—pays to the Minister the amount that the provisional holder offered for the tenure under section 221(1)(d).

(2) The tenure must specify—

(a) the sub-blocks covered by the tenure; and

(b) the term of the tenure; and

(c) the tenure conditions.

Note—

For the term of a tenure see section 217(2).

228 Acceptance of grant of mining lease over tender sub-blocks

The provisional grant of a mining lease is properly accepted by the provisional holder if, within 30 days after the day on which the provisional holder is given notice under section 227, the provisional holder—

(a) gives the Minister a written acceptance of the grant; and

(b) lodges any security required under section 399; and

(c) pays the fee that must be paid for the tenure under section 425; and

(d) if the tender is decided on the basis of the amounts of money offered for the tenure—pays to the Minister the amount that the provisional holder offered for the tenure under section 221(1)(d).

Note—

Under section 232, the grant of the tenure can not be effective before it is registered (see section 333 for registration).

229 Conditions applicable to tenure on grant

If the provisional grant of the tenure is properly accepted, the tenure is subject to the conditions decided under section 217.

230 Lapse of provisional grant of mining lease

If the provisional grant of the tenure is not properly accepted under section 228, the provisional grant lapses.

231 Provisional grant to next applicant if grant lapses

(1) If the provisional grant of the tenure lapses under section 230, the Minister may provisionally grant the tenure to another of the applicants for the tenure.

(2) When provisionally granting a tenure under subsection (1), the Minister must follow the procedure and apply the criteria specified in the tender sub-block tenure notice published for the tenure under section 218.

Division 4 Duration of mining lease

232 Initial term of mining lease

(1) A mining lease comes into force on—

(a) the day on which the grant of the tenure is registered; or

(b) if a day later than the day on which the grant of the tenure is registered is specified in the tenure as its commencement day—that specified day.

(2) The initial term of a mining lease ends—

(a) if the tenure is granted under division 2—at the end of the period specified in the tenure under section 209(1); or

(b) if the tenure is granted under division 3—at the end of the period specified under section 227(2).

Note—

The tenure may be surrendered at any time (see section 264).

(3) The period runs from—

(a) the day on which the tenure is provisionally granted; or

(b) if a day later than the day on which the tenure is provisionally granted is specified in the tenure as its commencement day—that specified day.

233 Term of renewal of tenure

(1) A renewal of a mining lease comes into force on the later of the following days—

(a) the day on which the renewal is registered;

(b) the day on which the previous term of the tenure expires.

Note—

See division 6 for renewal.

(2) The term of a renewal of a tenure ends at the end of the period specified in the notice under section 246.

Note 1—

For the maximum term of renewal see section 246(3).

Note 2—

The tenure may be surrendered at any time (see section 264).

(3) The period runs from the day on which the previous term of the tenure expires.

(4) In working out the period referred to in subsection (3), section 234 must be disregarded.

234 Effect of application for renewal on term of mining lease

(1) If—

(a) a mining lease holder applies to renew the tenure under section 236; and

(b) the current term of the tenure expires; and

(c) a renewal of the tenure does not take effect immediately after the current term expires;

the tenure remains in force after the current term expires until—

(d) a renewal of the tenure takes effect; or

(e) a provisional renewal of the tenure lapses; or

(f) the application for renewal is withdrawn or refused.

Division 5 Voluntary surrender of part of mining lease area

235 Voluntary surrender of sub-blocks if discrete area remains

(1) A mining lease holder may surrender a sub-block or some of the sub-blocks covered by the tenure if the remaining sub-blocks in the tenure area form a discrete area.

Note—

See section 264 for the surrender of the whole tenure.

(2) A surrender under subsection (1) must—

(a) be made in writing; and

(b) identify the sub-blocks surrendered; and

(c) be given to the Minister.

Note—

The surrender takes effect when it is registered under section 337 (see section 337(5)).

Division 6 Application for and grant of renewal of mining lease

236 Application for renewal of mining lease

A mining lease holder may apply to the Minister to renew the tenure.

Note—

At each renewal, the tenure conditions are reviewed (see section 254).

237 When application to be made

(1) Subject to subsection (2), the application must be made at least 6 months before the day on which the tenure is to expire.

(2) The Minister may accept an application that is made later than 6 months before the day on which the tenure is to expire if—

(a) the application is made before the day on which the tenure expires; and

(b) the Minister believes that there are reasonable grounds for accepting the application.

238 How to apply for renewal

(1) The application must—

(a) be made in accordance with the approved form; and

(b) be made in the approved way; and

(c) include details of—

(i) the activities carried out by the applicant under the tenure during its current term; and

(ii) the amount of money spent by the applicant in relation to the sub-blocks covered by the tenure during its current term; and

(iii) the activities that the applicant intends to carry out under the tenure during the term applied for; and

(iv) the amount of money that the applicant intends to spend in relation to activities authorised by the tenure during the term applied for.

Note—

For paragraphs (a) and (b) see section 41.

(2) The applicant may include in the application any other information that the applicant considers relevant.

239 Request for further information

(1) The Minister may ask the applicant to provide further information about the application.

(2) The request must—

(a) be in writing; and

(b) be given to the applicant; and

(c) specify the time within which the information must be provided.

(3) Information requested under subsection (1) must be provided—

(a) in writing; and

(b) within the time specified in the request.

240 Payment of fee

(1) The applicant must pay the application fee prescribed under a regulation.

(2) The fee must be paid when the application is made.

(3) The Minister may refund any fee paid under subsection (1) but only if the Minister is satisfied that special circumstances exist that justify the refund of the fee.

241 Section number not used

See note 2 to section 3(1).

242 Provisional renewal of mining lease

The Minister may—

(a) provisionally renew the tenure; or

(b) subject to section 245, refuse to renew the tenure.

Note 1—

Under section 233, the renewal of the tenure can not be effective before it is registered (see section 334 for registration). The renewal will not be registered until it has been properly accepted (see section 250 for *proper acceptance*).

Note 2—

Under section 254, new conditions may be imposed on renewal.

243 Section number not used

See note 2 to section 3(1).

244 Matters that may be taken into account

In deciding whether to renew a mining lease, the Minister may have regard to whether the applicant has complied with—

(a) this Act; and

(b) the regulations; and

(c) any tenure conditions.

245 Refusal of application for renewal

(1) If the Minister proposes to refuse to renew the tenure, the Minister must give the applicant notice of the proposed refusal.

(2) The notice must—

(a) specify the reason for the proposed refusal; and

(b) invite the holder to make written submissions about the proposed refusal; and

(c) specify the day by which submissions may be given to the Minister; and

(d) specify an address where submissions are to be lodged.

(3) The day specified under subsection (2)(c) must be not less than 30 days after the day on which the notice is given.

(4) The Minister may refuse to grant the application only if—

(a) the holder has been given a notice under subsection (1); and

(b) the Minister has considered any submission made by the applicant; and

(c) the Minister is satisfied that no special circumstances exist that justify the renewal being granted.

246 Applicant must be notified

(1) The Minister must give the applicant notice of the Minister's decision under section 242.

(2) If the Minister provisionally renews the tenure under section 242, the notice must contain notification—

(a) of the term of the renewal; and

(b) of the conditions of the renewed tenure; and

(c) of any decision under section 399 that the applicant must lodge a security or a further security; and

(d) that the provisional renewal will lapse unless the applicant, before the end of the primary payment period—

(i) gives the Minister a written acceptance of the renewal; and

(ii) lodges any security required under section 399; and

(iii) pays the fee that must be paid for the renewal under section 425.

Note—

Section 254 provides for renewals to be granted subject to conditions.

(3) The term specified under subsection (2)(a) must not be more than 21 years.

247 Amendment of conditions

(1) If the tenure holder—

(a) has been provisionally granted a renewal of the tenure under section 242; and

(b) is notified of the tenure conditions; and

(c) is dissatisfied with the conditions;

the holder may ask the Minister to amend the conditions.

(2) The request must be made within 30 days after the day on which the holder is given notice under section 246.

(3) If a request is made under subsection (1), the Minister may amend the tenure conditions and, with the consent of the holder, otherwise amend the conditions.

(4) The Minister must give the holder notice of a decision under this section.

248 Amendment of security requirements

(1) If the tenure holder—

(a) has been provisionally granted a renewal of the tenure under section 242; and

(b) is notified of a security requirement for the tenure; and

(c) is dissatisfied with the amount of the security required;

the holder may ask the Minister to make a new decision under section 399.

(2) The request must be made within 30 days after the day on which the holder is given notice under section 246.

(3) If a request is made under subsection (1), the Minister may make a new decision under section 399.

(4) The Minister must give the holder notice of the new decision.

249 Extension of primary payment period

(1) If the tenure holder makes a request under section 247 or 248, the holder may ask the Minister to extend the primary payment period.

(2) The request must be made within 30 days after the day on which the holder is given notice under section 246.

(3) If the Minister agrees to the request, the Minister must—

(a) decide the period of the extension; and

(b) give the holder a notice informing the holder of the period of the extension.

250 Acceptance of renewal of mining lease

(1) The provisional renewal of a mining lease is properly accepted by the tenure holder if, before the required time, the holder—

(a) gives the Minister a written acceptance of the renewal; and

(b) lodges any security required under section 399; and

(c) pays the fee that must be paid under section 425.

(2) The required time under subsection (1) is the end of the primary payment period or, if the provisional holder has been granted an extension of the primary payment period under section 249, the end of the secondary payment period.

Note—

Under section 233, the renewal of the tenure can not be effective before it is registered (see section 334 for registration).

251 Conditions applicable to tenure on renewal

If the provisional renewal is properly accepted under section 250, the renewed tenure is subject to—

(a) the conditions specified in the notice given to the tenure holder under section 246; or

(b) if the Minister amended those conditions under section 247—those conditions as amended.

252 Lapse of provisional renewal of mining lease

If the provisional renewal of a mining lease is not properly accepted under section 250, the provisional renewal lapses.

Division 7 Obligations associated with mining lease

253 General

(1) The sources of obligations associated with a mining lease are—

(a) the tenure conditions; and

(b) obligations arising from directions under section 387 or 392 given by the Minister; and

(c) obligations imposed by this Act and the regulations.

Note—

For paragraph (a) see sections 254 to 256. For paragraph (c) see sections 44, 259 to 262, 372 and 391(1).

(2) If a mining lease has 2 or more holders, all the holders are jointly and severally bound by the obligations that attach to the tenure.

254 Conditions of mining lease

(1) The Minister may grant or renew a mining lease subject to whatever conditions the Minister considers appropriate.

(2) If the Minister grants or renews a mining lease subject to conditions, the conditions must be specified in the tenure.

(3) Without limiting subsection (1), the Minister may attach conditions to the grant or renewal of a mining lease requiring the tenure holder to do the following types of things—

(a) take out insurance as required by the Minister;

(b) carry out certain work in or in relation to the tenure area during the term of the tenure;

(c) lodge a security with the Minister;

(d) keep specified information;

(e) give to the Minister, on request, specified information;

(f) take steps to protect the environment of the tenure area, including conditions about—

(i) protecting wildlife; or

(ii) minimising the effect on the environment of the tenure area and the area surrounding the tenure area of activities carried out in the tenure area;

(g) repair any damage to the environment caused by activities in the tenure area;

(h) pay a specified penalty to the State if the holder does not comply with a tenure condition.

(4) A condition under subsection (3)(c) must specify—

(a) the amount of the security required; and

(b) the kind of security required; and

(c) the way and the form in which the security is to be lodged.

(5) Without limiting subsection (3)(c), a condition under that provision may require the lodgment of a security in the form

of a guarantee and, if a guarantee is required, the condition may specify—

(a) the kind of person who is to give the guarantee; and

(b) the terms of the guarantee.

255 No conditions requiring payment of money

Except for a condition requiring the payment of a penalty or lodgment of security, a tenure condition must not require the payment of money to the State.

256 Variation of conditions

(1) If—

(a) a mining lease holder requests the Minister in writing to vary the tenure conditions; or

(b) part of the tenure area of a mining lease is surrendered under section 235;

the Minister may vary the tenure conditions.

(2) If the Minister gives—

(a) a direction under section 387; or

(b) an approval, consent or exemption under a regulation;

to a mining lease holder, the Minister may vary the tenure conditions to the extent necessary to avoid inconsistency between the tenure conditions and the direction, approval, consent or exemption.

(3) The Minister may vary the tenure conditions subject to whatever conditions the Minister considers appropriate.

(4) If the Minister varies the tenure conditions, the Minister must give the tenure holder a notice that—

(a) informs the holder of the variation; and

(b) specifies the conditions that have been varied; and

(c) specifies any conditions to which the variation is subject.

257 Exemption from or suspension of conditions

(1) If—

(a) a mining lease holder requests the Minister in writing to—

(i) suspend a tenure condition; or

(ii) exempt the holder from complying with a tenure condition; or

(b) part of the tenure area of a mining lease is surrendered under section 235;

the Minister may—

(c) suspend a tenure condition; or

(d) exempt the holder from complying with a tenure condition.

(2) If the Minister gives—

(a) a direction under section 387; or

(b) an approval, consent or exemption under a regulation;

to a mining lease holder, the Minister may suspend a tenure condition, or exempt the holder from compliance with a tenure condition, to the extent necessary to avoid inconsistency between the tenure conditions and the direction, approval, consent or exemption.

(3) The Minister may—

(a) suspend a tenure condition; or

(b) exempt the tenure holder from complying with a tenure condition;

subject to whatever conditions the Minister considers appropriate.

(4) If the Minister—

(a) suspends a tenure condition; or

(b) exempts the tenure holder from complying with a tenure condition;

the Minister must give the holder a notice that—

(c) informs the holder of the exemption or suspension; and

(d) specifies the conditions that have been suspended or affected by the exemption; and

(e) specifies any conditions to which the suspension or exemption is subject.

Note—

A suspension or exemption of a condition does not take effect until registered (see section 337).

258 Automatic suspension of conditions if tenure rights are suspended

If—

(a) the Minister suspends particular rights conferred by a mining lease under section 195; and

(b) a tenure condition is affected by the suspension;

the tenure condition is suspended for the period of the suspension of the rights.

259 Work practices

A person who is a mining lease holder or an associate of the holder, in carrying out activities in the tenure area that are authorised by the tenure, must take all reasonable steps—

(a) to ensure that the activities are carried out at a standard that is accepted as reasonable and proper in the mining industry; and

(b) to maintain in good repair all structures and equipment erected in, or brought into, the tenure area by the person; and

(c) to remove from the tenure area any structure, equipment or other property that—

(i) belongs to the person, or is under the person's control; and

(ii) is not being used, or is not going to be used, in connection with the activities.

Maximum penalty—267 penalty units.

Notes—

1 The safety of offshore exploration activities is governed by the *Mining and Quarrying Safety and Health Act 1999*—see the definition *mine* in section 9 of that Act.

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 443A, to have also committed the offence.

260 Tenure holder must pay royalty

A mining lease holder must comply with part 4.4, division 2.

261 Tenure holder must keep specified records

A mining lease holder must—

(a) keep whatever records and samples; and

(b) give whatever records and samples to the Minister for inspection; and

(c) make whatever returns;

are necessary to comply with—

(d) the regulations; or

(e) the tenure conditions; or

(f) a direction given by the Minister under section 387.

Note—

Under section 386 and 387 the Minister may direct a person to keep records and samples, to give records and samples to the Minister, and to make returns.

Maximum penalty—134 penalty units.

262 Tenure holder must help inspectors

A mining lease holder must provide an inspector with reasonable facilities and help so that the inspector is able to carry out compliance inspections.

Note—

See sections 377 to 384 for compliance inspections.

Maximum penalty—67 penalty units.

Division 8 Expiry of mining lease

263 General

A mining lease expires if—

(a) the term of the tenure ends without the tenure being renewed; or

(b) the tenure holder surrenders the tenure; or

(c) the tenure is cancelled.

Note—

For paragraph (a) see division 6. For paragraph (b) see section 264. For paragraph (c) see section 265.

264 Voluntary surrender of mining lease

A mining lease holder may surrender the tenure.

Note 1—

See division 5 for voluntary surrender of part of a tenure area.

Note 2—

The surrender takes effect when it is registered under section 337 (see section 337(5)).

265 Cancellation of mining lease

(1) Subject to subsection (5), the Minister may cancel a mining lease if the tenure holder—

(a) breaches a tenure condition; or

(b) contravenes a provision of this Act or the regulations; or

(c) breaches a condition attached to an approval under section 365(2).

(2) If the Minister proposes to cancel a tenure under subsection (1), the Minister must give the tenure holder a notice that informs the holder of the proposed cancellation.

(3) The notice must—

(a) specify the reason for the proposed cancellation; and

(b) invite the holder to make submissions about the proposed cancellation; and

(c) specify the day by which submissions may be made to the Minister; and

(d) specify an address where submissions are to be lodged.

(4) The day specified under subsection (3)(c) must be not less than 60 days after the day on which the notice is given.

(5) The Minister may cancel the tenure only if—

(a) the holder has been given a notice under subsection (2); and

(b) the Minister has considered—

(i) any submission made by the holder as provided by the notice under subsection (3); and

(ii) any steps taken by the holder to remedy the breach or contravention that led to the proposal to cancel the tenure and to prevent any similar breach or contravention from happening again; and

(c) the Minister is satisfied that no special circumstances exist that justify the tenure not being cancelled.

266 Obligations of former mining lease holders and former associates

(1) Subject to subsection (4), if—

(a) a person was—

(i) a mining lease holder; or

(ii) an associate of a mining lease holder; and

(b) the tenure—

(i) expires; or

(ii) is cancelled; or

(iii) is surrendered; and

(c) an obligation associated with the tenure arising out of—

(i) a tenure condition; or

(ii) a direction given under section 387; or

(iii) this Act or the regulations;

has not been discharged; and

(d) the person was bound by that obligation when the person was the tenure holder or an associate;

the person remains bound by the obligation until the obligation is discharged.

(2) Subsection (1) does not continue an obligation to carry out exploration or recovery activities.

(3) Subsection (1) continues an obligation that a person had to carry out exploration or recovery activities in a particular way if the person carries them out.

(4) The Minister may decide that the person is not subject to—

(a) a particular obligation under this section; or

(b) all the person's remaining obligations under this section.

(5) A decision under subsection (4) must be in writing.

Part 2.5 Works licences

Division 1 General

267 Works licences

(1) This part provides for the grant of works licences over sub-blocks in coastal waters.

Note—

A works licence allows tenure-related activities to be carried out on sub-blocks that are outside the tenure area of the exploration permit, mineral development licence or mining lease concerned.

(2) A works licence can only authorise activities that—

(a) are directly connected with activities that are carried out, or are to be carried out, under an exploration permit, mineral development licence or mining lease; and

(b) are necessary or desirable for the exploration permit, mineral development licence or mining lease holder to effectively—

(i) exercise the tenure rights; or

(ii) perform the tenure obligations.

(3) A works licence can be granted over a particular sub-block even though the sub-block is a reserved sub-block or is in someone else's tenure area.

(4) More than 1 works licence can be granted over a particular sub-block.

(5) A works licence may be granted so as to allow activities that are connected with 2 or more tenures.

268 Activities authorised by a works licence

A works licence holder may carry out in the tenure area the activities that are specified in the tenure.

269 Minister may cancel or not renew works licence without compensation

No compensation is payable because of the cancellation or non-renewal of a works licence by the Minister.

Note 1—

The Minister may cancel the tenure under section 313.

Note 2—

The Minister may refuse to renew the tenure under section 294.

Division 2 Application for and grant of works licence

270 Application for works licence

A person may apply to the Minister for a works licence over a sub-block.

271 How to apply

(1) The application must—

(a) be made in accordance with the approved form; and

(b) be made in the approved way; and

(c) include details of the activities that the applicant proposes to carry out; and

(d) be accompanied by a map that shows the proposed location of the activities; and

(e) specify an address for service of notices under this Act and the regulations.

Note—

For paragraphs (a) and (b) see section 41.

(2) The applicant may include in the application any other information that the applicant considers relevant.

272 Payment of fee

(1) The applicant must pay the application fee prescribed under a regulation.

(2) The fee must be paid when the application is made.

(3) The Minister may refund any fee paid under subsection (1) but only if the Minister is satisfied that special circumstances exist that justify the refund of the fee.

273 Applicant to notify tenure holders affected by the application

(1) The applicant must notify interested tenure holders of the application.

(2) The notice must—

(a) be given to the interested tenure holder; and

(b) give details of the works licence applied for; and

(c) invite the interested tenure holder to give comments to the Minister within 30 days after the day on which the notice is given.

(3) For this section, a tenure holder is interested if—

(a) a sub-block covered by the application is inside the tenure area; and

(b) the holder is not the applicant.

274 Application must be advertised

(1) The applicant must advertise the application in a newspaper circulating throughout the State.

(2) The advertisement must contain—

(a) the applicant's name and address; and

(b) a map and description of the sub-blocks covered that are sufficient for the sub-blocks to be identified; and

(c) details of the activities that the applicant proposes to carry out; and

(d) a map showing the proposed location of those activities; and

(e) the address of the Minister; and

(f) a statement that—

(i) the applicant has applied for a works licence over the sub-blocks described in the notice; and

(ii) invites comment from the public on the application; and

(iii) requests that comments be sent to the applicant and to the Minister specified in the notice within 30 days after the day on which the advertisement is published.

(3) The advertisement must be published—

(a) as soon as possible after the applicant makes the application; and

(b) in any case, subject to subsection (4), within 14 days after the day on which the applicant makes the application.

(4) If—

(a) the applicant applies to the Minister within the 14 day period referred to in subsection (3) for an extension of the period; and

(b) the Minister extends the period;

the advertisement must be published within the period as extended by the Minister.

275 Section number not used

See note 2 to section 3(1).

276 Minister may provisionally grant tenure

If the applicant does what is required by sections 271 to 274, the Minister may—

(a) provisionally grant a works licence to the applicant; or

(b) refuse the application.

Note—

Under section 286, the grant of the tenure can not be effective before it is registered (see section 333 for registration). The grant will not be registered until it has been properly accepted (see section 283 for *proper acceptance*).

277 Section number not used

See note 2 to section 3(1).

278 Matters to be specified in the tenure

(1) The tenure must specify—

(a) the sub-blocks covered by the tenure; and

(b) the activities authorised by the tenure; and

(c) the area in which the activities are to be carried out; and

(d) the term of the tenure; and

(e) the tenure conditions.

(2) The term specified under subsection (1)(d) must not be more than 5 years.

279 Applicant must be notified

(1) The Minister must give the applicant notice of a decision under section 276.

(2) If the Minister provisionally grants a works licence—

(a) the Minister must give the tenure to the provisional holder; and

(b) the notice under subsection (1) must contain notification—

(i) of any decision under section 399 that the provisional holder must lodge a security; and

(ii) that the provisional grant will lapse unless the provisional holder, before the end of the primary payment period—

(A) gives the Minister a written acceptance of the grant; and

(B) lodges any security required under section 399; and

(C) pays the fee that must be paid for the tenure under section 425.

280 Amendment of conditions

(1) If the provisional holder is dissatisfied with the tenure conditions, the provisional holder may ask the Minister to amend the conditions.

(2) The request must be made within 30 days after the day on which the provisional holder is given the tenure under section 279.

(3) If a request is made under subsection (1), the Minister may amend the tenure conditions as requested and, with the consent of the provisional holder, otherwise amend the conditions.

(4) The Minister must give the provisional holder notice of a decision under this section.

281 Amendment of security requirements

(1) If the provisional holder—

(a) is notified of a security requirement; and

(b) is dissatisfied with the amount of the security required;

the provisional holder may ask the Minister to make a new decision under section 399.

(2) The request must be made within 30 days after the day on which the applicant is given notice under section 279.

(3) If a request is made under subsection (1), the Minister may make a new decision under section 399.

(4) The Minister must give the provisional holder notice of the new decision.

282 Extension of primary payment period

(1) If the provisional holder makes a request under section 280 or 281, the provisional holder may ask the Minister to extend the primary payment period.

(2) The request must be made within 30 days after the day on which the provisional holder is given notice under section 279.

(3) If the Minister agrees to the request, the Minister must—

(a) decide the period of the extension; and

(b) give the provisional holder a notice of the period of the extension.

283 Acceptance of grant of works licence

(1) The provisional grant of a works licence is properly accepted by the provisional holder if, before the required time, the provisional holder—

(a) gives the Minister a written acceptance of the grant; and

(b) lodges any security required under section 399; and

(c) pays the fee that must be paid for the tenure under section 425.

(2) The required time under subsection (1) is the end of the primary payment period or, if the provisional holder has been granted an extension of the primary payment period under section 282, the end of the secondary payment period.

Note—

Under section 286, the grant of the tenure can not be effective before it is registered (see section 333 for registration).

284 Conditions applicable to works licence on grant

If the provisional grant of the tenure is properly accepted under section 283, it is subject to—

(a) the conditions specified in the tenure given to the applicant under section 279; or

(b) if the Minister amended those conditions under section 280—those conditions as amended.

285 Lapse of provisional grant of works licence

If the provisional grant of the tenure is not properly accepted under section 283, the provisional grant lapses.

Division 3 Duration of works licence

286 Initial term of works licence

(1) A works licence comes into force on—

(a) the day on which the grant of the tenure is registered; or

(b) if a day later than the day on which the grant of the tenure is registered is specified in the tenure as its commencement day—that specified day.

(2) The initial term of a works licence expires at the end of the period specified in the tenure under subsection 278(1).

Note 1—

For the maximum initial term see section 278(2).

Note 2—

The tenure may be surrendered at any time (see section 312).

(3) The period runs from—

(a) the day on which the tenure is provisionally granted; or

(b) if a day later than the day on which the tenure is provisionally granted is specified in the tenure as the tenure's commencement day—that specified day.

287 Term of renewal of works licence

(1) A renewal of a works licence comes into force on the later of the following days—

(a) the day on which the renewal is registered;

(b) the day on which the previous term of the tenure expires.

Note—

See division 4 for renewal.

(2) The term of a renewal of a tenure expires at the end of the period specified in the notice under section 296.

Note 1—

For the maximum term of renewal see section 296(3).

Note 2—

The tenure may be surrendered at any time (see section 312).

(3) The period runs from the day on which the previous term of the tenure expires.

288 Effect of application for renewal on term of works licence

If—

(a) a works licence holder applies to renew the tenure under section 289; and

(b) the current term of the tenure expires; and

(c) a renewal of the tenure does not take effect immediately after the current term expires;

the tenure remains in force after the current term expires until the first of the following happens—

(d) a renewal of the tenure takes effect;

(e) a provisional renewal of the tenure lapses;

(f) the application for renewal is withdrawn or refused.

Division 4 Application for and grant of renewal of works licence

289 Application for renewal of works licence

A works licence holder may apply to the Minister to renew the tenure.

Note—

At each renewal, the works licence conditions are reviewed (see section 304).

290 When application to be made

(1) Subject to subsection (2), the application must be made at least 30 days before the day on which the tenure is to expire.

(2) The Minister may accept an application that is made later than 30 days before the day on which the works licence is to expire if—

(a) the application is made before the day on which the tenure expires; and

(b) the Minister believes that there are reasonable grounds for accepting the application.

291 How to apply for renewal

(1) The application must—

(a) be made in accordance with the approved form; and

(b) be made in the approved way; and

(c) include details of—

(i) the activities carried out by the applicant under the tenure during its current term; and

(ii) the amount of money spent by the applicant in relation to the sub-blocks covered by the tenure during its current term; and

(iii) the activities that the applicant intends to carry out under the tenure during the term applied for; and

(iv) the amount of money that the applicant intends to spend in relation to the activities authorised by the tenure during the term applied for.

Note—

For paragraphs (a) and (b) see section 41.

(2) The applicant may include in the application any other information that the applicant considers relevant.

292 Payment of fee

(1) The applicant must pay the application fee prescribed under a regulation.

(2) The fee must be paid when the application is made.

(3) The Minister may refund any fee paid under subsection (1) but only if the Minister is satisfied that special circumstances exist that justify the refund of the fee.

293 Section number not used

See note 2 to section 3(1).

294 Provisional renewal of works licence

The Minister may—

(a) provisionally renew the tenure; or

(b) refuse to renew the tenure.

Note 1—

Under section 287, the renewal of the tenure can not be effective before it is registered (see section 334 for registration). The renewal will not be registered until it has been properly accepted (see section 300 for *proper acceptance*).

Note 2—

Under section 304, new conditions may be imposed on renewal.

295 Section number not used

See note 2 to section 3(1).

296 Applicant must be notified

(1) The Minister must give the applicant notice of the Minister's decision under section 294.

(2) If the Minister provisionally renews the works licence under section 294, the notice must contain notification—

(a) of the term of the renewal; and

(b) of the conditions of the renewed tenure; and

(c) that the provisional renewal will lapse unless the applicant, before the end of the primary payment period—

(i) gives the Minister a written acceptance of the renewal; and

(ii) lodges any security required by the Minister under section 399; and

(iii) pays the fee that must be paid under section 425.

Note—

Paragraph (b)—section 304 provides for renewals to be granted subject to conditions.

(3) The term specified under subsection (2)(a) must not be more than 5 years.

297 Amendment of conditions

(1) If the tenure holder—

(a) has been provisionally granted a renewal of the tenure under section 294; and

(b) is notified of the tenure conditions; and

(c) is dissatisfied with the tenure conditions;

the holder may ask the Minister to amend the conditions.

(2) The request must—

(a) be made within 30 days after the day on which the holder is given notice under section 296; and

(b) be lodged with the Minister.

(3) If a request is made under subsection (1), the Minister may amend the tenure conditions as requested and, with the consent of the holder, otherwise amend the conditions.

(4) The Minister must give the holder notice of a decision under this section.

298 Amendment of security requirements

(1) If the tenure holder—

(a) has been provisionally granted a renewal of the tenure under section 294; and

(b) is notified of a security requirement; and

(c) is dissatisfied with the amount of security required;

the holder may ask the Minister to make a new decision under section 399.

(2) The request must be made within 30 days after the day on which the holder is given notice under section 296.

(3) If a request is made under subsection (1), the Minister may make a new decision under section 399.

(4) The Minister must give the holder notice of the new decision.

299 Extension of primary payment period

(1) If the tenure holder makes a request under section 297 or 298, the holder may ask the Minister to extend the primary payment period.

(2) The request must be made within 30 days after the day on which the holder is given notice under section 296.

(3) If the Minister agrees to the request, the Minister must—

(a) decide the period of the extension; and

(b) give the holder notice informing the holder of the period of the extension.

300 Acceptance of renewal of works licence

(1) The provisional renewal of a works licence is properly accepted by the tenure holder if, before the required time, the holder—

(a) gives the Minister a written acceptance of the renewal; and

(b) lodges any security required under section 399; and

(c) pays the fee that must be paid for the tenure under section 425.

(2) The required time under subsection (1) is the end of the primary payment period or, if the provisional holder has been granted an extension of the primary payment period under section 299, the end of the secondary payment period.

Note—

Under section 287, the renewal of the tenure can not be effective before it is registered (see section 334 for registration).

301 Conditions applicable to works licence on renewal

If the provisional renewal is properly accepted under section 300, the renewed tenure is subject to—

(a) the conditions specified in the notice given to the tenure holder under section 296; or

(b) if the Minister amended those conditions under section 297—those conditions as amended.

302 Lapse of provisional renewal of works licence

If the provisional renewal of the tenure is not properly accepted under section 300, the provisional renewal lapses.

Division 5 Obligations associated with works licence

303 General

(1) The sources of obligations associated with a works licence are—

(a) the tenure conditions; and

(b) obligations arising from directions under section 387 or 392 given by the Minister; and

(c) obligations imposed by this Act and the regulations.

Note—

For paragraph (a) see sections 304 to 306. For paragraph (c) see sections 44, 308 to 310, 372 and 391(1).

(2) If a works licence has 2 or more holders, all the holders are jointly and severally bound by the obligations that attach to the tenure.

304 Conditions of works licence

(1) The Minister may grant or renew a works licence subject to whatever conditions the Minister considers appropriate.

(2) If the Minister grants or renews a works licence subject to conditions, the conditions must be specified in the tenure.

(3) Without limiting subsection (1), the Minister may attach conditions to the grant or renewal of a works licence requiring the tenure holder to do the following types of things—

(a) take out insurance as required by the Minister;

(b) carry out certain work in or in relation to the tenure area during the term of the tenure;

(c) lodge a security with the Minister;

(d) keep specified information;

(e) give the Minister, on request, specified information;

(f) take steps to protect the environment of the tenure area, including conditions about—

(i) protecting wildlife; or

(ii) minimising the effect on the environment of the tenure area and the area surrounding the tenure of activities carried out in the tenure area;

(g) repair any damage to the environment caused by activities in the tenure area;

(h) pay a specified penalty to the State if the holder does not comply with a tenure condition.

(4) A condition under subsection (3)(c) must specify—

(a) the amount of the security required; and

(b) the kind of security required; and

(c) the way and the form in which the security is to be lodged.

(5) Without limiting subsection (3)(c), a condition under that provision may require the lodgment of a security in the form of a guarantee and, if a guarantee is required, the condition may specify—

(a) the kind of person who is to give the guarantee; and

(b) the terms of the guarantee.

305 No conditions requiring payment of money

Except for a condition requiring the payment of a penalty or lodgment of a security, a tenure condition must not require the payment of money to the State.

306 Variation of conditions

(1) If a works licence holder requests the Minister in writing to vary the tenure conditions, the Minister may vary the conditions.

(2) If the Minister gives—

(a) a direction under section 387; or

(b) an approval, consent or exemption under a regulation;

to a works licence holder, the Minister may vary the tenure conditions to the extent necessary to avoid inconsistency between the tenure conditions and the direction, approval, consent or exemption.

(3) The Minister may vary the tenure conditions subject to whatever conditions the Minister considers appropriate.

(4) If the Minister varies the tenure conditions, the Minister must give the tenure holder a notice that—

(a) informs the holder of the variation; and

(b) specifies the conditions that have been varied; and

(c) specifies any conditions to which the variation is subject.

307 Exemption from or suspension of conditions

(1) If a works licence holder requests the Minister in writing to—

(a) suspend a tenure condition; or

(b) exempt the holder from complying with a tenure condition;

the Minister may—

(c) suspend a tenure condition; or

(d) exempt the holder from complying with a tenure condition.

(2) If the Minister gives—

(a) a direction under section 387; or

(b) an approval, consent or exemption under a regulation;

to a works licence holder, the Minister may suspend a tenure condition, or exempt the holder from compliance with a

tenure condition, to the extent necessary to avoid inconsistency between the tenure conditions and the direction, approval, consent or exemption.

(3) The Minister may—

(a) suspend a tenure condition; or

(b) exempt the tenure holder from complying with a tenure condition;

subject to whatever conditions the Minister considers appropriate.

(4) If the Minister—

(a) suspends a tenure condition; or

(b) exempts the tenure holder from complying with a tenure condition;

the Minister must give the holder a notice that—

(c) informs the holder of the exemption or suspension; and

(d) specifies the conditions that have been suspended or affected by the exemption; and

(e) specifies any conditions to which the suspension or exemption is subject.

Note—

A suspension or exemption of a condition does not take effect until registered (see section 337).

308 Work practices

A person who is a works licence holder or an associate of the holder, in carrying out activities in the tenure area that are authorised by the tenure, must take all reasonable steps—

(a) to ensure that the activities are carried out at a standard that is accepted as reasonable and proper in the mining industry; and

(b) to maintain in good repair all structures, equipment and other property erected in, or brought into, the tenure area by the person; and

(c) to remove from the tenure area any structure, equipment or other property that—

(i) belongs to the person, or is under the person's control; and

(ii) is not being used, or is not going to be used, in connection with the activities.

Maximum penalty—267 penalty units.

Notes—

1 The safety of offshore exploration activities is governed by the *Mining and Quarrying Safety and Health Act 1999*—see the definition *mine* in section 9 of that Act.

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 443A, to have also committed the offence.

309 Tenure holder must keep specified records etc.

A works licence holder must—

(a) keep whatever records; and

(b) give whatever records to the Minister for inspection; and

(c) make whatever returns;

are necessary to comply with—

(d) the regulations; or

(e) the tenure conditions; or

(f) a direction given by the Minister under section 387.

Note—

Under sections 386 and 387 the Minister may direct a person to keep records and to make returns.

Maximum penalty—134 penalty units.

310 Tenure holder must help inspectors

A works licence holder must provide an inspector with reasonable facilities and help so that the inspector is able to carry out compliance inspections.

Note—

See sections 377 to 384 for compliance inspections.

Maximum penalty—67 penalty units.

Division 6 Expiry of works licence

311 General

A works licence expires if—

(a) the term of the tenure ends without the tenure being renewed; or

(b) the tenure holder surrenders the tenure; or

(c) the tenure is cancelled.

Note—

For paragraph (a) see division 4. For paragraph (b) see section 312. For paragraph (c) see section 313.

312 Voluntary surrender of works licence

The holder of a works licence may surrender the tenure.

Note—

The surrender takes effect when it is registered under section 337 (see section 337(5)).

313 Cancellation of works licence

(1) Subject to subsection (5), the Minister may cancel a works licence if the tenure holder—

(a) breaches a tenure condition; or

(b) contravenes a provision of this Act or the regulations; or

(c) breaches a condition attached to an approval under section 365(2).

(2) If the Minister proposes to cancel a works licence under subsection (1), the Minister must give the tenure holder a notice that informs the holder of the proposed cancellation.

(3) The notice must—

(a) specify the reason for the proposed cancellation; and

(b) invite the holder to make submissions about the proposed cancellation; and

(c) specify the day by which submissions may be made to the Minister; and

(d) specify an address where submissions are to be lodged.

(4) The day specified under subsection (3)(c) must be not less than 60 days after the day on which the notice is given.

(5) The Minister may cancel a works licence only if—

(a) the holder has been given a notice under subsection (2); and

(b) the Minister has considered—

(i) any submission made by the holder as provided by the notice under subsection (3); and

(ii) any steps taken by the holder to remedy the circumstances that led to the proposal to cancel the tenure and to prevent any similar breach or contravention from happening again; and

(c) the Minister is satisfied that no special circumstances exist that justify the tenure not being cancelled.

314 Obligations of former works licence holders and former associates

(1) Subject to subsection (2), if—

(a) a person was—

(i) a works licence holder; or

(ii) an associate of a works licence holder; and

(b) the tenure—

(i) expires; or

(ii) is cancelled; or

(iii) is surrendered; and

(c) an obligation associated with the tenure arising out of—

(i) a tenure condition; or

(ii) a direction given under section 387; or

(iii) this Act or the regulations;

has not been discharged; and

(d) the person was bound by that obligation when the person was the works licence holder or an associate;

the person remains bound by the obligation until the obligation is discharged.

(2) The Minister may decide that the person is not subject to—

(a) any particular obligation under this section; or

(b) all the person's remaining obligations under this section.

(3) A decision under subsection (2) must be in writing.

Part 2.6 Special purpose consents

315 Special purpose consents

(1) A special purpose consent may be granted over—

(a) a standard sub-block; or

(b) a reserved sub-block; or

(c) a tender sub-block.

(2) A special purpose consent may be granted over a sub-block even if the sub-block is in the tenure area of a tenure or the consent area of another special purpose consent.

(3) A special purpose consent can only be granted for—

(a) a scientific investigation; or

(b) a reconnaissance survey; or

(c) the collection of small amounts of minerals.

(4) For subsection (3)(b), a reconnaissance survey is the exploration of an area to work out whether the area is sufficiently promising to justify more detailed exploration under an exploration permit.

316 Activities authorised by a special purpose consent

(1) A special purpose consent holder may, under the consent—

(a) explore for minerals in the consent area; and

(b) take samples of or recover minerals in the consent area.

Note 1—

Under section 23(1) the concept of *exploration* extends to activities that are directly related to exploration.

Note 2—

Under section 24(1) the concept of *recovery* extends to activities that are directly related to the recovery of minerals.

(2) The grant of a consent does not give the consent holder—

(a) any exclusive or proprietary rights over the sub-blocks covered by the consent; or

(b) any option or preference when it comes to the grant of a tenure over sub-blocks covered by the consent.

317 Application for a consent

A person may apply to the Minister for a special purpose consent.

318 How to apply

(1) The application must—

(a) be made in writing; and

(b) include details of the activities for which consent is being sought; and

(c) specify the sub-blocks for which the consent is being sought.

(2) If the activity involves the collection of only small amounts of minerals as mentioned in section 315(3)(c), the application must also specify—

(a) any mineral to be recovered; and

(b) the proposed quantity of any mineral to be recovered.

319 Payment of fee

(1) The applicant must pay the application fee prescribed under a regulation.

(2) The fee must be paid when the application is made.

(3) The Minister may refund any fee paid under subsection (1) but only if the Minister is satisfied that special circumstances exist that justify the refund of the fee.

320 Applicant must obtain agreement of exploration permit, mineral development licence and mining lease holders affected by the application

(1) Subject to subsection (3), the applicant must obtain the agreement of interested tenure holders to the application.

(2) The agreement must be in writing.

(3) The agreement of an interested tenure holder is not necessary if—

(a) the application is for a scientific investigation; and

(b) Australia has obligations under international conventions to allow the investigation.

(4) For this section, a tenure holder is interested if—

(a) the holder holds an exploration permit, mineral development licence or mining lease; and

(b) the sub-block concerned is inside the tenure area.

321 Applicant to notify works licence holders affected by the application

(1) The applicant must notify interested works licence holders of the application.

(2) The notice must—

(a) be given to the interested works licence holders; and

(b) give details of the special purpose consent applied for; and

(c) invite the interested works licence holder to give comments to the Minister within 30 days after the day on which the notice was given.

(3) For this section, a works licence holder is interested if the sub-block concerned is inside the works licence area.

322 Section number not used

See note 2 to section 3(1).

323 Minister may grant special purpose consent

If the applicant does what is required by sections 318 to 321, the Minister may—

(a) grant a special purpose consent to the applicant; or

(b) refuse the application.

324 Section number not used

See note 2 to section 3(1).

325 Matters to be specified in the consent

(1) The consent must specify—

(a) the sub-blocks covered by the consent; and

(b) the activities authorised by the consent; and

(c) the period for which the consent is to have effect; and

(d) the consent conditions.

(2) If the activity involves the collection of only small amounts of minerals, the consent must also specify—

(a) the minerals to be collected; and

(b) the quantities to be collected.

Editor's note—

See section 315(3)(c).

(3) The period specified under subsection (1)(c) must not be more than 12 months.

326 Duration of consent

A consent has effect for the period specified under section 325(1)(c).

327 Conditions of consent

(1) The Minister may grant a special purpose consent subject to whatever conditions the Minister considers appropriate.

(2) Without limiting subsection (1), the Minister may impose conditions about—

(a) reports to be provided by the consent holder about activities carried out under the consent; and

(b) environmental matters.

Chapter 3 Registration and dealings

Part 3.1 Registration

Division 1 Preliminary

328 Register to be kept

(1) The Minister must keep a register for this part.

Note—

The main matters entered in the register are—

- the grant or renewal of a tenure (see sections 333 and 334);
- details of instruments that affect a tenure (see section 337);
- details of instruments that affect an interest in a tenure (see sections 338 and 339);
- details of interests in a tenure that are acquired by devolution (see section 340);
- details of caveats (see section 345).

(2) The register is to be known as the State Offshore Mining Register.

329 Document files to be kept

(1) The Minister must keep a document file for this part.

(2) In the document file are to be kept the documents that the Minister is required to keep under this part.

Note—

The documents to be kept in the document file are—

- copies of tenures (see section 333(6));
- copies of instruments that affect tenures (see section 337(4));
- copies of transfers of tenures (see section 338(6));
- copies of other dealings in tenures (see section 339(4));
- caveats (see section 345(3));
- withdrawals of caveats (see section 346(2));
- consents to dealings given under section 350 (see section 350(6));
- copies of court orders (see section 351).

330 Form of register and document file

(1) The offshore mining register must be kept in the form and the way decided by the Minister.

(2) Without limiting subsection (1), the offshore mining register may be kept in the form of a computer record.

(3) The document file must be kept in the form and the way decided by the Minister.

331 Correction of errors in the register

(1) Subject to subsection (4), the Minister may correct the offshore mining register if the Minister is satisfied that—

(a) there is an omission of an entry from the register; or

(b) an entry in the register should not have been made; or

(c) there is an error or defect in an entry in the register.

(2) A person may apply to the Minister for correction of the offshore mining register under subsection (1).

(3) The application—

(a) must be in writing; and

(b) must specify the correction that is being requested.

(4) If—

(a) the Minister intends to correct the offshore mining register under subsection (1); and

(b) the correction relates to a tenure; and

(c) the correction is not to be made in response to an application under subsection (2) by the tenure holder;

the Minister must give the holder notice that the Minister intends to correct the register.

(5) The notice must—

(a) specify the correction the Minister intends to make; and

(b) invite the holder to make submissions to the Minister about the proposed correction within the period specified in the notice.

(6) The period specified under subsection (5)(b) must be at least 14 days after the day on which the notice is given.

(7) If a notice is given under subsection (4)—

(a) the Minister must not correct the register until the period specified in the notice has ended; and

(b) the Minister must have regard to any submissions made by the tenure holder before the end of that period in exercising the power under subsection (1) to correct the register.

332 Inspection of register and documents

(1) A person may inspect the offshore mining register and the document file if the person pays the fee prescribed under a regulation.

(2) The Minister must make the offshore mining register and the document file available for inspection at all convenient times.

Division 2 Matters to be entered in register

Subdivision 1 Tenures

333 Tenures

(1) If the provisional grant of a tenure is properly accepted, the Minister must register—

(a) the holder's name; and

(b) if there is more than one tenure holder—the share in the tenure held by each holder; and

(c) a description of the tenure area, including a map or map reference; and

(d) the term of the tenure; and

(e) the date of the provisional grant of the tenure; and

(f) the date of registration of the tenure; and

(g) an address for the service of notices under this Act on the tenure holder.

(2) The address registered under subsection (1)(g) must be the address specified by the tenure holder by notice to the Minister.

(3) If the holder has not given a notice under subsection (2), the address to be registered under subsection (1)(g) must be the address specified in the application that the holder made for the tenure.

(4) If the Minister registers a tenure under subsection (1)—

(a) the tenure holder must give the tenure to the Minister; and

(b) the Minister must endorse the date of registration on the tenure.

(5) The Minister may include in the register any other information about the holder or the terms and conditions of the tenure that the Minister considers appropriate.

(6) The Minister must keep a copy of the tenure.

(7) A tenure is taken to be registered as soon as an entry complying with subsection (1) is made in the register.

334 Renewal of tenures

(1) If the Minister receives an application for the renewal of a tenure, the Minister must register the fact.

(2) If the provisional renewal of a tenure is properly accepted, the Minister must register—

(a) the renewal; and

(b) the term of the renewal; and

(c) the date of the provisional renewal; and

(d) the date of registration of the renewal.

(3) If the Minister registers the renewal of a tenure under subsection (2)—

(a) the tenure holder must give the tenure to the Minister; and

(b) the Minister must endorse on the tenure—

(i) the term of the renewal; and

(ii) the date of registration of the renewal.

(4) If the Minister refuses to renew a tenure, the Minister must register the refusal.

335 Extension of exploration permits

(1) If the Minister receives an application for the extension of the term of an exploration permit, the Minister must register the fact.

(2) If the Minister refuses to extend the term of an exploration permit, the Minister must register the refusal.

Note 1—

For extensions of the term of a tenure see sections 94 to 98.

Note 2—

The grant of the extension of the term of an exploration permit is registered under section 337(1).

336 Expiry of tenures

(1) If a tenure expires because—

(a) its term ends; or

(b) a mineral development licence or mining lease is granted to the tenure holder;

the Minister must register the expiry of the tenure.

Note—

Cancellation is dealt with under section 337.

(2) In subsection (1)(a), the reference to the term of a tenure includes any period during which the tenure is in force under section 90, 91, 92 or 93.

(3) If the Minister registers the expiry of a tenure under subsection (1)—

(a) the tenure holder must give the tenure to the Minister; and

(b) the Minister must endorse the expiry and the date of the expiry on the tenure.

337 Amendments etc. to tenures

(1) The Minister must register—

(a) the details of any document under this Act that amends, surrenders, cancels or otherwise affects a tenure; and

(b) the details of any document that amends or revokes a document referred to in paragraph (a).

Note—

The documents referred to in paragraph (a) are—

- suspension of tenure rights (see sections 48 (exploration permit), 135 (mineral development licence) and 195 (mining lease));
- amendment of tenure conditions between provisional grant and registration (see sections 67 (exploration permit), 148 (mineral development licence), 211 (mining lease) and 280 (works licence))—these need to be registered at the same time as the grant is registered because, if the conditions are amended between provisional grant and registration, a replacement tenure reflecting the change in conditions is not issued to the provisional holder;
- extension of term (see sections 90, 95 and 97 (exploration permit));
- surrender of the whole or a part of a tenure (see sections 99 and 127 (exploration permit), 158 and 187 (mineral development licence), 235 and 264 (mining lease) and 312 (works licence));
- voluntary surrender—special approval (see section 100 (exploration permit));
- mandatory reduction of tenure area—special permission (see section 104 (exploration permit));
- amendment of tenure conditions between provisional renewal and registration (see sections 111 (exploration permit), 170 (mineral development licence), 247 (mining lease) and 297 (works licence))—these need to be registered at the same time as the renewal because, if the tenure conditions are amended between provisional renewal and registration, a replacement tenure reflecting the changed conditions is not issued to the holder;
- amendment of conditions (see sections 120 (exploration permit), 179 (mineral development licence), 256 (mining lease) and 306 (works licence));
- exemption from or suspension of conditions (see sections 121 (exploration permit), 180 (mineral development licence), 257 (mining lease) and 307 (works licence));
- cancellation (see sections 130 (exploration permit), 189 and 190 (mineral development licence), 265 (mining lease) and 313 (works licence));

- directions (see sections 387 and 392);
- security requirements (see section 399);
- approvals of transfers (see section 365).

(2) Subsection (1)(a) applies to a document that suspends the rights of a holder of a tenure.

(3) Details of a document may be registered by registering a summary of the contents of the document.

(4) The Minister must keep a document referred to in subsection (1), or a copy of the document.

(5) A document referred to in subsection (1)—

(a) has no effect until it is registered; and

(b) is taken to be registered as soon as an entry complying with subsection (1) is made in the register.

338 Transfer of tenures

(1) The Minister must register the transfer of a tenure or a share in a tenure if—

(a) a party to the transfer lodges the instrument of transfer for registration; and

(b) a party to the transfer lodges a copy of the instrument of transfer; and

(c) the transfer has been approved by the Minister; and

(d) the tenure is lodged with the Minister for annotation under subsection (5); and

(e) the fee prescribed under a regulation is paid; and

(f) section 341 does not prevent the registration of the transfer.

Note—

Paragraph (c)—the Minister's approval is endorsed on the transfer (see section 365(3)).

(2) The Minister must also register the date and time of registration of the transfer.

(3) If an instrument purports to transfer a tenure or a share in a tenure, the Minister must register the instrument under this section without inquiring into or being concerned as to the legal effectiveness of the instrument.

(4) If an instrument that transfers a tenure or a share in a tenure is registered, the Minister must register the name of the transferee as a tenure holder.

(5) If the Minister registers the transfer of a tenure or a share in a tenure, the Minister must annotate the tenure to show the transferee as a tenure holder.

(6) The Minister must—

(a) keep the copy of the transfer; and

(b) return the transfer to the person who lodged it; and

(c) return the annotated tenure to the person who lodged it.

(7) The registration of a document under this section does not give the document any greater effect than it would have had apart from this Act.

339 Other dealings in tenures

(1) The Minister must register a document (other than a transfer of a tenure or a share in a tenure) that creates, transfers, affects or otherwise deals with an interest in a tenure if—

(a) a party to the dealing lodges the document for registration; and

(b) a party to the dealing lodges a copy of the document; and

(c) the fee prescribed under a regulation is paid; and

(d) section 341 does not prevent the registration of the dealing.

(2) The Minister must also register the date and time of registration of the dealing.

(3) If a document purports to create, transfer, affect or otherwise deal with an interest in a tenure, the Minister must register the document under this section without inquiring into or being concerned as to the legal effectiveness of the document.

(4) The Minister must keep the copy of the document.

(5) The Minister must return the document to the person who lodged it.

(6) The registration of a document under this section does not give the document any greater effect than it would have had apart from this Act.

340 Devolution of tenures

(1) If—

(a) the rights of a tenure holder have devolved to a person by operation of law; and

(b) the person applies to the Minister in writing to be registered as a tenure holder; and

(c) the tenure is lodged with the Minister for annotation under subsection (3); and

(d) the person pays the fee prescribed under a regulation; and

(e) the Minister is satisfied that the applicant is entitled to those rights; and

(f) section 341 does not prevent the registration of the person as a tenure holder;

the Minister must register the person as a tenure holder.

(2) If the Minister registers a person as a tenure holder under subsection (1), the Minister must also register the date and time of registration.

(3) If the Minister registers a person as a tenure holder under subsection (1), the Minister must annotate the tenure accordingly.

(4) The Minister must return the annotated tenure to the person who lodged it.

(5) This section applies to 2 or more persons to whom rights have devolved in the same way as it applies to a single person to whom rights have devolved.

Subdivision 2 Caveats

341 Effect of a caveat

(1) If a caveat is in force on a tenure, the Minister must not register a dealing in the tenure unless—

(a) the Minister is not required to give the caveat holder notice of the particular dealing; or

(b) the caveat holder consents to the registration of the dealing under section 350; or

(c) the Wardens Court orders the Minister to register the dealing under section 338 or 339 despite the caveat.

Note 1—

For *dealing* see the dictionary.

Note 2—

Once the caveat holder has been given notice of the dealing, the caveat will lapse at the end of 30 days unless the caveat holder consents to the registration of the dealing or gets a court order extending the life of the caveat (see section 348).

Note 3—

The Minister may not be required to give the caveat holder notice of the dealing because the caveat holder is a party to the dealing or because the dealing falls outside the class of dealings that the caveat holder has specified under section 343(2) (see section 349(6)).

(2) If a caveat is in force on a tenure, the Minister must not register a person under section 340 as a tenure holder unless—

(a) the caveat holder consents to the registration under section 350; or

(b) the Wardens Court orders the Minister to register the person under section 340 despite the caveat.

Note—

Once the caveat holder has been given notice, the caveat will lapse at the end of 30 days unless the caveat holder consents to the registration or gets a court order extending the life of the caveat.

342 Lodgment of caveats

(1) A person who claims a legal or equitable interest in or affecting a tenure may lodge with the Minister a caveat on the tenure.

(2) A person may claim a legal or equitable interest in or affecting a tenure even if the interest claimed arises under a document that has not been registered under section 338 or 339.

343 Form of caveat

(1) A caveat must—

(a) be in accordance with the approved form; and

(b) state—

(i) the full name and address of the person claiming the interest; and

(ii) details of the interest claimed; and

(c) be signed by the person claiming the interest; and

(d) specify an address for service of notices within the State.

(2) A caveat may specify the particular dealings that the caveat holder wants to be given notice of under section 349.

344 Payment of fee

The person lodging a caveat must pay the caveat fee that is prescribed under a regulation.

345 Caveat to be registered

(1) If—

(a) a caveat is lodged for registration; and

(b) the caveat complies with section 343; and

(c) the person lodging the caveat pays the fee required by section 344;

the Minister must, subject to subsection (4), register the caveat.

(2) The Minister must register the date and time of lodgment.

(3) The Minister must keep the original of the caveat and endorse on it the date and time of lodgment.

(4) Subsection (1) does not apply if—

(a) the Wardens Court has made an order under section 351(2); and

(b) the order requires the court's consent to the registration of the caveat; and

(c) the court has not consented to the registration of the caveat.

346 Withdrawal of caveat

(1) A caveat holder may withdraw the caveat at any time by lodging a written withdrawal with the Minister.

(2) The Minister must—

(a) register details of the withdrawal; and

(b) endorse details of the withdrawal on the original of the caveat; and

(c) keep the original of the withdrawal.

347 Form of withdrawal

A withdrawal of a caveat must—

(a) be in accordance with the approved form; and

(b) give details of the caveat; and

(c) be signed by the caveat holder.

348 Duration of caveat

(1) A caveat that is registered is taken to have had effect from the time at which it is lodged with the Minister.

(2) A caveat on a tenure ceases to have effect if—

(a) the Wardens Court makes an order for the removal of the caveat under section 351; or

(b) the caveat is withdrawn under section 346; or

(c) the caveat holder is given notice under section 349(1), (2) or (3) and 30 days have passed since the caveat holder was given the notice.

(3) Subsection (2)(c) does not apply if, before the end of the 30 days, the caveat holder consents to the registration of the dealing or to the registration under section 340.

(4) Subsection (2)(c) does not apply if, before the end of the 30 days—

(a) the caveat holder applies to the Wardens Court for an order under section 351 that the caveat be extended beyond the period; and

(b) the court makes an order extending the period.

(5) If the court makes an order under section 351(1)(c), the caveat ceases to have effect at the end of the extended period.

(6) Subsection (5) does not apply if, before the end of the extended period, the caveat holder consents to the registration

of the dealing under section 350 or to the registration under section 340.

349 Notice to caveat holder

(1) If—

(a) a transfer of a tenure or a share in a tenure is lodged with the Minister under section 338; and

(b) a caveat is in force on the tenure;

the Minister must, subject to subsection (6), notify the caveat holder that the transfer has been lodged for registration.

(2) If—

(a) a dealing in a tenure (other than a transfer of the tenure or a share in the tenure) is lodged with the Minister under section 339; and

(b) a caveat is in force on the tenure;

the Minister must, subject to subsection (6), notify the caveat holder that the dealing has been lodged for registration.

(3) If—

(a) a person applies to the Minister under section 340 to be registered as a tenure holder; and

(b) a caveat is in force on the tenure;

the Minister must notify the caveat holder that the application has been made.

(4) If—

(a) a tenure holder surrenders the tenure or surrenders a sub-block or some of the sub-blocks covered by the tenure; and

(b) a caveat is in force on the tenure;

the Minister must notify the caveat holder of the surrender.

(5) Notice under subsection (1), (2), (3) or (4) must be by certified mail.

(6) Notice must not be given under subsection (1) or (2) if—

(a) the caveat holder is a party to the transfer or dealing concerned; or

(b) the caveat holder has specified the class of dealings the caveat holder wants to receive notice of and the transfer or dealing falls outside that class.

Editor's note—

See section 343(2) (Form of caveat).

350 Caveat holder may consent to registration

(1) If a caveat holder is given notice under section 349(1), the caveat holder may consent to the registration of the transfer.

(2) If a caveat holder is given notice under section 349(2), the caveat holder may consent to the registration of the dealing.

(3) If a caveat holder is given notice under section 349(3), the caveat holder may consent to the registration of the person as a tenure holder.

(4) A consent under this section must be in writing and must be lodged with the Minister.

(5) A consent under this section is only effective if it is given within 30 days after the day on which the caveat holder receives the notice concerned.

(6) The Minister must—

(a) register details of the consent; and

(b) endorse details of the consent on the original of the caveat; and

(c) keep the original of the consent.

351 Orders that can be made by Wardens Court in relation to caveats

(1) The Wardens Court may—

(a) order the removal of a caveat from a tenure; or

(b) order the Minister to register a dealing despite a caveat; or

(c) extend the period provided for by section 348(2)(c).

(2) If—

(a) the court makes an order under subsection (1)(a) or (b) in relation to the tenure; and

(b) the court is satisfied that caveats are being used vexatiously to delay the registration of a document;

the court may also make an order that the Minister must not register any caveat in relation to the tenure unless the court has consented to the registration.

(3) An order under subsection (2) may be for an indefinite period or for a specified period.

(4) An order under subsection (2) may provide that the court's consent is not required in any specified case or class of case.

(5) If an application is made to the court for an order under subsection (2), the Minister becomes a party to the proceeding.

(6) If a court makes an order under this section, the Minister must—

(a) register details of the order; and

(b) keep a copy of the order.

Division 3 Miscellaneous

353 Protection from legal actions

(1) This section applies to—

(a) the Minister; and

(b) a delegate of the Minister; and

(c) a person acting under the direction or authority of the Minister or a delegate of the Minister.

(2) A person to whom this section applies is not liable to an action, suit or proceeding in relation to an act or matter if—

(a) the act or matter is done or omitted to be done in the exercise or purported exercise of a power or authority given by this part; and

(b) the act or matter is done or omitted to be done in good faith and without negligence.

(3) If subsection (2) prevents a civil liability attaching to the person, the liability attaches instead to the State.

354 Application to court for correction of register

(1) The Wardens Court, on the application of a person aggrieved by—

(a) the omission of an entry from the offshore mining register; or

(b) an entry wrongly existing in the register; or

(c) an error or defect in an entry in the register;

may make any order it considers appropriate directing correction of the register.

(2) In a proceeding under subsection (1), the court may decide any necessary or expedient question concerning the rectification of the register.

(3) A copy of the court order may be served on the Minister.

(4) In a proceeding under subsection (1)—

(a) the Minister may appear; or

(b) if the court so directs—the Minister must appear.

(5) If the Minister receives a copy of an order under subsection (3), the Minister must amend the register so that the register accords with the order.

355–356 Section numbers not used

See note 2 to section 3(1).

357 Evidentiary value of register

(1) The offshore mining register is admissible in a proceeding as evidence of the matters registered in it.

(2) If the register is kept by the use of a computer, the Minister may issue a document containing the details of a matter taken from the register.

(3) The document issued under subsection (2) is admissible in a proceeding as evidence of the matter.

(4) The Minister may give a person a certified copy of, or extract from, the register if the person pays the fee prescribed under a regulation.

(5) The certified copy is admissible in a proceeding without any further proof of, or the production of, the original.

358 Certified copy of document on document file

(1) The Minister may give a person a certified copy of a document that is kept on the document file if the person pays the fee prescribed under a regulation.

(2) The certified copy is admissible in a proceeding without any further proof of, or the production of, the original.

359 Certification of registration action

(1) If a person pays the fee prescribed under a regulation, the Minister may give a person a signed certificate that—

(a) a thing required or allowed by this part has been done; or

(b) a thing required or allowed by this part has not been done.

(2) The certificate is admissible in a proceeding as evidence of the facts stated in the certificate.

Part 3.2 Dealings in tenures

Division 1 Dealings in tenures to be in writing and registered

360 Dealings in tenures to be in writing

(1) An interest in a tenure may be created, transferred, affected or otherwise dealt with only by a written document.

Note—

A transfer must be in writing because it is a dealing.

(2) Subsection (1) does not apply to the rights of a tenure holder that devolve to a person by operation of law.

Note 1—

Rights might devolve to a person, for example, by operation of the laws relating to intestacy or bankruptcy.

Note 2—

For the registration of rights that devolve to a person by operation of law see section 340.

361 Dealings in interests in tenures not effective until registered

A document that creates, transfers, affects or otherwise deals with an interest in a tenure has no effect until it is registered under part 3.1.

Note 1—

A transfer is a dealing and does not take effect until registered.

Note 2—

Transfers are registered under section 338 and other dealings under section 339.

Division 2 Approval of transfer of tenures

362 Transfers require approval by Minister

(1) The transfer of a tenure must not be registered under section 338 unless it has been approved by the Minister.

Note 1—

For *transfer* of a tenure see section 7(1).

Note 2—

A transfer is a dealing and under section 361 does not take effect until registered.

(2) The transfer of a share in a tenure must not be registered under section 338 unless it has been approved by the Minister.

Note 1—

For *transfer* in a share of a tenure see section 7(2) and (3).

Note 2—

A transfer is a dealing and under section 361 does not take effect until registered.

363 Application for approval of transfer

(1) A person may apply to the Minister for approval of the transfer.

(2) The application must be in writing.

(3) The application must be accompanied by—

(a) the signed transfer document; and

(b) a copy of the transfer document; and

(c) if a caveat holder has consented to the registration of the transfer under section 350(1)—a copy of the consent.

(4) The application may include a statement of any matter that the applicant wants the Minister to take into account in deciding whether to approve the transfer.

(5) Without limiting subsection (4), the application may include a statement about—

(a) the technical qualifications of a party to the transfer; or

(b) the technical qualifications of the employees of a party to the transfer; or

(c) the technical advice available to a party to the transfer; or

(d) the financial resources of a party to the transfer.

(6) The application must be accompanied by the fee prescribed under a regulation.

364 Minister may ask for further information

(1) If—

(a) an application is made under section 363 for approval of a transfer; and

(b) the Minister has reason to believe that a person possesses or controls a document that relates to—

(i) the transfer document; or

(ii) the transfer transaction; or

(iii) the application for approval of the transfer;

the Minister may ask the person—

(c) to give the document to the Minister; or

(d) to make the document available for inspection by or on behalf of the Minister.

(2) The request under subsection (1) must be made by giving to the person a notice containing the request.

(3) A person must not fail to comply with a request under subsection (1) without reasonable excuse.

Maximum penalty—67 penalty units.

365 Minister's response to application for approval

(1) If an application is made under section 363, the Minister may—

(a) approve the transfer; or

(b) refuse to approve the transfer.

(2) The Minister may, under subsection (1)(a), approve the transfer on conditions that the Minister considers necessary or desirable in the public interest.

(3) If the Minister approves the transfer, the Minister must endorse a record of the approval on—

(a) the transfer document; and

(b) a copy of the transfer document.

Note—

A record of the approval will also be entered in the offshore mining register (see section 338(1)).

366 Protection from legal actions

(1) This section applies to—

(a) the Minister; and

(b) a delegate of the Minister; and

(c) a person acting under the direction or authority of the Minister or a delegate of the Minister.

(2) A person to whom this section applies is not liable to an action, suit or proceeding in relation to an act or matter if—

(a) the act or matter is done or omitted to be done in the exercise or purported exercise of a power or authority given by this part; and

(b) the act or matter is done or omitted to be done in good faith and without negligence.

(3) If subsection (2) prevents a civil liability attaching to the person, the liability attaches instead to the State.

Chapter 4 Administration

Part 4.1 Information management

367 Minister may ask person for information

(1) The Minister may ask a person to give the Minister information if—

(a) the information is relevant to the operation of this Act; and

(b) the Minister has reasonable grounds for believing that the person is able to give the information.

Note—

The person must comply with the request (see section 372).

(2) The Minister may ask the person to give the information to—

(a) the Minister; or

(b) an inspector nominated by the Minister.

(3) The request must—

(a) be made by notice given to the person; and

(b) specify the person to whom the information is to be given; and

(c) specify the period within which the information is to be given.

(4) The information must be given—

(a) in writing; and

(b) before the end of the period specified in the request.

(5) The document containing the information must be signed by—

(a) if the information is given by a body corporate—an authorised officer of the body corporate; or

(b) if the information is provided by an individual—the individual.

(6) When making the request under subsection (2), the Minister must warn the person that it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

368 Power to ask person to appear

(1) If the Minister has reasonable grounds for believing that a person is able to give information that is relevant to the operation of this Act, the Minister may ask the person to appear personally to—

(a) give the information; and

(b) answer questions about the activity to which the information relates.

Note—

The person must comply with the request (see section 372).

(2) The Minister may ask a person to appear before—

(a) the Minister; or

(b) an inspector nominated by the Minister.

(3) The request must—

(a) be made by notice given to the person; and

(b) specify the activity about which the information is sought or questions will be asked; and

(c) specify the address at which the person is to attend; and

(d) specify the day on which and the time at which the person is to attend; and

(e) indicate whether the appearance is to be before the Minister or before a nominated inspector.

(4) When making the request, the Minister must warn the person that it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

369 Power to examine on oath or affirmation

(1) If, following a notice under section 368, a person appears before the Minister or a nominated inspector, the Minister or the inspector may—

(a) administer an oath or affirmation to the person; and

(b) request the person to answer any question that comes within the terms of the notice.

(2) The oath or affirmation to be administered is an oath or affirmation that the person will truthfully answer the questions put by the Minister or the inspector.

(3) When making the request, the Minister of the inspector must warn the person that it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

370 Minister may ask for documents

(1) The Minister may ask a person to produce a document if—

(a) the document is relevant to the operation of this Act; and

(b) the Minister has reasonable grounds for believing that the person is able to produce the document.

Note—

The person must comply with the request (see section 372).

(2) The Minister may ask the person to produce the document to—

(a) the Minister; or

(b) an inspector nominated by the Minister.

(3) The request—

(a) must be made by notice given to the person; and

(b) must specify the person to whom, and the address at which, the document is to be produced; and

(c) must specify—

(i) the period within which the document is to be produced; or

(ii) the day on which and the time at which the document is to be produced; and

(d) may specify whether the original or a copy of the document is to be produced.

(4) A regulation may provide for the way in which the Minister is to deal with the document.

(5) Without limiting subsection (4), a regulation may authorise the Minister or inspector to take a copy of the document.

(6) When making the request under subsection (2), the Minister must warn the person that it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

371 Minister may ask for samples

(1) The Minister may ask a person to produce a sample taken from the seabed or subsoil in coastal waters if—

(a) the sample is relevant to the operation of this Act; and

(b) the Minister has reasonable grounds for believing that the person is able to produce the sample.

Note—

The person must comply with the request (see section 372).

(2) The Minister may ask the person to give the sample to—

(a) the Minister; or

(b) an inspector nominated by the Minister.

(3) The request—

(a) must be made by notice given to the person; and

(b) must specify the person to whom, and the address at which, the sample is to be given; and

(c) must specify—

(i) the period within which the sample is to be given; or

(ii) the day on which and the time at which the sample is to be given.

(4) A regulation may provide for the way in which the Minister or inspector is to deal with the sample.

(5) Without limiting subsection (4), a regulation may authorise the Minister or inspector to test or analyse the sample.

(6) When making the request under subsection (2), the Minister must warn the person that it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

372 Obligation to comply with request under section 367, 368, 369, 370 or 371

(1) A person must not, without reasonable excuse, fail to comply with a request under section 367, 368, 369, 370 or 371.

Maximum penalty—134 penalty units.

(2) A person is not excused from complying with the request on the ground that complying with the request might tend to incriminate the person or make the person liable to a penalty.

Note—

Section 373 provides immunity for the response to the request.

(3) A person must not give false or misleading information in response to—

(a) a request under section 367, 368, 370 or 371; or

(b) a question asked under section 369(1).

Maximum penalty—134 penalty units.

(4) Subsection (3) does not apply to the giving of a false or misleading document if, when giving the document, the person—

(a) informs the Minister or inspector, to the best of the person's ability, how it is false or misleading; and

(b) gives the correct information to the Minister or inspector if the person has, or can reasonably obtain, the correct information.

(5) It is enough for a complaint for an offence against subsection (3) to state the information was 'false or misleading' to the person's knowledge, without specifying which.

(6) In this section—

information includes document.

373 Immunity from use of information etc. given in response to request under section 367, 368, 369, 370 or 371

(1) If a person gives the Minister information in response to a request under section 367 or 368, or to a question under section 369(1), the following are not admissible in evidence against the person in any proceeding—

(a) the document containing the information given in response to the request;

(b) the answer to the question;

(c) any information, document or thing obtained as a direct or indirect consequence of the giving of the information or answer.

(2) If a person produces a document in response to a request under section 370, the following are not admissible in evidence against the person in any proceeding—

(a) the document;

(b) the fact of the production of the document by the person;

(c) any information, document or thing obtained as a direct or indirect consequence of the production of the document.

(3) If a person produces a sample in response to a request under section 371, the following are not admissible in evidence against the person in any proceeding—

(a) the sample;

(b) the fact of the production of the sample by the person;

(c) any information, document or thing obtained as a direct or indirect consequence of the production of the sample.

(4) The immunity provided by subsections (1), (2) and (3) does not apply to a proceeding for an offence against section 372(3).

374 Restrictions on release of confidential material

(1) Subject to sections 375 and 376, if the Minister holds confidential information—

(a) the Minister; or

(b) a person acting on behalf of the Minister; or

(c) a person who is given the information under section 375(3);

must not—

(d) publish the information; or

(e) make the information available to a person.

(2) Subject to section 375, if the Minister holds a confidential sample—

(a) the Minister; or

(b) a person acting on behalf of the Minister; or

(c) a person who is given access to the sample under section 375(4);

must not—

(d) allow a person to inspect the sample; or

(e) publish information about the sample.

Maximum penalty—1660 penalty units.

375 Circumstances in which confidential material may be released

(1) If—

(a) a tenure holder gives confidential information to the Minister; and

(b) the holder—

(i) makes the information publicly available; or

(ii) consents in writing to the information being made publicly available;

the Minister who is given access to the information may make the information available to any person.

(2) If—

(a) a tenure holder gives a confidential sample to the Minister; and

(b) the holder—

(i) publishes details of the sample; or

(ii) consents in writing to the details being made publicly available; or

(iii) consents in writing to the sample being made available for public inspection;

the Minister who is given access to the sample may—

(c) make details of the sample available to any person; or

(d) allow any person to inspect the sample.

Note—

For *confidential information* and *confidential sample* see sections 27 and 28.

(3) Confidential information may be made available to a person if the information is made available for the administration of this Act.

(4) A person may be given access to a confidential sample if the access is given for the administration of this Act.

376 Certain reports to be made available

If—

(a) a tenure holder gives the Minister a report in order to comply with—

(i) the regulations; or

(ii) a direction under section 387 or 392; or

(iii) the tenure conditions; and

(b) the report relates to sub-blocks that are no longer covered by the tenure or by a successor tenure to the tenure; and

(c) another person requests the Minister to make the report available to the person;

the Minister must make the report available to the person.

Part 4.2 Monitoring and enforcement

Division 1 Inspections

377 Compliance inspections

A compliance inspection is an inspection carried out to decide whether—

(a) a tenure holder, a special purpose consent holder or an associate has complied with or is complying with—

(i) this Act or the regulations; or

(ii) the tenure or consent conditions; or

(iii) a direction under section 387 or 392; or

(b) a person is exploring for or recovering minerals in breach of section 38.

Note—

An inspector may carry out a compliance inspection under—

- section 379 (inspection of tenure-related premises etc. without a warrant);
- section 380 (inspection of other premises etc. with consent of the occupier);

- section 381 (inspection of premises etc. with a warrant).

378 Powers exercisable in course of inspection

(1) If an inspector may carry out a compliance inspection, the inspector may do anything that is reasonable and necessary to carry out the inspection.

(2) Without limiting subsection (1), the inspector may—

(a) examine things that are being used for exploration or mining purposes and things that appear to the inspector to be intended to be used for those purposes; and

(b) test equipment, including, for example, by operating it; and

(c) examine and copy documents; and

(d) remove documents; and

(e) take photographs and videotapes; and

(f) examine, and take samples from, the seabed or subsoil; and

(g) enter or go onto any land, building or structure, subject to sections 379 to 384; and

(h) enter or board any vehicle, vessel or aircraft, subject to sections 379 to 384.

(3) If the compliance inspection is being carried out under a warrant under section 382, subsection (2) has effect subject to the restrictions that are specified in the warrant.

(4) Subject to subsections (5) and (6), if an inspector removes a document under subsection (2)(d), the inspector may retain the document for as long as is necessary to decide whether the tenure holder, the consent holder or the associate has complied with or is complying with—

(a) this Act and the regulations; or

(b) the tenure or consent conditions; or

(c) a direction under section 387 or 392.

(5) Subject to subsection (6), the inspector must not retain the document for more than 60 days.

(6) If—

(a) a proceeding for an offence against a provision of this Act or the regulations is commenced within that period of 60 days; and

(b) the document may be evidence of the commission of the offence;

the inspector may retain the document until the proceeding is completed.

(7) For subsection (6), the proceeding for an offence is taken to include any appeal to the Wardens Court in relation to the proceeding.

(8) While an inspector is retaining the document under subsection (4), the inspector must allow a person to inspect the document if the person would have a right to inspect the document if it were not in the inspector's possession.

379 Inspection of tenure-related premises etc. without warrant

(1) Subject to subsections (2), (3) and (4), an inspector may, without a warrant, carry out a compliance inspection of—

(a) tenure-related land; or

(b) a tenure-related building, structure, vehicle, vessel or aircraft;

if the inspection is reasonably necessary.

(2) An inspection under subsection (1) must be made at a reasonable time.

(3) An inspector may not enter premises under subsection (1) if—

(a) the premises are a residence; and

(b) the occupier has not consented to the entry.

(4) An inspector may not carry out a compliance inspection under subsection (1) if—

(a) the person occupying or in charge of the land, building, structure, vehicle, vessel or aircraft concerned asks the inspector to produce the inspector's identity card for inspection by the person; and

(b) the inspector does not comply with the person's request.

(5) For this section, land or a building, structure, vehicle, vessel or aircraft is tenure-related if—

(a) it is used in connection with activities carried out under a tenure or special purpose consent; or

(b) records about activities of that kind are kept there.

380 Inspection of other premises etc. with occupier's consent

An inspector may carry out a compliance inspection of land or a building, structure, vehicle, vessel or aircraft with the consent of the person who occupies or is in charge of the land, building, structure, vehicle, vessel or aircraft.

381 Inspection of other premises etc. with warrant

An inspector may carry out a compliance inspection under a warrant issued under section 382.

382 Procedure for obtaining warrant

(1) An inspector may apply to a magistrate for a warrant to carry out a compliance inspection of land or of a building, structure, vehicle, vessel or aircraft.

(2) The application must be supported by a statement on oath or affirmation that sets out the grounds on which the inspector is applying for the warrant.

(3) If the magistrate is satisfied that the compliance inspection is reasonably necessary, the magistrate may issue a warrant to the inspector to carry out the inspection.

(4) The warrant must state—

(a) the name of the inspector; and

(b) whether the inspection may be carried out at any time or only during specified hours of the day; and

(c) the day on which the warrant ceases to have effect; and

(d) the purposes for which the warrant is issued.

(5) The day specified under subsection (4)(c) must not be more than 7 days after the day on which the warrant is issued.

(6) The purposes specified under subsection (4)(d) must include the identification of—

(a) the land, building, structure, vehicle, vessel or aircraft to be inspected; and

(b) any equipment that the inspector may test; and

(c) any documents that the inspector may examine and copy; and

(d) any cores or cuttings from the seabed or subsoil that the inspector may examine and take samples of.

383 Further provisions as to exercise of powers under warrant

(1) If a warrant for a compliance inspection is issued to an inspector under section 382, the warrant authorises the inspector to carry out the inspection—

(a) with help that is reasonable and necessary; and

(b) by force that is reasonable and necessary.

(2) An inspector may not carry out a compliance inspection under a warrant if—

(a) the person occupying or in charge of the land, building, structure, vehicle, vessel or aircraft concerned asks the inspector to produce the inspector's identity card for inspection by the person; and

(b) the inspector does not comply with the person's request.

384 Occupier to cooperate with inspector

(1) If an inspector carries out a compliance inspection of land or of a building, structure, vehicle, vessel or aircraft under section 379 or 381, the person who occupies or is in charge of it must provide the inspector with the facilities and help that the inspector reasonably requires for carrying out the inspection.

Maximum penalty—67 penalty units.

(2) When making the requirement, the inspector must warn the person that it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

Division 2 Directions

385 Directions by Minister must be obeyed

(1) A person must comply with a direction under section 387 or 392.

Maximum penalty—134 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 443A, to have also committed the offence.

(2) A person must comply with a supplementary direction given under section 391(2).

Maximum penalty—67 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 443A, to have also committed the offence.

386 Scope of directions

(1) The Minister may give a direction under section 387 or 392 if it is necessary or convenient to do so to carry out or give effect to this Act or the regulations.

(2) Without limiting subsection (1), directions may be given about—

(a) the control of offshore exploration or mining activities; and

(b) the conservation and protection of the mineral resources in coastal waters; and

(c) the remedying of damage caused—

(i) to the seabed or subsoil in coastal waters by offshore exploration or mining activities; or

(ii) by the escape of substances as a result of offshore exploration or mining activities; and

(d) the protection of the environment; and

(e) the keeping of records and samples; and

(f) the giving of records and samples to the Minister for inspection; and

(g) the making of returns.

Note—

For *offshore exploration or mining activities* see the dictionary.

(3) For subsection (2), the control of offshore exploration or mining activities extends to the control of—

(a) the construction, maintenance and operation of installations used in or for use in exploration or mining activities in coastal waters; and

(b) the flow or discharge of fluids arising from exploration or mining activities in coastal waters; and

(c) the safety, health and welfare of persons working in offshore exploration or mining activities; and

(d) the maintenance of structures, equipment and property used in or for use in offshore exploration or mining activities.

Note—

For *offshore exploration or mining activities* see the dictionary.

387 Minister may give directions

(1) The Minister may direct a tenure holder or special purpose consent holder to do or not to do the thing specified in the direction.

(2) The direction must be in writing and is given by serving it on the holder.

388 Direction may incorporate material in another document

(1) A direction under section 387 may apply, adopt or incorporate a code of practice or a standard that is contained in another document.

(2) The application, adoption or incorporation of the other document may be made with or without modification.

(3) The other document may be one issued outside Australia.

(4) The direction may apply, adopt or modify the other document—

(a) as in force at the time when the direction is given; or

(b) as in force from time to time.

(5) If a direction applies, adopts or incorporates material in another document, a copy of the document must be attached to the direction when it is given to the tenure holder or special purpose consent holder.

389 Direction may impose absolute prohibition

Without limiting section 387, a direction under that section may—

(a) prohibit absolutely the doing of a thing; or

(b) prohibit the doing of a thing unless a person's consent or approval is obtained.

390 Direction may extend to associates

(1) A direction under section 387 to a tenure holder or special purpose consent holder may extend to an associate specified in the direction.

(2) An associate may be specified by name or by class.

(3) The direction may provide that only particular obligations specified in the direction extend to a particular associate.

391 Holder to give notice of direction to associates

(1) If a direction under section 387 extends to an associate, the tenure holder or special purpose consent holder must either—

(a) give a copy of the direction to the associate; or

(b) display a copy of the direction at a place that the associate goes to in the course of carrying out activities under the tenure or consent.

Maximum penalty—67 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 443A, to have also committed the offence.

(2) The Minister may give the tenure holder or special purpose consent holder a supplementary direction that specifies the way in which, or the places at which, copies of a direction are to be displayed under subsection (1)(b).

(3) A supplementary direction has effect as if it were part of the original direction.

392 Power to give directions after tenure etc. ends

(1) If a person is bound by an obligation because of section 131, 191, 266 or 314, the Minister may direct the person to do a thing or not to do a thing specified in the direction.

(2) A direction may be given only for the following purposes—

(a) to ensure that the obligation is complied with;

(b) a purpose that is incidental to the purpose in paragraph (a).

Note—

Sections 131, 191, 266 and 314 provide for undischarged obligations to continue to bind a former tenure holder or associate after the tenure ends.

(3) A direction must be in writing and is given by serving it on the person bound by the obligation.

393 Effect of directions on other instruments

(1) A later direction under section 387 or 392 overrides an earlier direction if they are inconsistent.

(2) A direction has effect despite anything in—

(a) the regulations; or

(b) a tenure condition about safety or environmental matters.

394 Minister may specify time for compliance

(1) If the Minister gives a direction under section 387 or 392 to a person, the Minister may—

(a) specify in the direction a time for compliance with the direction; or

(b) give the person a supplementary direction specifying a time for compliance with the direction.

(2) A supplementary direction has effect as if it were part of the original direction.

395 Minister may take action if holder fails to comply

(1) The Minister may do all or any of the things required by a direction under section 387 or 392 if—

(a) the time for compliance specified under section 394 has ended; and

(b) the person to whom the direction was given or to whom it extended has not complied with the direction.

(2) If the direction required consultation under section 387(3), the Minister must not take action under subsection (1) without similar consultation.

396 Costs incurred by Minister in taking action under section 395

(1) If—

(a) the Minister takes action under section 395 in relation to a direction under section 387 given to a tenure holder or special purpose consent holder; and

(b) the direction does not extend to an associate of the holder;

the costs and expenses incurred by the Minister in taking that action are a debt due to the State by the holder.

(2) If—

(a) a direction under section 387 specifies that a particular associate of a tenure holder or special purpose consent holder is subject to a particular obligation; and

(b) the Minister takes action under section 395 in relation to that obligation;

the costs and expenses incurred by the Minister in taking that action are a debt due to the State by the holder and the associate.

(3) The associate and the holder are jointly and severally liable to pay the debt arising under subsection (2).

(4) A debt under this section is recoverable in the Wardens Court.

397 Defences to actions to recover debts

(1) It is a defence to an action to recover the debt from the tenure holder, special purpose consent holder or the associate if—

(a) the holder or associate produces evidence that the holder or associate took all reasonable steps to comply with the direction; and

(b) the evidence is not rebutted.

(2) It is a defence to an action to recover the debt from the associate if—

(a) the associate produces evidence that the associate did not know of, and could not reasonably be expected to know of, the existence of the direction; and

(b) the evidence is not rebutted.

Division 3 Securities

398 Securities

(1) A person may be required to lodge a security with the Minister under—

(a) section 399; or

(b) section 118, 177, 254 or 304.

(2) Securities are required as a way of ensuring compliance with this Act and with tenure conditions.

(3) Securities may only be used for the purposes mentioned in section 400.

399 Decision about requirement to lodge security

(1) The Minister may decide that a person who has been provisionally granted a tenure must lodge a security with the Minister.

Note 1—

The provisional holder will be given notice of the decision under section 66 or 83, 147, 210 or 227 or 279.

Note 2—

If the provisional holder does not lodge the security within a particular time provided for in this Act, the provisional grant will lapse (see section 72 or 86, 153, 216 or 230 or 285).

(2) If the Minister provisionally renews a tenure, the Minister may decide that the tenure holder must lodge a security with the Minister.

Note 1—

The tenure holder will be given notice of the decision under section 110, 169, 246 or 296.

Note 2—

If the holder does not lodge the security within a particular time provided for in this Act, the provisional renewal will lapse (see section 116, 175, 252 or 302).

(3) A decision under subsection (1) or (2) must specify—

(a) the amount of the security required; and

(b) the kind of security required; and

(c) the way and the form in which the security is to be lodged.

(4) Without limiting subsections (1) and (2), a decision may require the lodgment of a security in the form of a guarantee and, if a guarantee is required, the decision may specify—

(a) the kind of person who is to give the guarantee; and

(b) the terms of the guarantee.

(5) The decision must be in writing.

(6) If a person is provisionally granted a tenure over a tender sub-block, the amount decided as a security under subsection (1) must be the amount of security referred to in the tender sub-block tenure notice.

Note—

For the contents of a tender sub-block tenure notice see sections 75 and 219.

400 Application of security

(1) If—

(a) a person is or was a tenure holder; and

(b) the person has lodged a security with the Minister;

the Minister may use the security to discharge the person's obligations arising from a failure to comply with—

(c) this Act or the regulations; or

(d) the tenure conditions; or

(e) a direction under section 387 or 392.

(2) Without limiting subsection (1), the holder's financial obligations include the obligation to pay a penalty imposed under the tenure conditions.

(3) Subject to subsection (1), the Minister is to deal with a security as provided under a regulation.

Division 4 Restoration of environment

401 Removal of property from coastal waters

(1) A regulation may provide for—

(a) the removal from coastal waters of property—

(i) that has been brought into coastal waters for use in offshore exploration or mining activities; and

(ii) that is not being used, and is not intended to be used, in exploration or mining activities under a tenure; and

(b) the disposal by the Minister of property removed under a regulation made for paragraph (a); and

(c) the recovery of costs and expenses incurred by the Minister or another person in removing or disposing of property under a regulation made for paragraphs (a) and (b).

Note—

For *offshore exploration or mining activities* see the dictionary.

(2) A regulation made for subsection (1)(a) may provide for removal by the Minister or by someone else.

(3) A regulation made for subsection (1)(c) may provide for the recovery of costs by way of deduction from the proceeds of the disposal.

(4) Subject to the regulations, no action lies in relation to the removal or disposal of property as provided under a regulation.

(5) In this section—

property includes a structure or equipment.

402 Rehabilitation of damaged areas

(1) A regulation may provide for—

(a) the rehabilitation of an area in coastal waters that has been damaged or affected by offshore exploration or mining activities of a tenure holder; and

(b) the recovery of costs and expenses incurred by the Minister in rehabilitating an area under a regulation made for paragraph (a).

(2) A regulation made for subsection (1)(a) may provide for the rehabilitation to be carried out by the Minister or someone else.

(3) A regulation made for subsection (1)(b) may provide for the recovery of costs and expenses by way of deduction from the tenure holder's security.

Division 5 Safety zones

403 Declaration of safety zone around a structure or equipment

(1) A regulation may establish a safety zone around a structure or equipment in coastal waters.

(2) A safety zone may only be established for the purpose of protecting the structure or equipment.

(3) The safety zone may extend not more than 500m from the outer edge of the structure or equipment.

(4) The regulation may apply to—

(a) all vessels; or

(b) all vessels except those specified in the regulation.

404 Effect of declaration of safety zone

(1) If a safety zone is established by regulation under section 403, a vessel to which the regulation applies must not enter or remain in the safety zone without the written consent of the Minister.

(2) If a consent is given under subsection (1) on conditions, a vessel to which the consent applies may enter or remain in the safety zone only as provided by the conditions.

(3) The owner of a vessel and the person in command or in charge of a vessel each commit an indictable offence if the vessel enters or remains in a safety zone in contravention of

subsection (1) or (2), and are liable to a maximum penalty of 4 150 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 443A, to have also committed the offence.

(4) It is a defence to a prosecution of a person for an offence against subsection (3) if the person satisfies the court that—

(a) an unforeseen emergency made it necessary for the vessel to enter or remain in the safety zone to attempt to secure the safety of—

(i) a human life; or

(ii) the vessel; or

(iii) another vessel; or

(iv) a well, pipeline, structure or equipment; or

(b) the vessel entered or remained in the safety zone in circumstances beyond the control of the person who was in command or in charge of the vessel (for example, adverse weather).

(5) It is a defence to a prosecution of the owner of a vessel for an offence against subsection (3) if the owner satisfies the court that the owner—

(a) did not aid, abet, counsel or procure the vessel's entering or remaining in the safety zone; and

(b) was not in any way, directly or indirectly, knowingly concerned in, or party to, the vessel's entering or remaining in the safety zone.

405–420 Section numbers not used

See note 2 to section 3(1).

Part 4.3 Inspectors

421 Appointment of inspectors

(1) The Minister may appoint an officer of the public service to be an inspector for this Act and the regulations.

Note—

Inspectors have powers under sections 367, 368, 369, 370, 371, 378, 379, 380 and 381.

(2) The appointment must be in writing.

422 Identity cards

(1) The Minister must issue an inspector with an identity card.

(2) The card must—

(a) contain a recent photograph of the inspector; and

(b) be in the approved form.

423 Return of identity card

(1) A person who stops being an inspector must, as soon as is practicable, return the person's identity card to the Minister or to an office holder specified by the Minister in a notice given to the person.

(2) A person must not contravene subsection (1) without reasonable excuse.

Maximum penalty—1.4 penalty units.

Part 4.4 Tenure fees and royalty

Division 1 Tenure Fees

424 Definition

In this division—

year, in relation to the period when a tenure is in force, means—

(a) the period of 12 months commencing on (and including) the day on which the provisional grant of the tenure is properly accepted; or

(b) a period of 12 months commencing on (and including) an anniversary of that day; or

(c) a period of less than 12 months that—

(i) commences on (and includes)—

(A) the day on which the provisional grant of the tenure is properly accepted; or

(B) an anniversary of that day; and

(ii) ends on the expiry of the tenure.

425 Tenure fees

(1) A tenure holder must pay a fee to the Minister for each year during which the tenure is in force.

(2) Subject to section 426, the amount of the fee for each type of tenure must be as prescribed under a regulation for that type of tenure.

(3) If the tenure has 2 or more holders, the holders are jointly and severally liable to pay the fee.

426 Limit on amount of fees

(1) The amount of the fee for an exploration permit for a year must not be more than the greater of the following amounts—

(a) $2000;

(b) the amount obtained by multiplying $100 by the number of sub-blocks covered by the tenure at the beginning of the year.

(2) The amount of the fee for a mineral development licence for a year must not be more than the amount obtained by multiplying $1000 by the number of sub-blocks covered by the tenure at the beginning of the year.

(3) The amount of the fee for a mining lease for a year must not be more than the amount obtained by multiplying $1000 by the number of sub-blocks covered by the tenure at the beginning of the year.

(4) The amount of the fee for a works licence for a year must not be more than $100 for each hectare or part of a hectare of the area specified in the tenure under section 278(1)(c).

427 Time for payment

The fee for a year becomes payable 1 month after the day on which the year begins.

Division 2 Royalty

428 Definition

In this division—

royalty period, in relation to a mining lease, means—

(a) the period from (and including) the day on which the tenure takes effect to (and including) the next 30 June or 31 December, whichever is the earlier; and

(b) each period of 6 months after that period.

429 Royalty

A person who is or has been a mining lease holder must pay to the Minister a royalty for all minerals recovered by the holder under the tenure.

430 Rate of royalty

(1) Subject to this section, the Minister may, by instrument in writing, decide the rate of royalty payable for a mineral of a kind specified in the instrument.

(2) Without limiting subsection (1), the rates of royalty decided under that subsection may include a rate that is related to the landed value, or to the quantity, of the mineral.

(3) A rate of royalty decided under subsection (1) applies to any mineral of the relevant kind recovered under a mining lease during the period when the rate is in force.

(4) A decision about a rate of royalty under subsection (1) takes effect on the day on which the decision instrument is published in the *Gazette*.

431 Reduction of royalty in certain cases

(1) The Minister may decide a rate of royalty that is lower than the rate decided under section 430 for—

(a) a particular kind of mineral; or

(b) all minerals recovered under a particular mining lease.

(2) A decision is be made by instrument in writing and specify the period for which the lower rate is to be in force.

(3) A decision may only be made under this section if the Minister is satisfied that recovery of the kind of mineral to which it applies would be uneconomic at the rate decided under section 430.

432 Fixing of landed value

For this division, the landed value of a mineral is—

(a) an amount agreed between the mining lease holder and the Minister; or

(b) if there is no agreement within such period as the Minister allows—an amount decided by the Minister by instrument in writing.

433 Fixing of quantity

For this division, the quantity of any mineral recovered by a mining lease holder during a royalty period is—

(a) the quantity agreed between the holder and the Minister; or

(b) if there is no agreement within such period as the Minister allows—the quantity decided by the Minister by instrument in writing.

434 Time for payment

Royalty for any mineral recovered during a royalty period is payable within one month after the last day of that royalty period.

435 State to pay 40% of royalties to Commonwealth

(1) The State must pay to the Commonwealth 40% of royalties received under this division.

(2) Payments under subsection (1) must be made not later than the end of the month that follows the month in which the royalties were received.

(3) In this section—

royalty includes any penalty for late payment of royalty.

Division 3 Penalties and recovery

436 Penalty if fee or royalty overdue

(1) Subject to this section, a tenure holder must pay a penalty to the Minister for any fee or amount of royalty that the holder fails to pay when it becomes payable.

(2) The penalty is calculated—

(a) on the amount of the fee or royalty that remains unpaid; and

(b) at the rate of 0.33% for each day during which the fee or royalty is unpaid.

(3) A penalty is not payable under subsection (1) on an amount of royalty for any period until 7 days after—

(a) the landed value of the mineral has been agreed or decided under section 432, if the rate of royalty is related to the landed value of the mineral; or

(b) the quantity of the mineral has been agreed or decided under section 433, if the rate of royalty is related to the quantity of the mineral recovered.

437 Fees etc. recoverable as debts

The State may recover the amount of any fee, royalty or penalty payable under this part in the Wardens Court as a debt due to the State.

Chapter 5 Miscellaneous

438 State functions under the Commonwealth Act, pt 5.1

(1) The Wardens Court may exercise any jurisdiction that is conferred on the court by the Commonwealth Act.

(2) A State authority may perform any function that it is necessary for the authority to perform to give effect to the Commonwealth Act, part 5.1.

(3) In this section—

State authority means—

(a) the Governor in Council; or

(b) a Minister; or

(c) a department of the public service; or

(d) an agency, authority or instrumentality established under a written law of the State; or

(e) a person holding or exercising the powers of an office established under a written law of the State; or

(f) an officer or employee of—

(i) an agency, authority or instrumentality referred to in paragraph (d); or

(ii) a person referred to in paragraph (e); or

(g) an officer appointed, or a person employed, under any other written law of the State; or

(h) any other person or entity prescribed under a regulation to be a State authority for this section.

439 Delegation by Minister

(1) The Minister may, by signed instrument, delegate to an appropriately qualified officer or an employee of the department the performance of all or any of the functions of the Minister under this Act.

Note—

See also the *Interpretation Act 1954*, section 27A.

(2) A copy of each instrument making, varying or revoking a delegation under this section must be published in the gazette.

(3) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of 'standing'—

The level at which a person is employed in the department.

440 Service of documents on tenure holders etc.

(1) A document that is to be given to a tenure holder may be given to the holder by posting it to the address that is the holder's registered address for service.

Note—

See section 333 for registration of an address for service.

(2) A document that is to be given to an applicant for a tenure may be given to the applicant by posting it to the address that the applicant specified in the applicant's application for the tenure.

441 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) Without limiting subsection (1), a regulation may provide for—

(a) the control of offshore exploration and mining activities; and

(b) procedures for giving notice to persons whose interests might be affected by the grant of a tenure or special purpose consent; and

(c) the conservation and protection of the mineral resources of coastal waters; and

(d) the remedying of damage caused—

(i) to the seabed or subsoil in coastal waters by offshore exploration and mining activities; or

(ii) by the escape of substances as a result of offshore exploration and mining activities; and

(e) the protection of the environment; and

(f) the keeping of records and samples; and

(g) the giving of records and samples to the Minister for inspection; and

(h) the making of returns; and

(i) the imposition and recovery of fees, including for access to reports under section 376.

Note—

For *offshore exploration or mining activities* see the dictionary.

(3) For subsection (2), the control of offshore exploration and mining activities extends to the control of—

(a) the construction, maintenance and operation of installations used in, or for use in, offshore exploration and mining activities; and

(b) the flow or discharge of fluids arising from offshore exploration and mining activities; and

(c) the safety, health and welfare of persons working in offshore exploration and mining activities; and

(d) the maintenance of structures, equipment and property used in, or for use in, offshore exploration and mining activities.

Note—

For *offshore exploration or mining activities* see the dictionary.

(4) For subsection (2)(b), interests that might be affected by the grant of a tenure include native title rights and interests that might be affected by the grant of the tenure.

(5) Subject to section 124, a regulation may provide for offences against the regulations.

(6) The penalties provided for offences against the regulations must not be more than—

(a) a maximum penalty of 14 penalty units; or

(b) a maximum penalty of 14 penalty units for each day after conviction on which the offence is taken to continue.

(7) Until the Governor in Council makes a regulation about the following matters, the relevant regulations under the *Environmental Protection Act 1994* and the *Mineral Resources Act 1989* apply to the matters—

(a) the control of offshore exploration and mining activities, so far as it relates to—

(i) the flow or discharge of fluids arising from offshore exploration and mining activities; or

(ii) the safety, health and welfare of persons working in offshore exploration and mining activities;

(b) the remedying of damage caused—

(i) to the seabed or subsoil in coastal waters by offshore exploration and mining activities; or

(ii) by the escape of substances as a result of offshore exploration and mining activities;

(c) the protection of the environment;

(d) the making of returns.

(8) In this section—

control includes restrict.

442 Proceedings for offences

(1) A proceeding for an offence against this Act may be taken before a Wardens Court by way of summary proceedings under the *Justices Act 1886*—

(a) within 1 year after the commission of the offence; or

(b) within 6 months after the commission of the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

(2) For a proceeding taken before it by way of summary procedure under the *Justices Act 1886*, a Wardens Court has and may exercise all the powers of a Magistrates Court subject to and in accordance with that Act.

(3) However, a proceeding for an offence against section 404(3) may be taken, at the prosecution's election—

(a) by way of summary proceedings under the *Justices Act 1886*; or

(b) on indictment.

(4) A warden must not hear the offence summarily if—

(a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or

(b) the warden considers that the charge should be prosecuted on indictment.

(5) If subsection (4) applies—

(a) the warden must proceed by way of an examination of witnesses for an indictable offence; and

(b) a plea of the person charged at the start of the proceeding must be disregarded; and

(c) evidence brought in the proceeding before the warden decided to act under subsection (4) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and

(d) before committing the person for trial or sentence, the warden must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).

(6) The maximum penalty that may be summarily imposed for an indictable offence is 134 penalty units.

443 Liability of executive officer—offence committed by corporation against s 38

(1) An executive officer of a corporation commits an offence if—

(a) the corporation commits an offence against section 38; and

(b) the officer did not take all reasonable steps to ensure the corporation did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of section 38 by an individual.

(2) In deciding whether things done or omitted to be done by the executive officer constitute reasonable steps for subsection (1)(b), a court must have regard to—

(a) whether the officer knew, or ought reasonably to have known, of the corporation's conduct constituting the offence against section 38; and

(b) whether the officer was in a position to influence the corporation's conduct in relation to the offence against section 38; and

(c) any other relevant matter.

(3) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) whether or not the corporation has been proceeded against for, or convicted of, the offence against section 38.

(4) This section does not affect—

(a) the liability of the corporation for the offence against section 38; or

(b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against section 38.

443A Executive officer may be taken to have committed offence

(1) If a corporation commits an offence against a deemed executive liability provision, each executive officer of the corporation is taken to have also committed the offence if—

(a) the officer authorised or permitted the corporation's conduct constituting the offence; or

(b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct.

(2) The executive officer may be proceeded against for, and convicted of, the offence against the deemed executive liability provision whether or not the corporation has been proceeded against for, or convicted of, the offence.

(3) This section does not affect either of the following—

(a) the liability of the corporation for the offence against the deemed executive liability provision;

(b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the deemed executive liability provision.

(4) In this section—

deemed executive liability provision means any of the following provisions—

- section 44
- section 123
- section 183
- section 259
- section 308

- section 385(1)
- section 385(2)
- section 391(1)
- section 404(3).

444 Evidentiary provision

(1) This section applies to a proceeding under this Act.

(2) The appointment or power of an inspector or other office holder must be presumed unless a party, by reasonable notice, requires proof of—

(a) the appointment; or

(b) the power to do anything under this Act.

(3) A signature purporting to be the signature of the Minister, an inspector or other office holder is evidence of the signature it purports to be.

(4) A certificate purporting to be signed by a person mentioned in subsection (3), and stating any of the following matters is evidence of the matter—

(a) a stated document is—

(i) a tenure or a copy of a tenure; or

(ii) an order, direction, requirement or decision, or a copy of an order, direction, requirement or decision, given or made under this Act; or

(iii) a notice, or a copy of a notice, given under this Act; or

(iv) a record, or a copy of a record, kept under this Act;

(b) on a stated day, or during a stated period, a stated person was or was not the holder of a tenure or stated tenure;

(c) a stated tenure was or was not in force on a stated day or during a stated period;

(d) on a stated day, a stated tenure expired or was surrendered or cancelled;

(e) on a stated day, a stated person was given a stated notice, order, requirement or direction under this Act;

(f) a stated fee or other amount is payable by a stated person to the State and has not been paid;

(g) anything else prescribed under a regulation.

445 Approval of forms

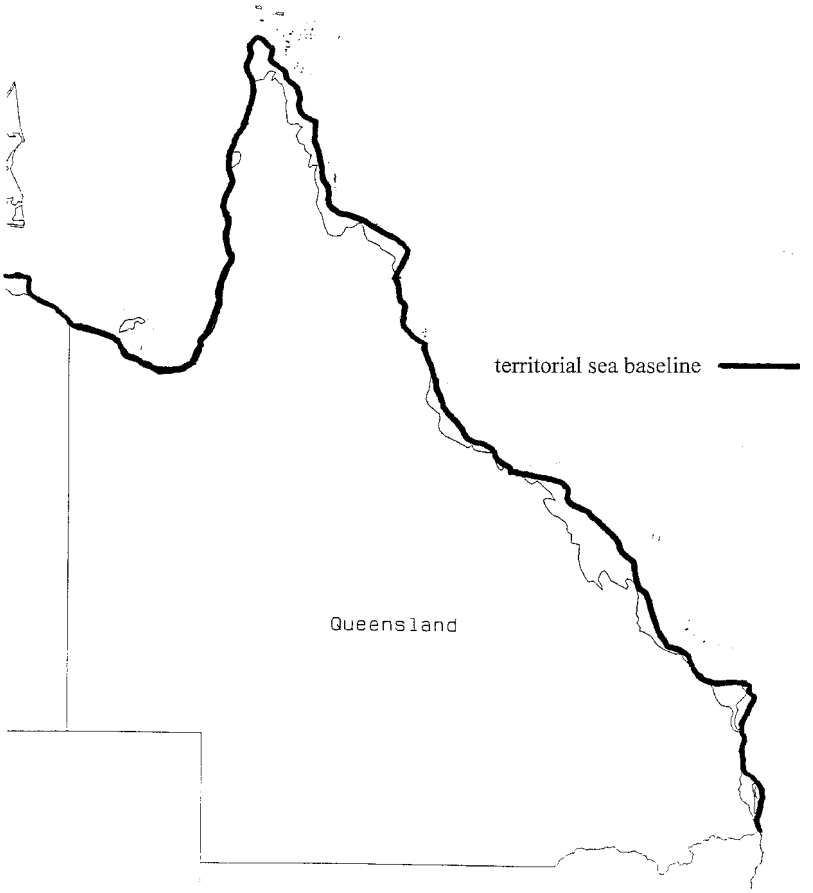
Without limiting section 41(1), the Minister may approve forms for use under this Act.

447 Repeal

The Mineral Resources (Adjacent Submarine Areas) Act 1964 No. 26 is repealed.

Schedule 1 Coastal waters of the State

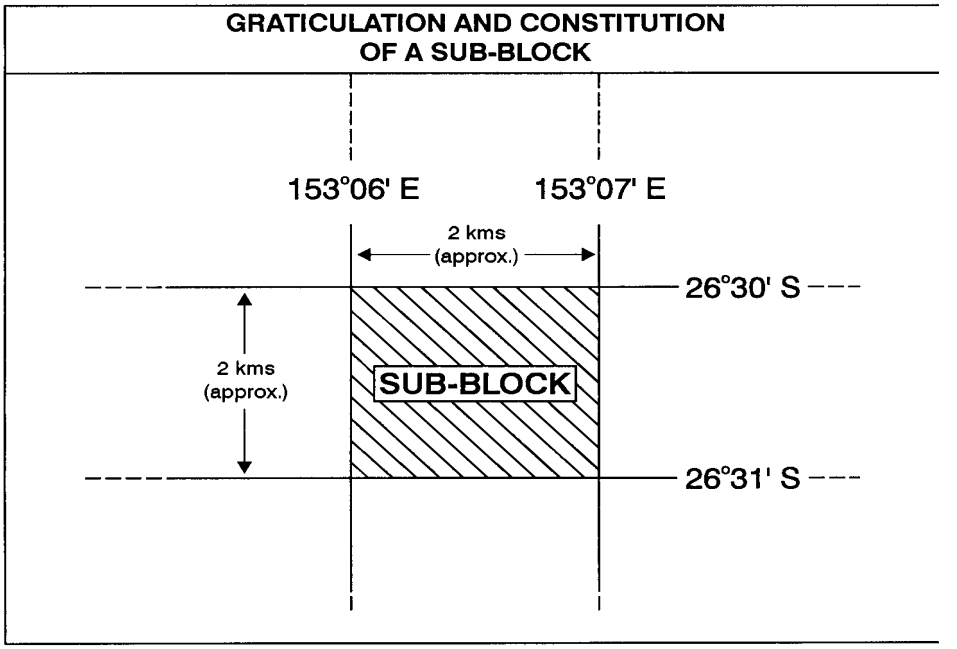
section 16(1)



State coastal waters extend three nautical miles seaward from Australia's territorial sea baseline

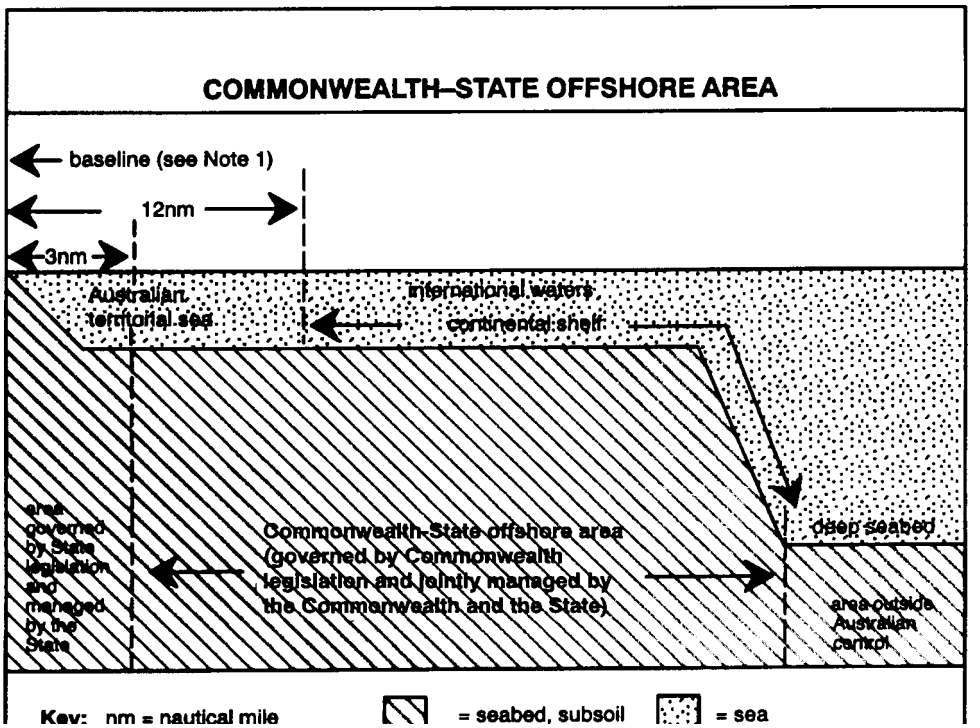
Schedule 2 Sub-blocks

section 17



Schedule 3 Commonwealth–State offshore area

section 29



Note 1—

for the *baseline* see *Australia's territorial sea baseline* (AGPS) 1988: generally the baseline is the lowest astronomical tide along the coast but it also includes lines enclosing bays and indentations that are not bays and straight baselines that depart from the coast.

Note 2—

the *Continental Shelf* in a legal sense starts not from the coast but from the outer limits of the territorial sea. In a geophysical sense, of course, the continental shelf starts at the coast. The diagram shows the outer edge of the continental margin as the limit of the Continental Shelf but

sometimes the 200 nautical mile limit defines the limit of the Continental Shelf.

Note 3—

sometimes the outer limit of the Commonwealth-State offshore area is a bilaterally negotiated boundary or a median line adopted pending bilateral negotiations.

Schedule 5 Dictionary

section 5

approved means approved by the Minister under section 41.

associate see section 26(1).

associated agent of a holder see section 26(3).

associated agent of an associated contractor see section 26(4).

associated contractor of a holder see section 26(2).

associated employee of a holder see section 26(5).

associated employee of an associated contractor see section 26(6).

caveat on a tenure means a caveat against—

(a) the registration of dealings in relation to the tenure; or

(b) the registration of a person as a holder of the tenure under section 340.

coastal waters see section 16(1) and (2).

Commonwealth Act means the *Offshore Minerals Act 1994* (Cwlth).

compliance inspection see section 377.

confidential information see section 27.

confidential sample see section 28.

consent area means the sub-block or sub-blocks specified in a special purpose consent.

coral limestone means a calcareous deposit derived from coral, but does not include shell grit or star sand.

Editor's note—

This definition is the same as the definition in the *Fisheries Act 1994*.

dealing in a tenure means a transaction that creates, transfers, affects or otherwise deals with an interest in the tenure and includes—

(a) a transfer of the tenure; and

(b) a transfer of a share in the tenure,

but does not include a document that comes within section 337(1) other than a document by which a sub-block or a tenure is surrendered.

discrete area see section 21.

document file means a document file kept for part 3.1.

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.

exploration see section 23.

exploration permit means a permit granted under part 2.2

holder of a tenure see section 25(1).

hydrocarbon means a hydrocarbon whether in a gaseous, liquid or solid state.

identity card of an inspector, see section 422.

inspector means an inspector appointed under section 421.

interest, in relation to a tenure, includes—

(a) an equitable interest in the tenure; and

(b) a security interest in the tenure.

mineral see section 22.

mineral development licence means a licence granted under part 2.3.

mining lease means a lease granted under part 2.4.

notice means notice in writing.

offshore exploration or mining activities means—

(a) the exploration for minerals in coastal waters; or

(b) the recovery of minerals from coastal waters; or

(c) activities carried out in coastal waters under a works licence.

offshore mining register means the register kept for part 3.1.

petroleum means—

(a) a hydrocarbon or a mixture of hydrocarbons; or

(b) a mixture of 1 or more hydrocarbons and 1 or more of the following—

(i) hydrogen sulphide;

(ii) nitrogen;

(iii) helium;

(iv) carbon dioxide.

primary payment period, for the provisional grant or provisional renewal of a tenure, means the period of 30 days after the day on which the applicant is given a written notice—

(a) in the case of the grant of an exploration permit—under section 66; and

(b) in the case of the renewal of an exploration permit—under section 110; and

(c) in the case of the grant of a mineral development licence—under section 147; and

(d) in the case of the renewal of a mineral development licence—under section 169; and

(e) in the case of the grant of a mining lease—under section 210; and

(f) in the case of the renewal of a mining lease—under section 246; and

(g) in the case of the grant of a works licence—under section 279; and

(h) in the case of the renewal of a works licence—under section 296.

provisional holder means a person who has been provisionally granted a tenure.

recovery see section 24.

registered means registered in the offshore mining register.

reserved sub-block means a sub-block that is declared to be reserved under section 18.

sample of the seabed or subsoil includes a core or cutting from the seabed or subsoil.

secondary payment period, for the provisional grant or provisional renewal of a tenure, means the period of 30 days after the day on which an extension of the primary payment period for the grant or renewal concerned ends.

share in a tenure, see section 6.

special purpose consent means a consent granted under part 2.6.

standard sub-block see section 19.

sub-block means a portion of the coastal waters constituted according to section 17.

successor tenure, to a tenure, see section 8.

surrender day for an exploration permit means—

(a) the day on which the initial term of the tenure ends; or

(b) a day on which the term of a renewal of the tenure ends.

tender sub-block see section 20.

tenure means—

(a) an exploration permit; or

(b) a mineral development licence; or

(c) a mining lease; or

(d) a works licence.

tenure area means the sub-block or sub-blocks covered by a tenure.

tenure holder see section 25(1).

transfer—

(a) if used in relation to a tenure—see section 7(1); or

(b) if used in relation to a share in a tenure—see section 7(2) and (3).

vary a tenure condition includes revoke or suspend.

works licence means a licence granted under part 2.5.

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 1 November 2013. Future amendments of the *Offshore Minerals Act 1998* 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

Key		Explanation	Key		Explanation
AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No. [X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	(retro)	=	retrospectively
notfd	=	notified	rv	=	revised version
num	=	numbered	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
orig	=	original	SIA	=	Statutory Instruments Act 1992
p	=	page	SIR	=	Statutory Instruments Regulation 2012
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3237 0466 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments to	Effective	Reprint date
1	none	14 April 1998	1 May 1998
1A	1999 Act No. 19	30 April 1999	13 September 1999
1B rv	2001 Act No. 45	15 July 2001	27 July 2001
1C	2001 Act No. 71	1 March 2002	1 March 2002

Reprint No.	Amendments included	Effective	Notes
1D	2010 Act No. 44	30 January 2012	

Current as at	Amendments included	Notes
1 November 2013	2013 Act No. 51	RA s 44

5 List of legislation

Offshore Minerals Act 1998 No. 10
date of assent 12 March 1998
ss 1–2 commenced on date of assent
remaining provisions commenced 14 April 1998 (1998 SL No. 80)

amending legislation—

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch
date of assent 30 April 1999
commenced on date of assent

Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3
date of assent 28 June 2001
ss 1–2 commenced on date of assent
sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)
remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

Duties Act 2001 No. 71 ss 1–2(1), 551 sch 1
date of assent 13 November 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 1 March 2002 (2002 SL No. 10)

Personal Property Securities (Ancillary Provisions) Act 2010 No. 44 ss 1–2, ch 4 pt 28
date of assent 14 October 2010
ss 1–2 commenced on date of assent
remaining provisions commenced 30 January 2012 (2011 SL No. 262)

Directors' Liability Reform Amendment Act 2013 No. 51 ss 1–2(1), pt 4, s 229 sch 1
date of assent 29 October 2013
ss 1–2 commenced on date of assent
remaining provisions commenced 1 November 2013 (see s 2(1))

6 List of annotations

Declaration for Commonwealth Act
s 3A ins 2010 No. 44 s 127

Act applies to all individuals and corporations
s 37 amd 2001 No. 45 s 29 sch 3

General prohibition on exploring and mining without appropriate authorisation
s 38 amd 2013 No. 51 s 229 sch 1

Tenure etc. does not authorise unnecessary interference with other activities in the tenure area
s 44 amd 2013 No. 51 s 229 sch 1

Work practices
s 123 amd 2013 No. 51 s 229 sch 1

Work practices
s 183 amd 2013 No. 51 s 229 sch 1

Work practices
s 259 amd 2013 No. 51 s 229 sch 1

Work practices
s 308 amd 2013 No. 51 s 229 sch 1

Exemption from stamp duty
s 352 om 2001 No. 71 s 551 sch 1

Directions by Minister must be obeyed
s 385 amd 2013 No. 51 s 229 sch 1

Holder to give notice of direction to associates
s 391 amd 2013 No. 51 s 229 sch 1

Effect of declaration of safety zone
s 404 amd 2013 No. 51 s 229 sch 1

Regulation-making power
s 441 amd 1999 No. 19 s 3 sch

Liability of executive officer—offence committed by corporation against s 38
s 443 sub 2013 No. 51 s 117

Executive officer may be taken to have committed offence
s 443A ins 2013 No. 51 s 117

Consequential amendments
s 446 om R1 (see RA s 40)

SCHEDULE 5—DICTIONARY
def ***executive officer*** ins 2013 No. 51 s 118

SCHEDULE 4—CONSEQUENTIAL AMENDMENTS
om R1 (see RA s 40)

7 Forms notified or published in the gazette

Lists of forms are no longer included in reprints. Now see the separate forms document published on the website of the Office of the Queensland Parliamentary Counsel at <www.legislation.qld.gov.au> under Information—Current annotations. This document is updated weekly and the most recent changes are marked with a change bar.

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