



Offshore Minerals Bill 1999

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The object of this Bill is to enact legislation dealing with the exploration for and mining of minerals in the coastal waters of the State, being legislation that is uniform with the *Offshore Minerals Act 1994* of the Commonwealth and with legislation and proposed legislation of other States and Territories.

* Amended in committee—see table at end of volume.

Outline of provisions

Chapter 1 Introduction

Part 1.1 Legislative formalities and background

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day to be appointed by proclamation.

Clause 3 outlines the main principles of the Offshore Constitutional Settlement by which the States share in the administration of the Commonwealth Act and under which a common mining code will be maintained in the offshore area. The clause also details those Acts which either gave rise to, or flow from the Offshore Constitutional Settlement.

Note 2 explains that some sections of the Commonwealth Act contain provisions that are not relevant to the proposed Act. Throughout the proposed Act some clause numbers are not used to maintain uniformity with the Commonwealth Act.

Part 1.2 Interpretation

Division 1 General

Clause 4 provides that notes included in the proposed Act do not form part of the proposed Act.

Clause 5 defines certain words and expressions used in the proposed Act.

Clause 6 identifies the shareholders in a licence and their percentage holding. It ensures that where a licence has a number of holders it does not automatically mean that all have equal shares, but rather only those percentages that are specified in the register.

Clause 7 makes it clear that a transfer of a licence or share in a licence has occurred when all or any of the percentages of the interest in a licence changes.

Clause 8 provides that if a holder of an exploration licence applies for and is granted a retention licence or a mining licence over the same area the retention or mining licence is a successor licence to the exploration licence. It

also allows for a mining licence to succeed a retention licence which previously succeeded an exploration licence. The intention is that over the life of an offshore minerals project, the previous rights of the project owner are in certain circumstances continued in the successor licences.

Clause 9 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 10 explains how the position of a point, line or area on the Earth's surface is calculated for the purposes of the proposed Act.

Clause 11 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 12 ensures that where an instrument issued under the proposed Act is varied in any way, the variation is carried out according to the same procedures and under the same conditions by which the original instrument was issued.

Division 2 Basic concepts

Clause 13 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 14 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 15 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 16 defines the coastal waters of the State as the first 3 nautical miles of the territorial sea. This is the area to which the proposed Act applies. The baseline is described as effectively being the lowest astronomical tide along the coast, but varies where bays and other indentations occur. The clause explains the effect on a licence issued under the proposed Act where there is a change in the baseline. If the baseline moves landward and causes a licence to no longer be within coastal waters, the proposed Act will still apply to the licence as if it were still within coastal waters. If the baseline moves seaward and causes a licence issued under the Commonwealth Act to move within coastal waters (covered by the proposed Act), that licence is not affected by the proposed Act. Once a licence (or any successor licence by the same holder) affected by a change in the baseline is no longer in force, the new position of the baseline applies to subsequent licence applications. Subclause (7) makes reference to a new section 172A to be inserted by the proposed Act in the *Mining Act 1992* that has the same effect, that is, if a shift in the

baseline towards the land causes a licence covered by the jurisdiction of the *Mining Act 1992* to then encroach upon coastal waters, the licence remains within the jurisdiction of that Act.

Clause 17 provides that for the purposes of the proposed Act the offshore area is divided into blocks bounded by one minute of latitude and one minute of longitude.

Clause 18 allows the Minister to reserve a block, provided the block is not the subject of an existing licence or an application for a licence. A savings provision in Schedule 2 preserves reservations in place under the *Mining Act 1992* over coastal waters.

Clause 19 defines a standard block as one that is not reserved and is available to be the subject of either an exploration licence or mining licence.

Clause 20 defines a tender block as a reserved block that is made available for an exploration licence or a mining licence by way of a public invitation to apply for the licence.

Clause 21 defines a discrete area as a group of blocks where all the blocks join each other at least on one side.

Clause 22 defines mineral for the purposes of the proposed Act to include all naturally occurring substances or any mixture of them. However, clause 35 provides that petroleum is not covered by the proposed Act.

Clause 23 defines exploration to include any operation directly related to exploration. However, activities carried out by means of underground mining from land in the State will be covered by the *Mining Act 1992* and not by the provisions of the proposed Act.

Clause 24 defines recovery. It excludes mining by undersea tunnels originating from dry land above the low water mark from the provisions of the proposed Act.

Clause 25 defines a licence holder as one whose name appears in the register.

Clause 26 defines associates in order to make a distinction between them and the licence holder. Associates may do all the work necessary for the exploration and mining of minerals under agreements with licence holders or other associates. Associates may be contractors, sub-contractors, agents or employees.

Clause 27 ensures that any information provided to the Minister by the licence holder remains confidential so long as it relates to only those blocks covered by the licence and for so long as that licence or a successor licence remains in force.

Clause 28 ensures that any material recovered as a sample which is provided by the licence holder to the Minister remains confidential so long as it relates to only those blocks covered by the licence and for so long as that licence or a successor licence remains in force.

Part 1.3 Administration of the Commonwealth–State offshore area

Clause 29 defines certain terms for the purposes of the proposed Part. *Commonwealth–State offshore area* has the same meaning as in the Commonwealth Act. The Commonwealth–State offshore area is the offshore area seaward of the 3 nautical mile limit.

Clause 30 provides for the Minister to perform duties as a member of the Joint Authority, or as the Designated Authority in Commonwealth waters under the Commonwealth Act.

Clause 31 provides for an officer or temporary employee (within the meaning of the *Public Sector Management Act 1988*) with delegated authority under the Commonwealth Act to perform those duties under that Act.

Clause 32 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 33 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 34 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Part 1.4 Application of this Act

Clause 35 provides that petroleum is not covered by the proposed Act.

Clause 36 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 37 makes the proposed Act applicable to all natural persons whether or not they are Australian citizens or New South Wales residents, and to all corporations whether or not they are incorporated or carrying out business in New South Wales.

Chapter 2 Regulation of offshore exploration and mining

Part 2.1 General

Clause 38 provides that all offshore mineral activity is prohibited unless authorised according to the provisions of the proposed Act.

Clause 38A provides that offshore exploration or mining activities may not be carried out in aquatic reserves or areas subject to fishing closures under the *Fisheries Management Act 1994* without the consent of the Minister administering the proposed Act.

Clause 39 outlines the five licences and consents which may be granted, their respective purposes and the sequence in which they may be used. The five licences and consents are exploration licences, retention licences, mining licences, works licences and special purpose consents.

Clause 40 outlines the steps that must be taken before a licence becomes fully effective.

Clause 41 allows the Minister to determine the form and manner in which an application for a licence is to be made.

Clause 42 provides that minerals recovered under a licence other than a works licence or a special purpose consent are the property of the licence or consent holder.

Clause 43 deals with the effect of the grant of a licence or special purpose consent on native title.

Clause 44 provides that a licence holder must not interfere with the rights of other persons who may be lawfully in the area including any native title rights and interests.

Part 2.2 Exploration licences

Division 1 General

Clause 45 provides that an exploration licence may be granted for blocks that are open for exploration or blocks that have been previously reserved and which have been released for tender.

Clause 55 provides that an application for an exploration licence is not invalid if it includes a block that is not available. The clause allows the application to be considered in relation to those remaining blocks that are available.

Clause 56 provides that a licence application fee must be paid. The fee is determined by the Minister with the concurrence of the Treasurer and is generally not refundable except in special circumstances where it may be refunded in whole or in part.

Clause 57 requires applicants to advertise the details of their application for an exploration licence and invite comments on the application which should be sent to the Minister within 30 days.

Clause 58 ensures that as a general rule, all exploration licence applications will be considered on a “first come, first considered” basis. The exception to this rule will be where applications for substantially the same area have been received close together in time. On such occasions, ballots will be used to determine the priority as to which application will be considered first. The conduct of such ballots and the rules for determining what constitutes close together in time will be specified in the regulations.

Clause 59 allows the Minister to discuss the shape of the total area comprising a number of blocks sought by an applicant for an exploration licence. Following the discussion, the Minister, with the agreement of the applicant, may change the shape of the area in the application.

Clause 60 requires applicants to advertise the details of their revised application.

Clause 61 empowers the Minister to request further information about the licence application. The information in the application may be deficient in some aspects or may require further elaboration.

Clause 62 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 63 enables the Minister to grant a provisional exploration licence which becomes final upon the applicant paying the prescribed rental fee and accepting certain other conditions.

Clause 64 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 65 requires that the licence must specify the area, the term and the conditions of the licence.

Clause 75 requires the Minister to publicly specify the criteria the applicants will need to meet and the procedures the Minister will use in selecting the successful applicant. It also limits the size of an exploration licence to 500 blocks.

Clause 76 provides that a person may apply for an exploration licence according to the public notice of invitation.

Clause 77 outlines the manner in which an application for an exploration licence is to be made, as well as the details to be included in the application.

Clause 78 requires an application fee to be paid. The fee is to be determined by the Minister with the concurrence of the Treasurer and is generally not refundable except in special circumstances where it may be refunded in whole or in part.

Clause 79 allows the Minister to request further information in relation to the application which may be thought necessary to assist in the consideration of the application.

Clause 80 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 81 enables the Minister to grant a provisional exploration licence subject to the procedures advertised in the public tender notice being observed.

Clause 82 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 83 requires the successful applicant to be advised in writing of the terms and conditions of the provisional grant of the exploration licence which will expire if they are not met.

Clause 84 sets out the final formal step in the grant of an exploration licence. The grant becomes final (subject to registration) on the applicant paying the required fee, lodging appropriate security and confirming in writing acceptance of the grant.

Clause 85 ensures that the conditions specified in the licence become legally binding on the licence holder.

Clause 86 provides that a provisional grant of an exploration licence lapses if it is not properly accepted.

Clause 87 allows the Minister, if there is more than one application as a result of the tender process, to provisionally grant an exploration licence to the next best applicant should the first chosen licence holder allow the provisional licence to lapse.

Division 4 Duration of exploration licence

Clause 88 provides that the term of an exploration licence is four years. The date of the provisional grant is when the licence commences and it is that date that determines the expiry date. However, the licence does not come into effect until it is registered.

Clause 89 provides that the term of a renewal is two years, and the maximum number of renewals is three. This clause, taken together with clause 88, ensures that the maximum period of an exploration licence is ten years.

Clause 90 empowers the Minister to extend the term of an exploration licence by the same period as licence rights have been suspended.

Clause 91 allows an exploration licence to continue in force until the Minister either grants or refuses a renewal.

Clause 92 allows an exploration licence to continue until the Minister grants or refuses a retention licence or a mining licence applied for by way of conversion.

Clause 93 allows an existing exploration licence to remain in force beyond its due expiry date so that any application for an extension can be considered by the Minister.

Clause 94 covers the situation where an exploration licence holder has not been able to complete the holder's exploration program during the maximum time allowed because of circumstances beyond the holder's control. In this situation, the licence holder can ask for extra time to compensate for the time lost and thus complete the original exploration program.

Clause 95 requires the Minister to extend the licence term if the Minister is satisfied that unforeseen circumstances did affect the exploration program. The Minister may attach conditions to the extension and there are restrictions on the term of the extension.

Clause 96 allows a licence holder to request a licence extension in circumstances other than those outlined in clause 94, that is, for circumstances other than those beyond the holder's control such as suspension of licence conditions or exemptions from licence conditions.

Clause 97 empowers the Minister to grant a licence extension and to impose whatever conditions the Minister thinks appropriate.

Clause 98 provides that the applicant is to be advised in writing of the grant or refusal of an extension, and of any conditions that may be attached to it.

Division 5 Voluntary surrender of part of exploration licence area

Clause 99 allows a licence holder to voluntarily surrender some of the area covered by a licence if the remaining portion forms a discrete area.

Clause 100 requires the consent of the Minister before a licence holder can surrender blocks leaving two or three discrete areas. This allows the Minister the opportunity to examine the proposed surrender so as to avoid undue fragmentation of the remaining title area and prevent the licence holder from encircling or closing off small pockets so as to make it difficult or uneconomic for another applicant to explore such areas. If the Minister does not agree, then consultations can proceed to decide on the final shape of the areas to be surrendered. In the event of agreement, the applicant is to be advised in writing.

Division 6 Application for and grant of renewal of exploration licence

Clause 101 allows for an exploration licence holder to lodge an application to renew the licence.

Clause 102 specifies that an application to renew an exploration licence must be made at least 30 days before the licence expires. It also allows the Minister discretion to accept a later application if the circumstances warrant it.

Clause 103 outlines the manner in which an application for an exploration licence is to be made, as well as the details to be included in the application.

Clause 104 provides that the licence area must be reduced by 50% for each renewal. If a renewal is sought for more than one discrete area, then the application must not exceed 3 discrete areas. The clause also gives the Minister the discretion to reduce the mandatory reduction in the licence area to less than 50% if the Minister thinks that circumstances warrant it.

Clause 105 empowers the Minister to request further information about the licence renewal application which may be thought necessary to assist in the consideration of the renewal application.

Clause 106 requires an application fee to be paid. The fee is to be determined by the Minister with the concurrence of the Treasurer and is generally not refundable except in special circumstances where it may be refunded in whole or in part.

Clause 107 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 108 sets out the circumstances under which the Minister must provisionally renew an exploration licence.

Clause 109 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 110 sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant.

Clause 111 allows the provisional licence holder to request an amendment of the conditions within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 112 allows the provisional licence holder to request an amendment of any security requirements within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirements and confirm this to the licence holder in writing.

Clause 113 provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended if thought necessary.

Clause 114 sets out the final formal step in the grant of a renewal of an exploration licence. The renewal becomes final (subject to registration) on the applicant paying the required fees, lodging appropriate security and confirming in writing the acceptance of the grant.

Clause 115 ensures that the conditions of the licence become legally binding on the licence holder.

Clause 116 provides that a provisional grant of a renewal of an exploration licence lapses if it is not properly accepted.

Division 7 Obligations associated with exploration licence

Clause 117 outlines the sources of the obligations associated with an exploration licence. In addition, the clause provides that where there is more than one shareholder in an exploration licence, each shareholder will be held responsible for all obligations of the licence in the event of failure by any one of them to meet their obligations.

Clause 118 enables an exploration licence to be granted subject to such conditions as the Minister thinks fit.

Clause 119 prevents the payment of money being required by way of condition, apart from a penalty or lodgment of security.

Clause 120 enables the Minister to vary any of the conditions of the licence in any of the circumstances specified.

Clause 121 enables the Minister to suspend any of the conditions of the licence or exempt the licence holder from any of the conditions in any of the circumstances specified.

Clause 122 frees a licence holder from complying with the licence conditions for the duration of any suspension of the licence.

Clause 123 requires exploration operations to be carried out at a standard accepted in the industry. The clause also imposes on the operator the responsibility of securing the safety, health, and welfare of individuals engaged in the licence area. It also requires the operator to maintain in good condition and repair all structures, equipment and other property in the licence area which are used in connection with the operations. All structures, plant and equipment that are not, or are no longer, going to be used are to be removed from the operations area.

Clause 124 empowers the Minister to require the licence holder to maintain, and provide when required, any records or samples resulting from exploration activities.

Clause 125 requires the licence holder to allow inspectors access to the holder's operations and records.

Division 8 Expiry of exploration licence

Clause 126 outlines the circumstances when a licence expires.

Clause 127 allows the licence holder to surrender the licence.

Clause 128 provides that an existing exploration licence covering the same area as a newly granted retention licence automatically expires to the extent of the overlapping blocks. This is to ensure that no area is covered by more than one licence.

Clause 129 provides that an existing exploration licence covering the same area as a newly granted mining licence automatically expires to the extent of the overlapping blocks. This is to ensure that no area is covered by more than one licence.

Clause 130 outlines the circumstances under which a licence may be cancelled. It gives the licence holder the opportunity to make submissions within a specified time or to take remedial action. It outlines the conditions the Minister must meet before proceeding with the cancellation.

Clause 131 provides that any outstanding obligations must be discharged by the licence holder after the expiry of the licence no matter what the circumstances were which gave rise to the termination.

Part 2.3 Retention licences

Division 1 General

Clause 132 provides for the grant of a retention licence and the accompanying note outlines the reasons for the licence.

Clause 133 outlines what a licence holder can or cannot do under a retention licence. It also prohibits using the licence for recovery of minerals for commercial purposes. This is to ensure that the licence holder applies for a mining licence should the licence holder wish to commence commercial operations.

Clause 134 provides that no compensation is payable because of the cancellation or non-renewal of a retention licence by the Minister.

Clause 135 provides that any rights conferred by a retention licence may be suspended if the Minister is satisfied it is in the public interest to do so. It also sets out the procedures the Minister must follow if the Minister decides to suspend the licence. It may be later restored and the licence holder must be informed in writing of both events as they occur.

Clause 136 provides that compensation must be paid by the State to a licence holder if property is acquired as a result of the suspension of retention licence rights.

Division 2 Application for and grant of retention licence

Clause 137 provides that a holder of an existing exploration licence may apply for a retention licence covering a group of blocks and each must form a discrete area up to a maximum of 20 blocks.

Clause 138 outlines the manner in which an application for a retention licence is to be made, as well as the details to be included in the application.

Clause 139 requires an application fee to be paid. The fee is to be determined by the Minister with the concurrence of the Treasurer and is generally not refundable except in special circumstances where it may be refunded in whole or in part.

Clause 140 provides that the applicant must advertise the details of the application for a retention licence and invite comments which should be lodged with the Minister within 30 days.

Clause 141 empowers the Minister to request further information about the licence application.

Clause 142 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 143 gives the Minister a discretion to grant or refuse a retention licence.

Clause 144 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 145 outlines the various grounds on which a retention licence may be granted.

Clause 146 details what the licence must include and limits the term of the licence to 5 years. The licence may specify what activities are authorised by the licence.

Clause 147 requires the successful applicant to be given the licence which contains the terms and conditions of the provisional grant and a notice of any security deposit and any fees due. The provisional licence will lapse if the applicant does not confirm that the applicant wishes the provisional grant to be made final and if the applicant does not pay the security and all fees associated with the licence.

Clause 148 allows the provisional licence holder to request an amendment to a condition of the provisional licence within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 149 allows the provisional licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 150 enables the Minister to extend the primary payment period on the request of a provisional licence holder.

Clause 151 sets out the final formal step in the grant of a retention licence. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing the acceptance of the grant.

Clause 152 ensures that the licence conditions become legally binding on the licence holder.

Clause 153 provides that a provisional grant of a retention licence lapses if it is not properly accepted.

Division 3 Duration of retention licence

Clause 154 outlines the date of commencement and the initial term of a retention licence.

Clause 155 specifies the date when the renewal of a retention licence comes into force and makes reference to clause 169 which provides that a renewal may not exceed 5 years.

Clause 156 provides that where an application for renewal has been made, the initial retention licence continues in force even though it has expired. This will allow licence-related activities to continue until an application for a renewal is approved or refused by the Minister or not accepted by the applicant.

Clause 157 allows a retention licence to continue until the Minister grants or refuses a mining licence.

Division 4 Voluntary surrender of part of retention licence area

Clause 158 allows a licence holder to voluntarily surrender some of the area covered by a licence if the remaining portion forms a discrete area.

Division 5 Application for and grant of renewal of retention licence

Clause 159 allows for an application to be made to renew a retention licence.

Clause 160 specifies that an application to renew a retention licence must be made at least six months before the licence expires. It also allows the Minister discretion to accept a later application if the circumstances warrant it.

Clause 161 outlines the manner in which an application for a retention licence is to be made, as well as the details to be included in the application.

Clause 162 empowers the Minister to request further information about the licence renewal application.

Clause 163 requires an application fee to be paid. The fee is to be determined by the Minister with the concurrence of the Treasurer and is generally not refundable except in special circumstances where it may be refunded in whole or in part.

Clause 164 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 165 provides that the Minister can provisionally renew or refuse a retention licence.

Clause 166 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 167 empowers the Minister to take into account the applicant's past record in complying with the various legal, operational and administrative requirements under the proposed Act.

Clause 168 specifies the procedures the Minister must follow if the Minister proposes to refuse an application for a renewal of a retention licence. The clause ensures that the applicant is given the opportunity to restate the applicant's case for a licence renewal.

Clause 169 sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant and specifies that the term of a renewal is not to be more than 5 years.

Clause 170 allows the provisional licence holder to request an amendment of the licence conditions within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 171 allows the provisional licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 172 provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

Clause 173 sets out the final formal step in the grant of a renewal of a retention licence. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing acceptance of the grant.

Clause 174 ensures that the conditions of the licence are legally binding on the licence holder.

Clause 175 provides that a provisional grant of a renewal of a retention licence lapses if payment is not made within 30 days or, if an extension is granted, within the extended period.

Division 6 Obligations associated with retention licence

Clause 176 outlines the sources of the obligations associated with a retention licence. In addition, the clause provides that where there is more than one shareholder in a retention licence, each shareholder will be held responsible for all obligations of the licence in the event of failure by any one of them to meet its obligations.

Clause 177 enables a retention licence to be granted subject to such conditions as the Minister thinks fit.

Clause 178 prevents the payment of money being required by way of a condition, apart from a penalty or lodgment of securities.

Clause 179 enables the Minister to vary any of the conditions of the licence in any of the circumstances specified.

Clause 180 enables the Minister to suspend any of the conditions of the licence or exempt the licence holder from any of the conditions in any of the circumstances specified.

Clause 181 frees a licence holder from complying with the licence conditions for the duration of any suspension of the licence.

Clause 182 imposes an obligation on the licence holder to notify changes in circumstances which significantly affect the long term viability of activities in the licence area.

Clause 183 provides that operations are to be carried out at an acceptable industry standard. The clause also imposes on the operator the responsibility of securing the safety, health, and welfare of individuals engaged in the licence area. It also requires the operator to maintain in good condition and repair all structures, equipment and other property in the licence area which are used in connection with the operations. All structures, plant and equipment that are not, or are no longer going to be, used are to be removed from the operations area.

Clause 184 empowers the Minister to require the licence holder to maintain, and provide when required, any records or samples resulting from exploration or development activities.

Clause 185 provides that the licence holder must allow inspectors access to the holder's operations and records.

Division 7 Expiry of retention licence

Clause 186 outlines the circumstances when a licence expires.

Clause 187 allows the licence holder to surrender the licence.

Clause 188 provides that a retention licence automatically expires when a mining licence over the area is granted and registered. This is to ensure that no area is covered by more than one licence.

Clause 189 outlines the circumstances under which a licence may be cancelled and the conditions the Minister must meet before proceeding with the cancellation.

Clause 190 allows the Minister to request the licence holder to show cause as to why the licence holder should not be granted a mining licence if the Minister thinks that mining is viable.

Clause 191 provides that any outstanding obligations must be discharged by the licence holder after the termination of the licence no matter what the circumstances were which gave rise to the termination.

Part 2.4 Mining licences

Division 1 General

Clause 192 outlines the kind of blocks in coastal waters that may be covered by a mining licence.

Clause 193 outlines what a licence holder can or cannot do under a mining licence. The licence authorises its holder (subject to compliance conditions and all other legal requirements) to exploit the licence area for all minerals except those specifically excluded, or for minerals specified in the licence.

Clause 194 provides that no compensation is payable because of the cancellation or non-renewal of a mining licence by the Minister.

Clause 195 provides that rights conferred by a mining licence must be suspended in the public interest if it is thought necessary by the Minister. The rights may be restored later and the licence holder must be informed of both events in writing.

Clause 196 provides that compensation must be paid by the State to a person if property is acquired from the person as a result of suspension of mining licence rights.

Division 2 Application for and grant of mining licence over standard blocks

Clause 197 provides that a person may apply for a mining licence to cover any area that is vacant and not covered by an existing licence. The maximum size of an area covered by a licence is 20 blocks which must form a discrete area. A person does not have to be a holder of a previous exploration licence or a retention licence to make an application under this clause.

Clause 198 provides that only the holder of either an exploration licence or a retention licence may apply for mining licences to cover areas which are the subject of the existing titles. Each licence is to cover a maximum area of 20 blocks which must form a discrete area.

Clause 199 outlines the manner in which an application for a mining licence is to be made, as well as the details to be included in the application. There is also a requirement that each application must be accompanied by maps which show the general location of the area sought.

Clause 200 provides that an application for a mining licence is not invalid if it inadvertently includes a block which is not available.

Clause 201 requires an application fee to be paid. The fee is to be determined by the Minister with the concurrence of the Treasurer and is generally not refundable except in special circumstances where it may be refunded in whole or in part.

Clause 202 requires an applicant to advertise the fact that the applicant has lodged an application for a mining licence and comments are invited.

Clause 203 ensures that as a general rule all mining licence applications will be considered on a “first come, first considered” basis. The exception to this rule will be where applications for substantially the same area have been received close together in time. On such occasions, ballots will be used to determine the priority as to which application will be considered first. The conduct of such ballots and the rules for determining what constitutes close together in time will be specified in the regulations.

Clause 204 empowers the Minister to request any further information about the licence application.

Clause 205 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 206 empowers the Minister to grant a provisional mining licence which becomes final upon the applicant paying the relevant fee and accepting certain other conditions.

Clause 207 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 208 specifies the procedures the Minister must follow if the Minister proposes to refuse an application for a mining licence. The clause ensures that the applicant is given the opportunity to restate the applicant's case for a licence.

Clause 209 specifies the items that are to be included in the licence. It also limits the term of the licence to 21 years.

Clause 210 requires the successful applicant to be notified of the terms and conditions of the provisionally granted mining licence and of any security deposit. The provisional licence will lapse if the applicant does not accept the grant and if the applicant does not pay the security and all fees associated with the licence.

Clause 211 allows the provisional licence holder to request an amendment to a condition of the provisional licence within 30 days.

Clause 212 allows the provisional licence holder to request an amendment of the security requirement within 30 days.

Clause 213 provides for the payment of fees to be deferred to allow time for any conditions or the level of security to be amended, if thought necessary.

Clause 214 sets out the final formal step in the grant of a mining licence. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodging the appropriate security and confirming in writing acceptance of the grant. If the acceptance of the grant is made after any amendments to the conditions or security requirements during the payment extension period, the date of the confirmed grant remains the date of the original conditional grant.

Clause 215 ensures that the conditions of the licence become legally binding on the licence holder.

Clause 216 provides that a provisional grant of a mining licence lapses if it is not properly accepted.

Division 3 Application for and grant of mining licence over tender block

Clause 217 requires the Minister to determine the amount of security that will be required to be lodged, the conditions of the licence and the procedures that the Minister will adopt in allocating the licence.

Clause 218 enables the Minister to invite applications to be lodged within a specified time frame for a reserved area.

Clause 219 requires the Minister to publicly specify the criteria applicants will need to meet and the procedures the Minister will use in selecting the successful applicant. It also sets the maximum size of the licence area to 20 blocks.

Clause 220 provides that a person may apply for a mining licence according to the public notice of invitation.

Clause 221 outlines the manner in which an application for a mining licence is to be made, as well as the details to be included in the application.

Clause 222 requires an application fee to be paid. The fee is to be determined by the Minister with the concurrence of the Treasurer and is generally not refundable except in special circumstances where it may be refunded in whole or in part.

Clause 223 allows the Minister to request further information in relation to the application.

Clause 224 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 225 provides that the Minister may grant a provisional mining licence in accordance with the procedures advertised in the public tender.

Clause 226 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 227 requires the successful applicant to be advised in writing of the terms and conditions of the provisional grant of the mining licence.

Clause 228 sets out the final formal step in the grant of a mining licence. The grant becomes final (subject to registration) upon the applicant paying the required fees and amounts for the licence, lodging the appropriate security and confirming in writing acceptance of the grant.

Clause 229 provides that if the provisional grant of the licence is accepted, the licence is subject to the conditions determined under clause 217.

Clause 230 provides that a provisional grant of a mining licence lapses if it is not properly accepted.

Clause 231 allows the Minister, if there is more than one application as a result of the tender process, to provisionally grant an exploration licence to the next best applicant should the first provisional licence holder allow the provisional licence to lapse.

Division 4 Duration of mining licence

Clause 232 outlines the date of commencement of a licence as well as the expiry date.

Clause 233 outlines the date of commencement of a renewal of a mining licence as well as the expiry date.

Clause 234 allows the mining licence to continue in force until the Minister grants or refuses a renewal of the mining licence.

Division 5 Voluntary surrender of part of mining licence area

Clause 235 allows a licence holder to voluntarily surrender some of the area covered by a licence if the remaining portion forms a discrete area.

Division 6 Application for and grant of renewal of mining licence

Clause 236 allows for an existing licence holder to apply for a renewal of the existing mining licence.

Clause 237 specifies that an application to renew a mining licence must be made at least six months before the licence expires. It also allows the Minister the discretion to accept a later application if the circumstances warrant it and are acceptable to the Minister.

Clause 238 outlines the manner in which an application to renew a mining licence is to be made, as well as the details to be included in the application.

Clause 239 empowers the Minister to request further information about the licence renewal application which may be thought necessary to assist in the consideration of the renewal application.

Clause 240 requires the payment of an application fee. The fee is to be determined by the Minister with the concurrence of the Treasurer and is generally not refundable except in special circumstances where it may be refunded in whole or in part.

Clause 241 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 242 provides that the Minister can provisionally renew a mining licence or refuse to renew it.

Clause 243 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 244 empowers the Minister to take into account the applicant's past record in complying with the various legal, operational and administrative requirements of the proposed Act.

Clause 245 specifies the procedures which the Minister must follow if the Minister proposes to refuse an application for a renewal of a mining licence. The clause ensures that an applicant is given the opportunity to restate the applicant's case for a licence renewal.

Clause 246 sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant.

Clause 247 allows the provisional licence holder to request an amendment of the licence conditions within 30 days of receiving a written notice of a renewal. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 248 allows the provisional licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a renewal. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 249 provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

Clause 250 sets out the final formal step in the grant of a renewal of a mining licence. The renewal becomes final (subject to registration) on the applicant paying the required fees, lodging the appropriate security and confirming in writing acceptance of the grant.

Clause 251 provides that if the provisional renewal is accepted, the renewed licence is subject to the conditions referred to in section 246 and any amendment of those conditions.

Clause 252 provides that a provisional grant of a renewal of a mining licence lapses if payment is not made within 30 days, or if an extension is granted, within the extended period.

Division 7 Obligations associated with mining licence

Clause 253 outlines the sources of the obligations associated with a mining licence. In addition, the clause also provides that where there is more than one shareholder in a mining licence, each shareholder will be held responsible for all obligations of the licence in the event of failure by any one of them to meet licence holder obligations.

Clause 254 enables a mining licence to be granted subject to such conditions as the Minister thinks fit.

Clause 255 prevents the payment of money being required by way of a condition, apart from a penalty or lodgment of security.

Clause 256 enables the Minister to vary any of the conditions of the licence in the circumstances specified.

Clause 257 enables the Minister to suspend any of the conditions of the licence or exempt the licence holder from any of the conditions in the circumstances specified.

Clause 258 provides that if a licence is suspended, the licence holder is relieved from complying with the licence conditions for the duration of the suspension.

Clause 259 requires operations to be carried out at an acceptable industry standard. The clause also imposes on the operator the responsibility of securing the safety, health and welfare of individuals engaged in the licence area. It also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the licence area which are used in connection with the operations. All structures, plant and equipment that are not, or are no longer going to be, used are to be removed from the operations area.

Clause 260 requires the payment of royalty by a licence holder.

Clause 261 empowers the Minister to require the licence holder to maintain, and provide when required, any records or samples resulting from mining activities.

Clause 262 provides that a licence holder must allow inspectors access to the holder's operations and records.

Division 8 Expiry of mining licence

Clause 263 outlines the circumstances when a licence expires.

Clause 264 allows the licence holder to surrender the licence.

Clause 265 outlines the circumstances under which a licence may be cancelled. It outlines the conditions the Minister must meet before proceeding with the cancellation.

Clause 266 requires any outstanding obligations to be discharged by the licence holder after the termination of the licence no matter what the circumstances were which gave rise to the termination.

Part 2.5 Works licences

Division 1 General

Clause 267 provides that a works licence may be granted to carry out operations related to activities under an exploration licence, retention licence or mining licence on blocks which are outside the licence area.

Clause 268 outlines what a works licence holder can do.

Clause 269 provides that no compensation is payable because of the cancellation or non-renewal of a works licence by the Minister.

Division 2 Application for a grant of works licence

Clause 270 provides that a person may apply for a works licence to cover any block.

Clause 271 outlines the manner in which an application for a works licence is to be made, as well as the details to be included in the application.

Clause 272 requires the payment of an application fee. The fee is to be determined by the Minister with the concurrence of the Treasurer and is generally not refundable except in special circumstances where it may be refunded in whole or in part.

Clause 273 provides that the applicant must notify in writing any other holders of licences which may be affected by the application. The notification must invite any comments to the Minister within 30 days of the notice being given.

Clause 274 requires an applicant to advertise within 14 days of making the application, the details of the application, and provides that any objections to the application should be lodged with the Minister within 30 days.

Clause 275 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 276 empowers the Minister to grant a provisional works licence which becomes final upon the applicant paying the relevant fee.

Clause 277 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 278 ensures that the licence contains all the required information necessary to ensure that the licence holder is aware of the terms, conditions and obligations pertaining to the licence. The maximum term of the licence is 5 years.

Clause 279 requires the successful applicant to be given the works licence which contains the terms and conditions of the provisional grant and a notice of any security deposit. The provisional works licence will lapse if the applicant does not confirm that the applicant accepts the provisional grant and if the applicant does not pay the security and all fees associated with the licence.

Clause 280 allows the provisional works licence holder to request an amendment to a condition of the provisional licence within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 281 allows the provisional works licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 282 provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

Clause 283 sets out the final formal step (subject to registration) in the grant of a works licence. The grant becomes final on the applicant paying the required fees, lodging the appropriate security and confirming in writing acceptance of the grant.

Clause 284 provides that if a provisional grant of a licence is accepted, the licence is subject to the conditions referred to in clause 279 and any amendment of those conditions.

Clause 285 provides that a provisional grant of a works licence lapses if payment is not made within 30 days or, if an extension is granted, within that extended period.

Division 3 Duration of works licence

Clause 286 outlines the date of commencement of a works licence as well as the expiry date.

Clause 287 outlines the date of commencement of a renewal of a works licence as well as the expiry date.

Clause 288 allows a works licence to continue until the Minister grants or refuses a works licence renewal.

Division 4 Application for and grant of renewal of works licence

Clause 289 allows for an application to be made to renew a works licence.

Clause 290 specifies that an application to renew a works licence must be made at least one month before the works licence expires. It also allows the Minister discretion to accept a later application if the circumstances warrant it and are acceptable to the Minister.

Clause 291 outlines the manner in which an application for the renewal of a works licence is to be made, as well as the details to be included in the application.

Clause 292 requires an application fee to be paid. The fee is to be determined by the Minister with the concurrence of the Treasurer and is generally not refundable except in special circumstances where it may be refunded in whole or in part.

Clause 293 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 294 empowers the Minister to provisionally renew a works licence.

Clause 295 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 296 sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant.

Clause 297 allows the provisional licence holder to request an amendment of the licence conditions within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 298 allows the provisional licence holder to request an amendment of the security requirements within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 299 provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

Clause 300 sets out the final formal step in the grant of a renewal of a works licence. The renewal becomes final (subject to registration) on the applicant paying the required fees, lodging the appropriate security and confirming in writing acceptance of the grant.

Clause 301 provides that if a provisional renewal of a licence is accepted, the renewed licence is subject to the conditions referred to in clause 296 and any amendment of those conditions.

Clause 302 provides that provisional grant of a renewal of a works licence lapses if payment is not made within 30 days or, if an extension is granted, within the extended period.

Division 5 Obligations associated with works licence

Clause 303 outlines the sources of the obligations associated with a works licence. In addition, this clause also provides that where there is more than one shareholder in a works licence, each shareholder will be held responsible for all obligations of the works licence in the event of failure by any one of them to meet their obligations.

Clause 304 enables a works licence to be granted subject to such conditions as the Minister thinks fit.

Clause 305 prevents the payment of money being required by way of condition, apart from a penalty or lodgment of security.

Clause 306 enables the Minister to vary any of the conditions of the works licence in any of the circumstances specified.

Clause 307 enables the Minister to suspend or exempt the licence holder from any of the conditions in the circumstances specified.

Clause 308 requires activities under a works licence to be carried out at an acceptable industry standard. The clause also imposes on the operator the responsibility of securing the safety, health, and welfare of individuals engaged in the licence area. It also requires the operator to maintain in good condition and repair all structures, equipment and other property in the area of the works licence which are used in connection with the operations. All structures, plant and equipment that are not, or are no longer going to be, used are to be removed from the operations area.

Clause 309 empowers the Minister to require the works licence holder to maintain, and provide when required, any record as required by the regulations or directions by the Minister.

Clause 310 requires the works licence holder to allow inspectors access to the holder's operations and records.

Division 6 Expiry of works licence

Clause 311 outlines the circumstances when a works licence expires.

Clause 312 allows the works licence holder to surrender the works licence.

Clause 313 outlines the circumstances under which a works licence may be cancelled. It outlines the conditions the Minister must meet before proceeding with the cancellation.

Clause 314 provides that any outstanding obligations must be discharged by the works licence holder after the termination of the works licence no matter what the circumstances were which gave rise to the termination.

Part 2.6 Special purpose consents

Clause 315 provides for the grant of a special purpose consent for the purposes outlined. Unlike licences, the special purpose consent may be granted over areas which may be reserved or are the subject of an existing licence.

Clause 316 outlines what a consent holder can and cannot do. This provision highlights the difference between a consent and the other licences issued under the proposed Act. The consent is different in that it does not give the holder any exclusive rights over the area covered by the consent, nor does it give any preference when it comes to the grant of a licence for the same area.

Clause 317 provides that any person can apply for a consent.

Clause 318 outlines the manner in which an application for a consent is to be made, as well as the details to be included in the application.

Clause 319 requires the payment of an application fee. The fee is to be determined by the Minister with the concurrence of the Treasurer and is generally not refundable except in special circumstances where it may be refunded in whole or in part.

Clause 320 obliges the applicant to obtain the agreement of interested holders of exploration, retention or mining licences to the application. It also provides that such agreement is not necessary for scientific investigation which may be covered by international agreements. As the special purpose consent does not confer exclusive rights to the consent holder, the restriction of only one title over an area does not apply.

Clause 321 obliges the applicant to notify any interested works licence holders about the application and invite them to lodge any comments they may have with the Minister within 30 days.

Clause 322 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 323 empowers the Minister to grant a special purpose consent.

Clause 324 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 325 ensures that the special purpose consent contains all the required information that is necessary so that the consent holder will be aware of the terms, conditions and obligations pertaining to the consent.

Clause 326 when taken together with clause 325, limits the period of consent to not more than 12 months.

Clause 327 empowers the Minister to impose any conditions, including reporting and environmental conditions, on the special purpose consent if the Minister thinks it is appropriate.

Chapter 3 Registration and dealings

Part 3.1 Registration

Division 1 Preliminary

Clause 328 directs the Minister to set up a register of licences issued under the proposed Act.

Clause 329 directs the Minister to create and maintain an associated document file for each licence. The document file will only contain those documents listed in the register.

Clause 330 allows the Minister to maintain the register and document file in any form or manner the Minister decides. It allows the register to be kept in computer or electronic form.

Clause 331 allows the Minister to correct any errors in the register. The Minister may act either on the Minister's own initiative or on an application by a person affected by the error. The clause also specifies the procedure the Minister must follow if any correction is planned or contemplated.

Clause 332 allows a person to inspect the register and document file on payment of the prescribed fee. It also obliges the Minister to make the register available to the public at all convenient times.

Division 2 Matters to be entered in register

Subdivision A Licences

Clause 333 specifies the various particulars which are to be entered in the register and the documents to be kept in the document file when a provisional grant of a licence has been accepted.

Clause 334 specifies the various particulars which are to be entered in the register when an application for a renewal is made, when provisional renewal of a licence has been accepted or when a renewal application has been refused.

Clause 335 directs the Minister to register an application for an extension to an exploration licence or a refusal of an extension application.

Clause 336 directs the Minister to register the fact that a licence has expired. It also places an obligation on the licence holder to give the licence to the Minister for endorsement that it has expired.

Clause 337 specifies the various particulars which are to be entered in the register when a variation is made to a licence.

Clause 338 specifies the various particulars which are to be entered in the register when there is a transfer of a licence.

Clause 339 specifies the various particulars which are to be entered in the register when there is a document that deals with an interest in a licence.

Clause 340 enables a person or persons on whom the rights of the registered holder of a title have devolved by operation of law, to have their name or names entered in the register in place of the original registered holder. This is dependent on the person or persons making an application, accompanied by the relevant fee.

Subdivision B Caveats

Clause 341 provides that while a caveat remains in force, the Minister must not register a dealing in a licence unless otherwise exempted by the provisions of the clause.

Clause 342 provides for the lodgment of a caveat by anybody claiming an interest in a licence.

Clause 343 outlines the form of a caveat and the particulars to be specified in the caveat.

Clause 344 provides that lodgment of a caveat is to be accompanied by the relevant fee.

Clause 345 directs the Minister to register the caveat and retain it after it has been endorsed accordingly, unless otherwise directed by the Supreme Court.

Clause 346 allows the caveat holder to withdraw the caveat at any time and outlines the actions to be undertaken by the Minister.

Clause 347 outlines the form of withdrawal of the caveat.

Clause 348 provides that a caveat has effect from the date it is lodged with the Minister. It also outlines the various circumstances when a caveat will cease to have effect.

Clause 349 outlines the circumstances when the Minister must notify a caveat holder of dealings in licences.

Clause 350 outlines the circumstances when a caveat holder may give consent to registration of a dealing. The consent must be registered by the Minister.

Clause 351 outlines the jurisdiction of the Supreme Court in relation to caveats. The provision includes a power for the Court to deal with vexatious successive caveats which seek to frustrate or delay actions to be undertaken by the Minister.

Division 3 Miscellaneous

Clause 352 enables the Minister, with the concurrence of the Treasurer, to determine registration fees under the proposed Act.

Clause 352A provides that licences are exempt from the application of stamp duty.

Clause 353 provides that the Minister or a delegate of the Minister or a person acting under their direction, is not liable to actions or suits in respect of matters done or omitted to be done in good faith in the exercise of any powers or authority conferred by the proposed Part.

Clause 354 provides for an application to be made by a person to the Supreme Court if it is desired to have an omission or error in the register rectified. The Minister must be notified of the application, and is to rectify the register in accordance with any Supreme Court order.

Clause 355 enables an appeal to be made to the Supreme Court against a determination of the Minister under clause 352.

Clause 356 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 357 provides that the register, a computer record, a certified copy of, or an extract from the register are admissible as evidence in legal proceedings.

Clause 358 provides that a certified copy of any document which is registered can be provided on the payment of a fee and it is admissible as evidence in any legal proceedings.

Clause 359 provides that a certificate about any actions which may or may not have been done under the proposed Part may be issued on the payment of a fee. Such a certificate will be admissible as evidence in any legal proceedings.

Part 3.2 Dealings in licences

Division 1 Dealings in licences to be in writing and registered

Clause 360 provides that any dealings in a licence must be done in writing.

Clause 361 provides that any such dealings in a licence have no effect until the details have been entered in the register.

Division 2 Approval of transfer of licences

Clause 362 provides that all transfers have, or the transfer of part of a licence has, no effect until approved by the Minister.

Clause 363 outlines the manner in which an application for a transfer is to be made and requires the application to be accompanied by the prescribed fee.

Clause 364 empowers the Minister to request the production of documents in respect to an application for a transfer in a licence.

Clause 365 provides the Minister with the discretion to approve or reject an application for a transfer. It also outlines the actions the Minister is to take in the event of the transfer being approved.

Clause 366 provides that the Minister or a delegate of the Minister or a person acting under their direction is not liable to actions or suits in respect of matters done or omitted to be done in good faith in the exercise of any powers conferred by the proposed Part.

Chapter 4 Administration

Part 4.1 Information management

Clause 367 enables the Minister to require the production of information in connection with any activity authorised under the proposed Act and outlines the procedures to be followed in making such a request.

Clause 368 empowers the Minister to request a person to appear personally to provide information relevant to the administration of the proposed Act.

Clause 369 gives the Minister or an inspector the power to administer an oath or affirmation, and to examine on oath, a person attending before them.

Clause 370 enables the Minister to require the production of documents in connection with any activity authorised under the proposed Act and outlines the procedures to be followed in making such a request.

Clause 371 enables the Minister to require the production of samples in connection with any activity authorised under the proposed Act and outlines the procedures to be followed in making such a request.

Clause 372 requires a person to provide information or to answer a question, even though the information or answer may tend to incriminate him or her. This clause also makes it an offence for any person to give false or misleading information to the Minister.

Clause 373 provides protection to the supplier of information which has been requested and given to the Minister. The information or answer does not become admissible evidence against the person in proceedings other than proceedings concerned with the giving of false information in response to a request.

Clause 374 establishes as a general rule that the Minister cannot release or publish confidential information or samples.

Clause 375 outlines the circumstances in which confidential information or samples may be released. If the licence holder releases or gives consent to the release, then the Minister may do so.

Clause 376 requires the Minister to make available reports over areas that are no longer the subject of a licence.

Part 4.2 Monitoring and enforcement

Division 1 Inspections

Clause 377 defines what is meant by a compliance inspection.

Clause 378 outlines what an inspector appointed under the proposed Act can do when carrying out a compliance inspection.

Clause 379 empowers an inspector to inspect licence-related premises without a warrant provided certain specified conditions are met.

Clause 380 allows an inspector to carry out a compliance inspection of any premises provided the occupier has given consent.

Clause 381 empowers an inspector to carry out a compliance inspection with a warrant.

Clause 382 outlines the steps that an inspector must take to obtain a warrant. The clause also specifies what the warrant must contain.

Clause 383 allows the inspector to use such assistance and force as is thought reasonable and necessary to carry out a compliance inspection.

Clause 384 requires occupiers of premises to provide all reasonable facilities and assistance to enable the inspector to carry out a compliance inspection effectively.

Division 2 Directions

Clause 385 places an obligation on a person to comply with a direction given by the Minister.

Clause 386 empowers the Minister to give certain directions for the purposes of the proposed Act. In particular, directions can be given in relation to environmental protection, site rehabilitation, health, safety and welfare.

Clause 387 allows the Minister to issue a direction to the licence holder. It outlines the procedures which must be followed by the Minister in giving directions.

Clause 388 allows directions to incorporate material in other documents.

Clause 389 empowers the Minister to issue a direction which prohibits an action being taken or allows it only with the consent of the person affected.

Clause 390 provides that a direction given to a licence holder may extend to include associates if they are specified.

Clause 391 obliges the licence holder to ensure the direction is brought to the notice of associates if it extends to them.

Clause 392 provides that a person can be given a direction in respect of an outstanding obligation even if the licence concerned has already terminated.

Clause 393 provides that a direction can override earlier directions, regulations or conditions relating to safety or the environment.

Clause 394 empowers the Minister to impose a deadline for compliance with a direction.

Clause 395 empowers the Minister to do anything required by the direction if the person has not complied with the direction within a specified time.

Clause 396 allows the Minister to recover any costs associated with the action taken under clause 395 from the licence holder or associate.

Clause 397 outlines the defence that a licence holder or associate can mount if faced with a claim from the Minister for the recovery of costs under clause 396.

Division 3 Securities

Clause 398 specifies when a security may be required to be lodged and places restrictions on how it is to be used.

Clause 399 outlines the occasions when the Minister may determine the amount of security as well as the time it is to be lodged.

Clause 400 outlines how the security may be used.

Division 4 Restoration of environment

Clause 401 provides that regulations may be made that specify the manner of removal of any property that was brought into the area in connection with offshore minerals activity, but that is no longer used in accordance with the conditions of the licence.

Clause 402 provides that regulations may specify the manner in which any damage to the environment of a licence area may be rehabilitated.

Division 5 Safety zones

Clause 403 empowers the Minister to set up specified areas called safety zones for the purpose of protecting a structure or equipment in coastal waters.

Clause 404 provides that once a safety zone has been notified in the Gazette, all shipping not specified by the Minister is prohibited from entering or remaining in the zone without the Minister's consent and then only subject to any conditions attached to such a consent.

Clauses 405–420 (Numbers not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Part 4.3 Inspectors

Clause 421 empowers the Minister to appoint inspectors to enforce the provisions of the proposed Act, regulations, conditions of licences, consents and directions.

Clause 422 provides that an inspector must be issued with a photographic identity card as proof of his or her authority to inspect any aspect of the operations being carried out under the proposed Act.

Clause 423 places an obligation on a person to return the identity card to the Minister as soon as possible after the termination of the appointment as an inspector under the proposed Act.

Part 4.4 Licence fees and royalty

Division 1 Licence fees

Clause 424 defines *year* for the purpose of fee calculation.

Clause 425 provides that a licence holder must pay annual fees determined by the Minister with the concurrence of the Treasurer.

Clause 426 (Number not used to maintain uniformity with corresponding sections in the Commonwealth Act.)

Clause 427 provides that fees are due within one month of each anniversary year.

Division 2 Royalty

Clause 428 defines *royalty period* in terms of six month segments.

Clause 429 provides that the holder of a mining licence must pay a royalty for all minerals recovered.

Clause 430 enables the Minister to set royalty rates by an instrument in writing. The rate will apply to the mineral or minerals specified in the instrument while the instrument remains effective.

Clause 431 enables the Minister to set a lower rate of royalty for individual mining licences where it is determined that mineral recovery in specific cases would be uneconomic at the general rate set.

Clause 432 provides for the value of a mineral extracted to be agreed between the Minister and the holder of a mining licence, or set by the Minister.

Clause 433 provides that, for the purpose of royalty calculation, mineral quantity can be agreed between the mining licence holder and the Minister or, where there is no agreement, the quantity will be determined by the Minister.

Clause 434 provides that royalty is payable within one month of the end of a royalty period.

Clause 435 provides for the State to pay 40% of royalties received to the Commonwealth.

Division 3 Penalties and recovery

Clause 436 provides that the licence holder is liable to pay a penalty if royalty payments or fees are not paid by the due date.

Clause 437 provides that any payment outstanding is a debt to the State which is recoverable through a court of competent jurisdiction.

Chapter 5 Miscellaneous

Clause 438 enables a State court to exercise any jurisdiction that is conferred on the court by the *Offshore Minerals Act 1994* of the Commonwealth. The clause also enables any State authority to perform functions necessary to give effect to Part 5.1 of that Act which provides that State/Territory laws relevant to exploration and mining may be applied in the offshore area, except if a law is inconsistent with a Commonwealth law.

Clause 439 enables the Minister to delegate any of the Minister's functions by instrument signed under the Minister's hand and published in the Gazette.

Clause 440 makes it an offence for a person to knowingly give false information in relation to an application or the lodgment of a document under the proposed Act.

Clause 441 provides for the method of service of documents under the proposed Act.

Clause 442 provides that the Governor may make regulations for the purposes of the proposed Act.

Clause 443 deals with the taking of proceedings for offences against the proposed Act.

Clause 444 gives effect to Schedule 2 which contains savings and transitional provisions.

Clause 445 gives effect to Schedule 3 which contains consequential amendments to Acts.

Schedule 1 Area in which coastal waters are situated

Schedule 1 contains a description of the coastal waters of the State.

Schedule 2 Savings and transitional provisions

Schedule 2 contains savings and transitional provisions and enables regulations to be made of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 3 Amendment of Acts

Schedule 3 amends various other Acts consequentially. In particular, the *Mining Act 1992* is amended so as to limit its application to areas not covered by the proposed Act.