

**Greenhouse Gas Geological Sequestration Act 2008**  
**No. 61 of 2008**

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Victoria

# **Greenhouse Gas Geological Sequestration Act 2008<sup>†</sup>**

**No. 61 of 2008**

[Assented to 5 November 2008]

**The Parliament of Victoria enacts:**

## **PART 1—PRELIMINARY**

### **Division 1—Introduction and interpretation**

#### **1 Purpose**

The purpose of this Act is to facilitate and regulate the injection of greenhouse gas substances into underground geological formations for the purpose of permanent storage of those gases, including to facilitate and regulate the exploration

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for suitable underground geological storage formations, as part of Victoria's commitment to the reduction of atmospheric greenhouse gas emissions.

## **2 Commencement**

- (1) Subject to subsection (16), this Act (other than Division 2 of Part 18) comes into operation on a day or days to be proclaimed.
- (2) Section 305 comes into operation on the fourth anniversary of the day on which section 50 comes into operation.
- (3) Section 306 comes into operation on the fourth anniversary of the day on which section 55 comes into operation.
- (4) Section 307 comes into operation on the fourth anniversary of the day on which section 106 comes into operation.
- (5) Section 308 comes into operation on the fourth anniversary of the day on which section 111 comes into operation.
- (6) Section 309 comes into operation on the fourth anniversary of the day on which section 251 comes into operation.
- (7) Section 310 comes into operation on the fourth anniversary of the day on which section 253 comes into operation.
- (8) Section 311 comes into operation on the fourth anniversary of the day on which section 264 comes into operation.
- (9) Section 312 comes into operation on the fourth anniversary of the day on which section 270 comes into operation.

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- (10) Section 313 comes into operation on the fourth anniversary of the day on which section 271 comes into operation.
  - (11) Section 314 comes into operation on the fourth anniversary of the day on which section 272 comes into operation.
  - (12) Section 315 comes into operation on the fourth anniversary of the day on which section 273 comes into operation.
  - (13) Section 316 comes into operation on the fourth anniversary of the day on which section 275 comes into operation.
  - (14) Section 317 comes into operation on the fourth anniversary of the day on which section 296 comes into operation.
  - (15) Section 318 comes into operation on the fourth anniversary of the day on which section 303 comes into operation.
  - (16) If a provision of this Act (other than Division 2 of Part 18) does not come into operation before 1 January 2010, it comes into operation on that day.

### 3 Definitions

In this Act—

**authority** means an exploration permit, a retention lease, an injection and monitoring licence or a special access authorisation;

**community** includes persons who hold, or may hold, native title;

**Crown land** means land that is, or that is by any Act deemed to be, unalienated land of the Crown, and includes—

- 
- (a) land of the Crown that is reserved permanently or temporarily by or under any Act; and
  - (b) land of the Crown occupied by a person under a lease, licence or other right under this or any other Act—

but does not include—

- (c) native title land that is not also wilderness Crown land; or
- (d) land that is subject to a licence granted under Part 3A of the **Victorian Plantations Corporation Act 1993**;

***Department*** means the Department of Primary Industries;

***environment*** includes water;

***Environment Protection Authority*** has the same meaning as Authority has under the **Environment Protection Act 1970**;

***exploration permit*** means an exploration permit granted under section 25;

***greenhouse gas sequestration formation exploration*** has the meaning set out in section 4;

***greenhouse gas sequestration infrastructure facility*** means a facility that is used to enable the injection of a greenhouse gas substance into an underground geological storage formation;

***greenhouse gas sequestration operation*** means any activity relating to—

- (a) greenhouse gas sequestration formation exploration; or

- 
- (b) greenhouse gas substance injection and monitoring;

***greenhouse gas substance*** means—

- (a) carbon dioxide, whether in a gaseous or liquid state; or
- (b) a prescribed greenhouse gas, whether in a gaseous or liquid state; or
- (c) a mixture of any or all of the following substances—
- (i) carbon dioxide, whether in a gaseous or liquid state;
  - (ii) one or more prescribed greenhouse gases, whether in a gaseous or liquid state;
  - (iii) one or more incidental greenhouse gas-related substances, whether in a gaseous or liquid state, that relate to either or both of the substances mentioned in subparagraphs (i) and (ii);
  - (iv) a prescribed detection agent, whether in a gaseous or liquid state—

so long as—

- (v) the mixture consists overwhelmingly of either or both of the substances mentioned in subparagraphs (i) and (ii); and
  - (vi) if the mixture includes a prescribed detection agent, the concentration of the prescribed detection agent in the mixture is not more than the concentration
-

prescribed in relation to that  
detection agent;

***greenhouse gas substance injection and  
monitoring*** has the meaning set out in  
section 5;

***improvement notice*** means a notice issued under  
section 270;

***injection and monitoring licence*** means a  
greenhouse gas injection and monitoring  
licence granted under section 82;

***inspector*** means a person authorised under  
section 251 to carry out inspections;

***land*** includes a stratum of land;

***Native Title Act*** means the Native Title Act 1993  
of the Commonwealth;

***native title land*** means land in which native title  
(within the meaning of the Native Title Act)  
may exist;

***parks Crown land*** means any land that is a  
national, State or other park under the  
**National Parks Act 1975**;

***private land*** means land that is not Crown land or  
native title land;

***public authority*** means—

- (a) a public service body within the  
meaning of the **Public Administration  
Act 2004**; or
- (b) any other body, whether or not  
incorporated, established by or under an  
Act for a public purpose;

***public interest*** means a consideration of any of  
the following—

- (a) government policy;

- 
- (b) employment creation;
  - (c) social impacts;
  - (d) the overall environmental benefit for the State of Victoria and Australia in both the short-term and long-term;
  - (e) the overall economic benefit for the State of Victoria, or a part of the State of Victoria, in both the short-term and long-term;
  - (f) impacts on aesthetic, amenity or cultural values;

*resource* means a resource that a person is entitled to extract or use under a resource authority;

*resource authority* means an authority under any of the following Acts—

- (a) **Extractive Industries Development Act 1995**;
- (b) **Geothermal Energy Resources Act 2005**;
- (c) **Mineral Resources (Sustainable Development) Act 1990**;
- (d) **Petroleum Act 1998**;
- (e) **Water Act 1989**;

*restricted Crown land* means any land specified in Schedule 3 to the **Mineral Resources (Sustainable Development) Act 1990**;

*retention lease* means a retention lease granted under section 62;

*serious situation* has the meaning set out in section 6;

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***special access authorisation*** means a special access authorisation granted under section 126;

***stratum of land*** means a part of land consisting of a space of any shape below, on or above the surface of the land or partly below and partly above the surface of the land, all of the dimensions of which are limited;

***underground geological storage formation*** includes—

- (a) any seal or reservoir of an underground geological formation; and
- (b) any associated geological attributes or features of an underground geological formation;

***unit development agreement*** means an agreement made under Part 6;

***unrestricted Crown land*** means any Crown land other than wilderness Crown land, parks Crown land and restricted Crown land;

***vary***, in relation to the conditions of an authority, includes adding conditions to, and removing conditions from, the authority;

***wilderness Crown land*** means land that is a reference area under the **Reference Areas Act 1978** or that is a wilderness zone or wilderness park under the **National Parks Act 1975**;

***work program*** has the meaning set out in section 148.

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#### **4 Meaning of greenhouse gas sequestration formation exploration**

*Greenhouse gas sequestration formation exploration* is the carrying out of one or more of the following activities for the purpose of finding an underground geological storage formation likely to be geologically suitable for the injection and permanent storage of a greenhouse gas substance—

- (a) carrying out a seismic survey or any other kind of survey;
- (b) carrying out a baseline investigation;
- (c) taking a sample;
- (d) making a well;
- (e) injecting, flowing or storing a liquid or gas into a part of an underground geological storage formation;
- (f) monitoring the behaviour of a liquid or gas that has been injected or stored in part of an underground geological storage formation;
- (g) undertaking any other activity necessary to test the character of an underground geological storage formation, including—
  - (i) testing the seal and connectivity of an underground geological formation; and
  - (ii) testing the capacity of an underground geological formation.

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## **5 Meaning of greenhouse gas substance injection and monitoring**

*Greenhouse gas substance injection and monitoring* is—

- (a) the injection of a greenhouse gas substance into an underground geological storage formation for the purpose of permanently storing that substance underground;
- (b) the monitoring and testing of the behaviour of an injected greenhouse gas substance, including predictive modelling;
- (c) any activity incidental to an activity listed in paragraph (a) or (b), including transportation of a greenhouse gas substance within an injection and monitoring licence area.

## **6 Meaning of serious situation**

A serious situation exists in relation to an underground geological storage formation if—

- (a) a greenhouse gas substance that has been injected into an underground geological storage formation has leaked or will leak; or
- (b) a greenhouse gas substance has leaked or will leak in the course of being injected into an underground geological storage formation; or
- (c) a greenhouse gas substance injected into an underground geological storage formation has behaved or will behave otherwise than as predicted in the approved injecting testing plan or the approved injection and monitoring plan applying to that underground geological storage formation; or

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- (d) the injection or storage of a greenhouse gas substance into an underground geological storage formation has had or will have a significant impact on the geotechnical integrity of the whole or a part of a geological formation or geological structure; or
  - (e) the underground geological storage formation is not suitable for the permanent storage of a greenhouse gas substance as set out in the approved injection and monitoring plan.

## **Division 2—Objectives and principles**

### **7 Objectives**

The objectives of this Act are to encourage and promote greenhouse gas sequestration operations for the benefit of all Victorians by—

- (a) encouraging and facilitating greenhouse gas sequestration operations; and
- (b) establishing secure title and an orderly, fair and competitive system for granting authorities to encourage greenhouse gas sequestration operations; and
- (c) establishing a legal framework for the regulation of greenhouse gas sequestration operations aimed at ensuring that—
  - (i) greenhouse gas sequestration operations are carried out in ways that minimise impacts on public health and the environment; and
  - (ii) consultation mechanisms are effective and appropriate access to information regarding greenhouse gas sequestration operations is provided; and

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- (iii) land affected by greenhouse gas sequestration operations is rehabilitated; and
  - (iv) just compensation is paid for the use of private land; and
  - (v) conditions in licences and approvals are enforced; and
  - (d) ensuring that greenhouse gas sequestration operations are conducted in accordance with the principles of sustainable development; and
  - (e) simplifying the planning approval process with respect to greenhouse gas sequestration operations; and
  - (f) ensuring that public health and environmental impacts are considered in planning for, and the authorisation, operation and decommissioning of, greenhouse gas sequestration operations; and
  - (g) enabling the Crown to assume responsibility for ongoing monitoring and verification of an underground geological storage formation that has been used to permanently store a greenhouse gas substance following the surrender or cancellation of an injection and monitoring licence.

## **8 Principles of sustainable development**

- (1) It is the intention of Parliament that in the administration of this Act regard should be given to the principles of sustainable development.

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- (2) For the purposes of this Act the principles of sustainable development are that—
- (a) individual and community wellbeing and welfare should be enhanced by following a path of economic development that safeguards the welfare of future generations;
  - (b) there should be equity within and between generations;
  - (c) biological diversity should be protected and ecological integrity maintained;
  - (d) there should be recognition of the need to develop a strong, growing, diversified and internationally competitive economy that can enhance the capacity for environmental protection;
  - (e) measures to be adopted should be cost effective and flexible, not disproportionate to the issues being addressed, including improved valuation, pricing and incentive mechanisms;
  - (f) both long and short term economic, environmental, social and equity considerations should be effectively integrated into decision-making;
  - (g) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
  - (h) decision-making should be guided by—
    - (i) a careful evaluation to avoid serious or irreversible damage to the environment wherever practicable; and
    - (ii) an assessment of the risk-weighted consequences of various options;
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- (i) greenhouse gas sequestration operations should make a positive contribution to regional development and respect the aspirations of the community and of Indigenous peoples;
  - (j) decisions and actions should provide for community involvement in issues that affect them.

### **Division 3—Application of Act**

#### **9 Relationship to certain other Acts**

If this Act makes provision in relation to a matter and provision is also made in relation to that matter by, or under, the **Dangerous Goods Act 1985**, the **Environment Protection Act 1970**, the **Occupational Health and Safety Act 2004** or the **Water Act 1989**, the provision made by this Act—

- (a) if not inconsistent with that other provision, must be observed in addition to that other provision; and
- (b) if inconsistent with that other provision, is, to the extent of the inconsistency, of no force or effect and that other provision prevails.

#### **10 Aboriginal heritage**

Nothing in this Act affects the operation of the **Aboriginal Heritage Act 2006**.

#### **11 Non-application of Act**

This Act does not apply to an underground geological storage formation that is within the area defined as the adjacent area in the **Petroleum (Submerged Lands) Act 1982**.

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**12 Minister may declare land not to be used for greenhouse gas sequestration**

- (1) The Minister may, by notice published in the Government Gazette and recorded in the greenhouse gas sequestration register, declare that any land or class of land is not to be used for a greenhouse gas sequestration operation.
- (2) The Minister may make a declaration—
  - (a) to protect the land for significant environmental reasons; or
  - (b) to protect significant commercial or economic operations or activities; or
  - (c) for any other reason the Minister considers to be appropriate.
- (3) The Minister, by notice published in the Government Gazette and recorded in the greenhouse gas sequestration register, may revoke any declaration made under this section.

**13 Act binds the Crown**

This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

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**PART 2—OWNERSHIP AND CONTROL OF GREENHOUSE  
GAS SUBSTANCES AND UNDERGROUND GEOLOGICAL  
STORAGE FORMATIONS**

**14 Underground geological storage formation is the  
property of the Crown**

- (1) The Crown owns all underground geological storage formations below the surface of any land in Victoria.
- (2) Subsection (1) does not apply in relation to any land (other than Crown land) to the extent that the underground geological storage formation is within 15.24 metres of the surface of the land.
- (3) Subsection (1) applies despite any prior alienation of Crown land.
- (4) The Crown is not liable to pay any compensation in respect of a loss caused by the operation of this section.

**15 Crown retains Crown land rights**

In conferring any grant, lease, licence or other tenure of any Crown land after the commencement of this section on any person, the Crown retains all rights that it has in relation to any underground geological storage formation below the surface of that land, unless otherwise stated in the document by which the grant, lease, licence or other tenure is conferred.

**16 Ownership of greenhouse gas substance**

If an injection and monitoring licence is cancelled or surrendered, the Crown becomes the owner of any greenhouse gas substance that has been injected into an underground geological formation under that licence.

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**17 Offence to explore for greenhouse gas sequestration formations unless authorised**

A person must not carry out any greenhouse gas sequestration formation exploration activity in Victoria except—

- (a) under, and in accordance with, an authority;  
or
- (b) as otherwise permitted by this Act.

Penalty: 240 penalty units.

**18 Offence to carry out greenhouse gas substance injection and monitoring unless authorised**

A person must not carry out any greenhouse gas substance injection and monitoring in Victoria except—

- (a) under, and in accordance with, an injection and monitoring licence; or
- (b) as otherwise permitted by this Act.

Penalty: 240 penalty units.

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**PART 3—GREENHOUSE GAS SEQUESTRATION  
EXPLORATION PERMITS**

**Division 1—Rights and obligations**

**19 Rights conferred by exploration permit**

- (1) An exploration permit authorises the holder of the permit, subject to and in accordance with the conditions of the permit—
  - (a) to carry out greenhouse gas sequestration exploration in the permit area; and
  - (b) to do any thing in that area that is necessary for, or incidental to, that purpose.
- (2) If the holder of an exploration permit discovers an underground geological storage formation in the permit area that is likely to be geologically suitable for the permanent storage of a greenhouse gas substance, the holder has the right to apply for the grant of—
  - (a) an injection and monitoring licence; or
  - (b) a greenhouse gas sequestration formation retention lease.

**20 Extraction of resources**

The grant of an exploration permit does not entitle the permit holder to extract any resource that is discovered while carrying out greenhouse gas sequestration exploration under this Act.

**21 Key objects of work program**

- (1) In addition to the requirements set out in section 148, the key objects of the work program applying to the holder of an exploration permit are—

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- (a) to establish the characteristics and the extent of any underground geological storage formation in the permit area; and
  - (b) to assess the feasibility of injecting a greenhouse gas substance into an underground geological storage formation; and
  - (c) to assess the suitability of an underground geological storage formation for the permanent storage of a greenhouse gas substance; and
  - (d) to ensure that greenhouse gas sequestration exploration is carried out in a manner that—
    - (i) protects the integrity of the underground geological storage formation; and
    - (ii) protects public health and the environment from the impact of greenhouse gas sequestration exploration.
- (2) The holder of an exploration permit must ensure that the key objects of the work program specified in subsection (1) are achieved to the maximum extent that is practicable.

### **Division 2—Procedure for obtaining permits**

#### **22 Minister may invite tender applications for exploration permits**

- (1) The Minister may invite applications for an exploration permit to explore a specified area, including a stratum of land.

- (2) The invitation must specify—
  - (a) the chief factors that will be considered by the Minister in assessing applications; and
  - (b) a date by which applications must be made.

### **23 Application for permits**

In addition to complying with section 147, an applicant for an exploration permit must submit details of—

- (a) the work program proposed by the applicant; and
- (b) details of the applicant's relevant technical qualifications and of the relevant technical qualifications of the applicant's employees; and
- (c) details of the relevant technical advice available to the applicant; and
- (d) details of the financial resources available to the applicant.

### **24 Chief factors to be taken into account in deciding between competing applications**

- (1) This section applies if more than one application is received in respect of an area and the Minister decides to grant an exploration permit in respect of the area.
  - (2) In determining which applicant, if any, is to be granted the permit, the chief factors the Minister must take into account are—
    - (a) the respective merits of the work programs proposed by the applicants; and
    - (b) the likelihood that the work programs will be carried out.
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- (3) The chief factors in this section are in addition to the chief factors specified in the invitation under section 22(2).

**25 Grant of exploration permit**

- (1) The Minister may grant or refuse to grant an exploration permit.
- (2) If the Minister decides to grant an exploration permit, he or she must give every unsuccessful applicant for the permit written notice of that decision within 14 days after making it.
- (3) If the Minister decides not to grant an exploration permit to any of the applicants for the permit, he or she must notify all applicants in writing of that decision.

**26 Minister may make new grant if former grant refused**

- (1) This section applies if the Minister decides to grant an exploration permit to an applicant who responded to an invitation under section 22 but who subsequently states in writing that the applicant does not intend to accept the grant.
- (2) The Minister may grant the permit to any other applicant for the permit.
- (3) This section applies regardless of how many times the Minister has decided to grant the permit.

**27 Procedure if initial invitation does not result in the granting of a permit**

- (1) The Minister may invite further applications for an exploration permit for an area if—
- (a) no applications are received in response to an invitation made under section 22 for that area; or

- (b) the Minister refuses to grant an exploration permit to any applicant who responded to such an invitation; or
  - (c) no applicant who responded to such an invitation is willing to accept the grant of the exploration permit by the Minister.
- (2) Sections 22(2), 23, 25 and 26 apply to applications made in response to an invitation under subsection (1).
- (3) If more than one application is received, the Minister must consider the applications in the order in which they were received.

#### **28 Restrictions on permit area**

In issuing an exploration permit, the Minister must ensure—

- (a) that the area to which the permit applies forms a continuous parcel of land; and
- (b) that no part of the area to which the permit applies is within an area that is already the subject of an exploration permit.

#### **29 Permit may be limited to a stratum of land**

- (1) An exploration permit may be granted—
- (a) for a stratum of land; or
  - (b) without being limited to a particular stratum.
- (2) The Minister must not grant a permit for a stratum of land unless he or she determines that it is in the public interest.

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### **30 Term of permit**

An exploration permit expires on the fifth anniversary of the day on which it is registered in the greenhouse gas sequestration register, unless it is cancelled or surrendered earlier or unless this Act otherwise provides.

### **Division 3—Renewals**

### **31 Renewal of permit**

- (1) The Minister may renew an exploration permit for a further 5 years from the date of its expiry.
- (2) A renewed exploration permit expires on the tenth anniversary of the day on which the initial permit was registered in the greenhouse gas sequestration register, unless it is otherwise cancelled or surrendered or unless this Act otherwise provides.
- (3) The Minister may only renew an exploration permit once.

### **32 Application for renewal**

- (1) The holder of an exploration permit may apply to the Minister for renewal of the permit.
  - (2) A renewal application must be given to the Minister at least 90 days before the exploration permit is due to expire.
  - (3) On the payment of any late fee required by the regulations for the purposes of this section, the Minister may also consider any application for renewal that does not comply with subsection (2).
  - (4) However, the Minister must not consider any application to renew an exploration permit that is made after the permit has expired.
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**33 Other factors to be considered in renewing permits**

- (1) The Minister must renew an exploration permit if—
- (a) the holder of the permit applies for the renewal in the form and manner required by the Minister; and
  - (b) the application is accompanied by the renewal fee set out in the regulations for the purposes of this paragraph; and
  - (c) the permit holder has complied with the conditions of the permit and all applicable laws; and
  - (d) the application is accompanied by details of the work program the holder of the permit proposes to undertake if the permit is renewed; and
  - (e) the Minister is satisfied that the proposed work program is adequate.
- (2) In any other case the Minister may renew a permit if he or she is satisfied that there are special circumstances that justify the renewal of the permit.

**34 Permit not to be renewed if key objects not achieved**

- (1) Despite section 33, the Minister must not renew an exploration permit if the key objects of the work program that were to have been conducted under the permit have not been achieved to the maximum extent that is practicable.
- (2) Subsection (1) does not apply if the Minister is satisfied that the failure was the result of one or more events that were beyond the control of the holder of the permit.

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**35 Renewed permit area may be reduced**

- (1) In renewing an exploration permit, the Minister may reduce the permit area.
- (2) The Minister may reduce the permit area under subsection (1) if—
  - (a) the holder of the permit nominates in the application for renewal under section 32 an area that the holder wishes to relinquish; or
  - (b) in the opinion of the Minister, it is in the public interest.

**36 Variation of work programs for renewed permits**

- (1) If an exploration permit is renewed, the holder of the permit may apply to the Minister for permission to vary the work program.
- (2) The Minister may allow the holder of the permit to vary the work program if the Minister is satisfied that the variation will improve the work program.

**Division 4—Injection testing plans**

**37 When must an injection testing plan be prepared?**

- (1) The holder of an exploration permit must prepare an injection testing plan before injecting a liquid or gas into an underground geological storage formation for the purpose of—
  - (a) testing the behaviour of the injected or stored liquid or gas; or
  - (b) testing whether the geological formation is geologically suitable for permanently storing greenhouse gas substances.

- (2) An injection testing plan must be taken to form part of the operation plan and may be submitted by the holder of an exploration permit—
- (a) with the operation plan required under section 209; or
  - (b) at any later time by submitting a variation to the operation plan under section 212.

**38 What must an injection testing plan include?**

An injection testing plan must include—

- (a) information about where and how the injection testing will be conducted; and
  - (b) details of the liquid or gas that will be injected, including information about the volume of liquid or gas to be injected and the rate at which it is proposed to be injected; and
  - (c) details about how any risks to public health or the environment associated with the injection testing will be prevented; and
  - (d) a monitoring and verification plan prepared in accordance with the regulations and detailing how the behaviour of any stored greenhouse gas substance will be monitored; and
  - (e) a risk management plan prepared in accordance with the regulations; and
  - (f) information on the potential leakage and migration path of an injected greenhouse gas substance from the underground geological formation.
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**39 Plan to be approved before injection testing can start**

The holder of an exploration permit must not carry out injection testing in the permit area unless the Minister has approved the holder's injection testing plan for the permit area.

Penalty: 240 penalty units.

**40 Approval of injection testing plan**

- (1) Subject to section 41, the Minister may approve an injection testing plan if he or she is satisfied that the proposed injection testing—
  - (a) will not present a risk to public health or the environment; and
  - (b) will not present a significant risk of contaminating or sterilising other resources in the permit area.
- (2) The Minister may approve an injection testing plan under this section subject to any conditions that he or she considers necessary.
- (3) The Minister may refer an injection testing plan to an independent panel or any relevant public authority for a recommendation concerning acceptance of the plan.

**41 Risk to the environment**

- (1) For the purposes of determining whether proposed injection testing will present a risk to the environment, the Minister must, within 21 days of receiving an injection and testing plan for approval, provide a copy of the proposed plan to—
  - (a) the Minister administering the **Environment Protection Act 1970**;

- (b) the Minister administering the **Water Act 1989**;
  - (c) the Environment Protection Authority.
- (2) A person or body referred to in subsection (1) may make a binding recommendation that the injection and testing plan not be approved or be approved subject to conditions if the person or body is of the opinion that—
- (a) the work that is proposed to be carried out under the plan will present a risk to the environment; or
  - (b) the applicant's proposed risk management plan or monitoring and verification plan in relation to the environment is inadequate.
- (3) If a recommendation is made within 40 days after the proposed plan is provided to a person or body under this section, the recommendation is binding on the Minister.
- (4) If a person or body requests that the Department provide further information in relation to an application for approval of an injection testing plan, the time in which the person or body may make a recommendation does not include the period from the date that the request for further information is made until the date that the information is received.

#### **42 Contamination or sterilisation of a resource**

- (1) This section applies if, in the opinion of the Minister, the proposed injection testing will present a significant risk of contaminating or sterilising other resources within the permit area but will not present a risk to public health or the environment.
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- (2) Despite section 40(1)(b), the Minister may approve the plan if—
- (a) the holder of an exploration permit has consent to undertake the work proposed in the plan from any holder of a resource authority in the permit area if the resource for which they hold an authority is likely to be contaminated or sterilised; or
  - (b) in the opinion of the Minister, approval of the plan is in the public interest.

#### **43 Consent of other resource authority holders**

An exploration permit holder who proposes to undertake injection testing work that will present a significant risk of contaminating or sterilising other resources in the permit area must take all reasonable steps to obtain consent to undertake that work from any holder of a resource authority in the permit area if the resource for which they hold an authority is likely to be contaminated or sterilised.

Penalty: 240 penalty units.

#### **44 Referral of plans to independent panel**

- (1) Before approving an injection testing plan, the Minister may refer the plan to an independent panel or any relevant public authority for a recommendation concerning acceptance of the plan.
- (2) Despite subsection (1), the Minister must refer an injection testing plan to an independent panel or relevant public authority before determining that approval of the plan is in the public interest in accordance with section 42(2)(b).

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#### **45 Appointment of panel**

- (1) The Minister may, by instrument, appoint a panel of persons to consider applications for approval of injection testing plans.
- (2) The persons appointed to the panel must be persons who have knowledge of or experience in the matters that the panel is to consider.
- (3) Subject to any specifications of the Minister when appointing the panel, a panel may regulate its own proceedings.
- (4) The panel must cause a notice to be published in a newspaper circulating generally in the area in which the injection testing work is proposed to be carried out inviting submissions on the approval of the proposed plan within the period specified in the notice.
- (5) After considering all submissions referred or made to it, the panel must report its findings in writing to the Minister within the period specified by the Minister.
- (6) The panel may include in its report any recommendations that it thinks fit.
- (7) A member of a panel is entitled to be paid any fees and allowances fixed by the Governor in Council.
- (8) If the Minister does not follow a recommendation made by the panel, he or she must give written reasons for that decision.

#### **46 Community consultation**

- (1) This section applies if an applicant for approval of an injection testing plan is not required to undertake an Environmental Effects Statement in accordance with the **Environment Effects Act 1978** in respect of the works proposed in the plan.
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- (2) The Minister must, on receiving an application for approval of an injection testing plan, cause to be published in a newspaper circulating generally throughout Victoria a notice providing—
- (a) that the Minister has received an application for approval of an injection testing plan; and
  - (b) details of the place or places at which a copy or a summary of the application and a copy or summary of the accompanying plan may be examined; and
  - (c) that any person or body interested in the application may request and on payment of the prescribed fee receive from the Minister a summary of the application; and
  - (d) that any person or body interested in the application may within 21 days of the publication of the notice comment in writing on the application; and
  - (e) that any person or body interested in the application may ask the Minister in writing to be notified if the Minister approves the injection testing plan.
- (3) At the expiration of 21 days from the publication of a notice under subsection (2) the Minister may if any written comments have been received from any person or body interested in the application in accordance with subsection (2)(d) hold a conference in accordance with section 47.
- (4) The Minister must consider any written comments received under subsection (2)(d) before approving an injection testing plan.

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- (5) If the Minister receives a request under subsection (2)(e), the Minister must notify the person or body that made the request that it has approved the injection testing plan by—
- (a) sending notice of the issue to the person and body (or if a request is made by a number of people or bodies jointly, to a representative of those people or bodies); or
  - (b) publishing notice of the issue in a newspaper circulating generally throughout Victoria.

#### **47 Conferences**

- (1) If the Minister is of the opinion that a conference of persons concerned in any matter under consideration by the Minister may assist in a just resolution of the matter, the Minister may invite all or any of the interested parties to a conference.
- (2) All persons invited to attend a conference under this section must be advised in writing of the time and place at which the conference is to be held.
- (3) A conference held under this section must be presided over by the Minister or a person nominated by the Minister for the purpose.
- (4) The Minister must take into consideration the discussions and resolutions of any conference under this section and the recommendations of any person presiding at that conference.

#### **48 Compensation agreement**

- (1) If the Minister has approved an injection testing plan in accordance with section 40, the exploration permit holder must not carry out any work under an approved injection testing plan unless—

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- (a) the permit holder has entered into a compensation agreement with the holder of a resource authority for a resource in the permit area that is likely to be contaminated or sterilised; or
  - (b) VCAT has determined the amount of compensation that is payable in relation to the proposed work to the holder of a resource authority for a resource in the permit area that is likely to be contaminated or sterilised.

Penalty: 240 penalty units.

- (2) A person may only make an application to VCAT in respect of a claim after the expiry of any period of time specified for the purposes of this section by the regulations.
- (3) A party who makes an application to VCAT is only entitled to have that claim determined by VCAT if VCAT is satisfied that the party has attempted to settle the claim by conciliation, but has not been able to do so because the other party has refused to negotiate a settlement or because both parties are unable to agree.

#### **49 What compensation is payable for—resource authority holders**

- (1) Compensation is payable by the holder of an injection and monitoring licence to any holder of a resource authority for any loss or damage that has been, or will be, sustained in relation to the land or resource as a direct, natural and reasonable consequence of the carrying out of any activity under the injection and monitoring plan including for—
  - (a) deprivation of access to the resource; and
  - (b) loss of opportunity to recover or use the resource.

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**50 Injection testing to be carried out in accordance with approved plan**

An exploration permit holder must ensure that injection testing work is carried out in accordance with—

- (a) the approved injection testing plan; and
- (b) the risk management plan prepared as part of the injection testing plan; and
- (c) the monitoring and verification plan prepared as part of the injection testing plan; and
- (d) any conditions attached to the approval of the injection testing plan.

Penalty: 240 penalty units.

**51 Minister may require variation of injection testing plan**

- (1) The Minister may require the holder of an exploration permit to vary the injection testing plan and any risk management plan or monitoring and verification plan prepared as part of that plan that applies to the permit.
- (2) The Minister may only do this after consulting with the permit holder.

**52 Minister to consult**

- (1) Before requiring the holder of an exploration permit to vary the injection and testing plan and any risk management plan or monitoring and verification plan prepared as part of that plan, the Minister must provide a copy of the proposed variation to—
  - (a) the Minister administering the **Environment Protection Act 1970**;

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- (b) the Minister administering the **Water Act 1989**;
  - (c) the Environment Protection Authority.
- (2) A person or body referred to in subsection (1) may make a recommendation that the variation to the injection and testing plan not be required or be required subject to conditions if the person or body is of the opinion that—
- (a) the work that is proposed to be carried out under the varied plan will present a risk to the environment; or
  - (b) the details about how any risks to the environment will be managed are inadequate, including details contained in any risk management plan or monitoring and verification plan.
- (3) If a recommendation is made within 40 days after the proposed plan is provided to a person or body under this section, the recommendation is binding on the Minister.
- (4) If a person or body requests that the Department provide further information in relation to an application for approval of an injection testing plan, the time in which the person or body may make a recommendation does not include the period from the date that the request for further information is made until the date that the information is received.

**53 EPA may require variation of monitoring and verification plan**

- (1) The Environment Protection Authority may require the holder of an exploration permit to vary the monitoring and verification plan prepared as part of the injection testing plan.

- (2) The Environment Protection Authority may only do this after consulting with the permit holder.
- (3) The Environment Protection Authority must consult the Minister before requiring a variation under subsection (1).

**54 Minister may allow variation of injection testing plan**

- (1) On the written application of the holder of an exploration permit, the Minister may allow the permit holder to vary the injection testing plan and any risk management plan or monitoring and verification plan prepared as part of that plan that applies, or is to apply, to the permit.
- (2) An application for variation of an injection testing plan must be accompanied by an assessment of the risks associated with the proposed variation.
- (3) Sections 39 to 47 apply to an application for approval of a variation.

**55 Reporting**

- (1) If the holder of an exploration permit has an approved injection testing plan, it is a condition of the exploration permit that the holder of the permit provide to the Minister a report on the outcome of all monitoring and verification activities carried out under the licence.
  - (2) A report under subsection (1) must be provided—
    - (a) at the times specified in the monitoring and verification plan; or
    - (b) if no times are specified, every month.
  - (3) The Minister must ensure that a copy of each report provided under this section is available for public inspection on the greenhouse gas sequestration register.
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**Division 5—Discovery of underground geological storage formation**

**56 Minister must be told if underground geological storage formation discovered**

If the holder of an exploration permit discovers an underground geological storage formation that is likely to be geologically suitable for the permanent storage of a greenhouse gas substance, the permit holder—

- (a) must immediately notify the Minister of the discovery; and
- (b) must within 3 working days after the discovery give the Minister written details of the discovery.

Penalty: 120 penalty units.

**57 Minister may give directions if underground geological storage formation discovered**

- (1) This section applies if the Minister is reasonably satisfied that the holder of an exploration permit has discovered an underground geological storage formation that is likely to be geologically suitable for the permanent storage of a greenhouse gas substance.
- (2) The Minister may require the permit holder to apply for a retention lease or an injection and monitoring licence in respect of the discovery.
- (3) The requirement must be made in writing and must allow the permit holder at least 90 days within which to make the application.
- (4) If the permit holder fails to comply with a requirement made under this section, the Minister may cancel the permit.

**PART 4—GREENHOUSE GAS SEQUESTRATION  
FORMATION RETENTION LEASES**

**58 Purpose of a retention lease**

A retention lease enables the holder of an exploration permit to retain the right to an underground geological storage formation identified as likely to be geologically suitable for the injection and permanent storage of a greenhouse gas substance that is not yet commercially viable to develop under an injection and monitoring licence, but which might become viable to develop within 15 years.

**59 Rights conferred by lease**

A retention lease authorises the holder of the lease, subject to and in accordance with the conditions of the lease—

- (a) to carry out greenhouse gas sequestration formation exploration in the lease area; and
- (b) to do any thing in the lease area that is necessary for, or incidental to, that purpose; and
- (c) to retain a right to apply for an injection and monitoring licence under Division 2 of Part 5.

**60 Right to apply for lease**

- (1) The holder of an exploration permit may apply to the Minister for the grant of a retention lease in respect of any part of the permit area on which the holder has discovered an underground geological storage formation that is likely to be geologically suitable for the permanent storage of a greenhouse gas substance but which was not commercially viable for that purpose on the day on which the application was made.
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- (2) An application for a retention lease must be made at least 90 days before the applicant's exploration permit is due to expire.
  - (3) On the payment of any late fee required by the regulations for the purposes of this section, the Minister may also consider any application for a retention lease that does not comply with subsection (2).
  - (4) However, the Minister must not consider any application for a retention lease that is made after the exploration permit has expired.

#### **61 Details to be supplied with application**

In addition to complying with section 147, an applicant for a retention lease must submit details of—

- (a) the area in respect of which the lease is sought; and
- (b) the geological suitability of the underground storage formation for the permanent storage of a greenhouse gas substance; and
- (c) the commercial viability of injecting and permanently storing a greenhouse gas substance in the geological formation at the time at which the application is made; and
- (d) the possible future commercial viability of injecting and permanently storing a greenhouse gas substance in that geological formation.

#### **62 Grant of lease**

- (1) The Minister may grant or refuse to grant a retention lease.

- (2) The Minister must grant a retention lease if he or she is satisfied that—
- (a) the applicant has discovered an underground geological storage formation in the lease area that is likely to be geologically suitable for the injection and permanent storage of a greenhouse gas substance; and
  - (b) the applicant has demonstrated that any greenhouse gas substance injected into the underground geological storage formation is likely to be contained in the underground geological storage formation; and
  - (c) the applicant did not have access to a commercially viable volume of greenhouse gas substance for injection and permanent storage on the day that the application for the lease was made but is likely to have access to such a volume within the next 15 years.
- (3) The Minister must refuse to grant a retention lease if he or she is not satisfied of any of the matters in subsection (2).

### **63 Work program**

In addition to the requirements set out in section 148, the proposed work program must—

- (a) outline how the applicant intends to resolve any uncertainty in relation to the geological suitability of the underground geological storage formation for the permanent storage of a greenhouse gas substance; and
  - (b) outline the work that the applicant intends to carry out in order to identify an underground geological storage formation that is geologically suitable for the permanent storage of a greenhouse gas substance and which is commercially viable for that purpose.
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**64 Area to which lease applies**

- (1) The Minister may grant a retention lease in respect of all or part of the area for which the lease is sought.
- (2) In granting a retention lease, the Minister must—
  - (a) ensure that the lease area is the minimum area necessary—
    - (i) to cover the maximum extent of the underground geological storage formation identified as being likely to be geologically suitable for the injection and permanent storage of a greenhouse gas substance; and
    - (ii) to enable the future use of any other underground geological storage formation for the injection and permanent storage of a greenhouse gas substance; and
  - (b) allow for the potential migration path of an injected greenhouse gas substance to ensure that the injected greenhouse gas substance is likely to be contained in the lease area or any combined area of a development agreement.
- (3) Nothing in this section authorises the Minister to include in the lease area any area that was not within the area to which the lease holder's exploration permit applied.

**65 Permit may be limited to a stratum of land**

- (1) A retention lease may be granted—
  - (a) for a stratum of land; or
  - (b) without being limited to a particular stratum.

- (2) The Minister must not grant a lease for a stratum of land unless he or she determines that it is in the public interest.

#### **66 Term of lease**

- (1) The Minister may grant a retention lease for a period not exceeding 5 years.
- (2) A retention lease expires on the date specified by the Minister in the lease, unless it is cancelled or surrendered or unless this Act otherwise provides.

#### **67 Renewal of lease**

- (1) The Minister may renew a retention lease for a further period not exceeding 5 years from the date of its expiry.
- (2) The Minister may renew a retention lease that has been renewed under subsection (1) for a further period not exceeding 5 years from the date the renewed lease expired.
- (3) The Minister may only renew a retention lease under subsection (2) once.

#### **68 Procedure if lease not to be granted**

The Minister must not refuse to grant a retention lease unless the Minister—

- (a) has given the applicant for the lease not less than 30 days written notice of the Minister's intention to refuse to grant the lease; and
  - (b) has served a copy of the notice on any other people that the Minister considers may have an interest in the refusal; and
  - (c) has, in the notice—
    - (i) given detailed reasons for the proposed refusal; and
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- (ii) invited the person who is given the notice to make any submissions the person wishes to make by a specified date; and
- (d) has considered any submissions made on or before the specified date in response to such an invitation.

**69 Minister may require review of commercial viability**

- (1) The Minister may require the holder of a retention lease to re-evaluate the commercial viability of injecting and permanently storing a greenhouse gas substance in an underground geological storage formation in the lease area and to report to the Minister in writing the results of the re-evaluation.
- (2) In making such a requirement, the Minister—
  - (a) must give the holder of the lease written notice of the requirement; and
  - (b) must allow the holder of the lease at least 90 days within which to comply with the requirement.
- (3) The Minister may, on the written application of the holder of the lease, allow the holder of the lease more time within which to comply with a requirement made under this section.
- (4) The Minister may not make a requirement under this section if the holder of the lease has already complied with a requirement made under this section on 2 occasions in the 5 years immediately before the making of the requirement.
- (5) If the holder of the lease fails to comply with a requirement under this section, the Minister may cancel the lease.

**70 Minister may give directions if permanent storage viable**

- (1) This section applies if, after receiving a report under section 69, the Minister is of the opinion that the permanent storage of a greenhouse gas in an underground geological storage formation in the lease area is commercially viable.
  - (2) The Minister may require the lease holder to apply for an injection and monitoring licence in respect of the lease area.
  - (3) Such a requirement must be made in writing and must allow the lease holder at least 90 days within which to make the application.
  - (4) If the holder of the lease fails to comply with a requirement under this section, the Minister may cancel the lease.
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**PART 5—GREENHOUSE GAS SUBSTANCE INJECTION AND  
MONITORING LICENCE**

**Division 1—Rights conferred by licence**

**71 Rights conferred by licence**

A greenhouse gas substance injection and monitoring licence authorises the holder of the licence, subject to and in accordance with the conditions of the licence—

- (a) to carry out greenhouse gas substance injection and monitoring in the licence area; and
- (b) to carry out greenhouse gas sequestration formation exploration in the licence area; and
- (c) to do any thing in the licence area that is necessary for, or incidental to, those purposes.

**Division 2—Application for licence by holders of permits or leases**

**72 Application for licence**

The holder of an exploration permit or a retention lease may apply to the Minister for the grant of a greenhouse gas substance injection and monitoring licence in respect of any part of the permit or lease area on which the holder has discovered an underground geological storage formation likely to be geologically suitable for the permanent storage of a greenhouse gas substance and which is commercially viable for that purpose.

### **73 Details to be supplied with application**

- (1) In addition to complying with section 147, the application for an injection and monitoring licence made under this Division must include—
  - (a) details of the area in respect of which the licence is sought; and
  - (b) an assessment of the suitability of the underground geological storage formation for the permanent storage of a greenhouse gas substance; and
  - (c) details of the nature and volume of the greenhouse gas substance proposed to be injected into the underground geological storage formation; and
  - (d) any other matters that are prescribed.
- (2) In addition to the requirements set out in section 148, the proposed work program submitted with an application for an injection and monitoring licence must specify a date for commencement of commercial scale injection of a greenhouse gas substance into an underground geological storage formation that is within the maximum time period prescribed in the regulations.

### **Division 3—Application for licence under tender process**

#### **74 Minister may invite tender applications**

- (1) The Minister may invite applications for the grant of an injection and monitoring licence in respect of an area if—
    - (a) in the opinion of the Minister, the area contains an underground geological storage formation that is likely to be geologically suitable for the injection and permanent storage of a greenhouse gas substance; and
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- (b) the area—
- (i) is not the subject of an exploration permit, a retention lease or an injection and monitoring licence; or
  - (ii) was the subject of an exploration permit, a retention lease or an injection and monitoring licence that has expired or that has been cancelled in respect of that area.
- (2) The invitation must specify—
- (a) the chief factors that will be considered by the Minister; and
  - (b) the date by which applications must be made.
- (3) The invitation may specify—
- (a) that an applicant must specify the amount that it is willing to pay for the grant of the licence; and
  - (b) the basis on which applications will be primarily decided.

## **75 Applications**

- (1) In addition to complying with section 147, an applicant for a licence under this Division—
- (a) must submit details of—
    - (i) the applicant's relevant technical qualifications and of the relevant technical qualifications of its employees; and
    - (ii) the relevant technical advice available to the applicant; and
    - (iii) the financial resources available to the applicant; and

- (b) must submit details of the greenhouse gas substance available to the applicant for injection and permanent storage, including details of the nature and volume of the greenhouse gas substance proposed to be injected; and
  - (c) must include an assessment of the suitability of the underground geological storage formation for the permanent storage of the greenhouse gas substance specified in paragraph (b); and
  - (d) must include any other matters that are prescribed or required to be included in the invitation; and
  - (e) if the invitation requires applicants to specify an amount that they are willing to pay for the grant of the licence, must be accompanied by a deposit of 10% of the amount bid.
- (2) In addition to the requirements set out in section 148, the proposed work program submitted with an application for a greenhouse gas stream injection and monitoring licence must specify a date for commencement of commercial scale injection of a greenhouse gas substance into an underground geological storage formation that is within the maximum time period prescribed in the regulations.

#### **76 Procedure for deciding between competing bids**

- (1) The Minister must decide between competing applications on the basis of the chief factors specified in the invitation for the applications.
- (2) Nothing in this section requires the Minister to grant an application that, in the opinion of the Minister, is deficient or defective or not in the public interest.

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**77 Notice to be given to applicants**

- (1) If the Minister decides to grant an injection and monitoring licence, he or she must give every unsuccessful applicant for the licence written notice of that decision within 14 days of making it.
- (2) If the Minister decides not to grant an injection and monitoring licence, he or she must notify all applicants in writing of that decision.

**78 Refund of deposits**

- (1) The Minister must refund any deposit paid under section 75(1)(e) by an applicant who is not granted an injection and monitoring licence.
- (2) If, in the opinion of the Minister, there are exceptional circumstances or the interests of fairness so require, the Minister may refund the deposit of an applicant who is granted a licence, but who does not accept the grant.

**79 Minister may make new grant if former grant refused**

- (1) This section applies if the Minister decides to grant a greenhouse gas injection and monitoring licence under this Division to an applicant but the applicant states in writing that the applicant does not intend to accept the grant.
- (2) Subject to section 76, the Minister may grant the licence to any other applicant for the licence.
- (3) This section applies regardless of how many times the Minister has decided to grant the licence.

**80 Extension of time in which to make licence payment**

On the written application of the person made within 90 days after receiving notice that it has been granted an injection and monitoring licence, the Minister may extend by up to 90 days the period within which the person may pay a required amount for the licence.

**81 Minister must not issue licence unless cash bid paid**

Subject to section 80, if the applicant specified an amount that the applicant was willing to pay for the grant of an injection and monitoring licence, the Minister must not issue a licence to an applicant unless the applicant has paid the amount bid for the licence.

**Division 4—General provisions**

**82 Grant of a licence**

- (1) The Minister may grant or refuse to grant an injection and monitoring licence.
  - (2) In determining whether to grant an injection and monitoring licence, the chief factors the Minister must take into account are—
    - (a) the merits of the work program proposed by the applicant; and
    - (b) the likelihood that the work program will be carried out; and
    - (c) the applicant's assessment of the suitability of the underground geological storage formation for the storage of the identified greenhouse gas substance; and
    - (d) the likelihood that the greenhouse gas substance will be permanently contained in the licence area; and
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- (e) if the application is made in response to an invitation under section 74, any other factors specified in the invitation.

### **83 Minister to be satisfied of certain matters**

- (1) The Minister must not grant an injection and monitoring licence unless the Minister is satisfied that—
  - (a) the applicant has access to a commercially viable volume of greenhouse gas substance; and
  - (b) the underground geological storage formation is likely to be geologically suitable for the injection and permanent storage of the identified greenhouse gas substance; and
  - (c) the greenhouse gas substance is likely to be permanently contained in the area for which the licence is proposed to be granted.
- (2) In granting an injection and monitoring licence, the Minister must also consider the chief factors specified in section 82.

### **84 Restrictions on area to which licence applies**

- (1) The Minister may grant an injection and monitoring licence in respect of all or part of the area in respect of which the licence is sought.
- (2) In granting an injection and monitoring licence, the Minister must—
  - (a) ensure that the licence area is the minimum area necessary—
    - (i) to cover the maximum extent of the underground geological storage formation identified as being likely to be geologically suitable for the injection and permanent storage of a greenhouse gas substance; and

- (ii) to enable the future use of any other underground geological storage formation for the injection and permanent storage of a greenhouse gas substance; and
  - (b) allow for the potential migration path of an injected greenhouse gas substance to ensure that the injected greenhouse gas substance is likely to be contained in the licence area or any combined area of a development agreement.
- (3) In the case of licences granted under Division 2, nothing in this section authorises the Minister to include in the licence area any area that was not within the area to which the licence holder's exploration permit or retention lease applied at the time it applied for the licence.

**85 Licence may be limited to a stratum of land**

- (1) An injection and monitoring licence may be granted—
  - (a) for a stratum of land; or
  - (b) without being limited to a particular stratum.
- (2) The Minister must not grant a licence for a stratum of land unless he or she determines that it is in the public interest.

**86 Licence may be limited to a specified volume**

- (1) The Minister may grant an injection and monitoring licence in respect of a specified volume of greenhouse gas substance.

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- (2) In specifying a volume of greenhouse gas substance, the Minister must have regard to—
    - (a) the estimated storage capacity of the underground geological formation in which the applicant proposes to inject a greenhouse gas substance; and
    - (b) the volume of greenhouse gas substance that the applicant proposes to inject.
  - (3) The Minister must not specify a larger volume of greenhouse gas substance than is identified in the applicant's approved injection and monitoring plan.

**87 Further licence may be granted where greenhouse gas injection work completed**

- (1) The Minister may grant an injection and monitoring licence in respect of land for which the holder of another injection and monitoring licence has surrendered the right to inject a greenhouse gas substance.
- (2) A further injection and monitoring licence may only be granted in respect of land to which subsection (1) applies if the Minister is satisfied that granting a further licence—
  - (a) is in the public interest; and
  - (b) will not interfere with the post-injection monitoring and verification activities of the existing licence holder; and
  - (c) will not present a significant risk of contaminating or sterilising other resources in the proposed licence area.
- (3) The Minister must consult with the existing licence holder before granting a further injection and monitoring licence under this section.

- (4) If the Minister grants a further injection and monitoring licence under this section, the Minister must advise the existing licence holder in writing of that decision.

### **88 Term of licence**

An injection and monitoring licence continues in force until it is cancelled or surrendered or this Act otherwise provides.

### **Division 5—Injection of greenhouse gas substance**

#### **89 Direction if greenhouse gas substance injection not to the Minister's satisfaction**

- (1) If a greenhouse gas substance is being injected in a licence area, the Minister may direct the holder of the licence to take all necessary and practicable steps to change the volume of, or rate at which, the greenhouse gas substance is being injected in the area.
- (2) The Minister may only give a direction if, in the opinion of the Minister, the direction is necessary to ensure that the greenhouse gas substance is injected in a manner that—
- (a) will enable more effective greenhouse gas substance injection and monitoring; or
  - (b) will maximise the volume of the greenhouse gas substance that is able to be stored.
- (3) If the Minister gives a direction but is not satisfied with the steps taken or being taken by the holder of the licence, the Minister may direct the holder of the licence to do anything else that the Minister thinks is necessary for, or in relation to, changing the volume of, or rate at which, the greenhouse gas substance is being injected in the area.
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**90 Form of direction**

A direction given under this Division must be in writing.

**91 Licence holder must comply with directions**

The holder of a greenhouse gas injection and monitoring licence must comply with a direction validly given under this Division.

Penalty: 240 penalty units.

**92 Completion of injection activities**

(1) On the completion of injection activities under the injection and monitoring plan, the holder of a greenhouse gas injection and monitoring licence must—

- (a) notify the Minister in writing that the injection activities have been completed; and
- (b) remove all infrastructure associated with the injection activities including plugging or closing off any wells; and
- (c) rehabilitate the site where the injection activities took place; and
- (d) surrender the right to inject a greenhouse gas substance under the licence.

Penalty: 240 penalty units.

(2) In surrendering the right to inject a greenhouse gas substance under the licence, the holder of a greenhouse gas injection and monitoring licence is not taken to have surrendered that licence.

(3) The Minister must amend a greenhouse gas injection and monitoring licence (including any condition of the licence) for the purpose of giving effect to the surrender of a right to inject a greenhouse gas substance.

## **Division 6—Injection and monitoring plan**

### **93 Injection and monitoring plan**

- (1) An injection and monitoring plan is a plan in relation to an injection and monitoring licence that sets out how greenhouse gas substance injection and monitoring operations will be conducted in the licence area.
- (2) An injection and monitoring plan must be taken to form part of the operation plan and may be submitted by the holder of an injection and monitoring licence—
  - (a) with the operation plan required under section 209; or
  - (b) at any later time by submitting a variation to the operation plan under section 212.

### **94 Content of injection and monitoring plan**

An injection and monitoring plan must include—

- (a) details of the activities that the licence holder intends to conduct and the proposed dates by which those activities are to be completed; and
  - (b) details of physical, hydrological, geological, chemical and biological conditions of the land in the licence area for the purposes of developing a baseline for managing and monitoring any change to those conditions; and
  - (c) details of the nature of the greenhouse gas substance to be injected into the underground geological formation; and
  - (d) a verifiable estimate of the storage capacity of the underground geological storage formation; and
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- (e) a verifiable estimate of the rate and volume of greenhouse gas substance that is proposed to be injected; and
  - (f) a description of the proposed injection and monitoring techniques; and
  - (g) an assessment of the potential leakage and migration path of an injected greenhouse gas substance from the underground geological storage formation; and
  - (h) an assessment of the effect any leakage a greenhouse gas substance might have on public health, the environment and other resources; and
  - (i) an assessment of the likelihood of leakage of a greenhouse gas substance, including leakage arising—
    - (i) during the injection and monitoring of a greenhouse gas substance; and
    - (ii) after the right to inject a greenhouse gas substance has been surrendered; and
    - (iii) after a greenhouse gas injection and monitoring licence has been surrendered; and
  - (j) a monitoring and verification plan prepared in accordance with the regulations and detailing how the behaviour of any stored greenhouse gas substance will be monitored; and
  - (k) a risk management plan prepared in accordance with the regulations; and
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- (l) an estimate of the cost of carrying out the monitoring and verification activities after the greenhouse gas injection and monitoring licence has been surrendered; and
- (m) any other prescribed matters.

**95 Plan to be approved before injection and monitoring can start**

The holder of an injection and monitoring licence must not carry out greenhouse gas substance injection and monitoring in the licence area unless the Minister has approved the holder's greenhouse gas substance injection and monitoring plan for the licence area.

Penalty: 240 penalty units.

**96 Approval of injection and monitoring plan**

- (1) The Minister must not approve an injection and monitoring plan unless he or she is satisfied that—
    - (a) the underground geological storage formation is geologically suitable for the injection and permanent storage of a greenhouse gas substance; and
    - (b) the use of the underground geological storage formation for the injection and permanent storage of greenhouse gas substances will not present a significant risk of contaminating or sterilising other resources within the licence area; and
    - (c) the injected greenhouse gas substance will be contained within the licence area; and
    - (d) subject to section 97, the injection and permanent storage of the greenhouse gas substance will not present a risk to public health or the environment.
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- (2) The Minister may approve an injection and monitoring plan under this section subject to any terms and conditions that he or she considers necessary.

### **97 Risk to the environment**

- (1) For the purposes of determining whether the injection and permanent storage of a greenhouse gas substance will present a risk to the environment, the Minister must, within 21 days of receiving an injection and monitoring plan for approval, provide a copy of the proposed plan to—
- (a) the Minister administering the **Environment Protection Act 1970**;
  - (b) the Minister administering the **Water Act 1989**;
  - (c) the Environment Protection Authority.
- (2) A person or body referred to in subsection (1) may make a recommendation that the injection and monitoring plan not be approved or be approved subject to conditions if the person or body is of the opinion that—
- (a) the work that is proposed to be carried out under the plan will present a risk to the environment; or
  - (b) the applicant's proposed risk management plan in relation to the environment is inadequate; or
  - (c) the applicant's proposed monitoring and verification plan, including the estimated cost of carrying out monitoring and verification activities after surrendering the greenhouse gas injection and monitoring licence, is inadequate.
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- (3) If a recommendation is made within 40 days after the proposed plan is provided to a person or body under this section, the recommendation is binding on the Minister.
- (4) If a person or body requests that the Department provide further information in relation to an application for approval of an injection and monitoring plan, the time in which the person or body may make a recommendation does not include the period from the date that the request for further information is made until the date that the information is received.

#### **98 Contamination or sterilisation of a resource**

- (1) This section applies if, in the opinion of the Minister, the proposed injection and permanent storage of the greenhouse gas substance will present a significant risk of contaminating or sterilising other resources within the licence area but will not present a risk to public health or the environment.
- (2) Despite section 96(1)(b), the Minister may approve the plan if—
  - (a) the injection and monitoring licence holder has consent to undertake the work proposed in the plan from any holder of a resource authority in the licence area if the resource for which they hold an authority is likely to be contaminated or sterilised; or
  - (b) in the opinion of the Minister, approval of the plan is in the public interest.

#### **99 Consent of other resource authority holders**

An injection and monitoring licence holder who proposes to undertake work that will present a significant risk of contaminating or sterilising other resources in the licence area must take all reasonable steps to obtain consent to undertake

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that work from any holder of a resource authority in the licence area if the resource for which they hold an authority is likely to be contaminated or sterilised.

Penalty: 240 penalty units.

### **100 Referral of plans to independent panel**

- (1) Before approving an injection and monitoring plan, the Minister may refer the plan to an independent panel or any relevant public authority for a recommendation concerning acceptance of the plan.
- (2) Despite subsection (1), the Minister must refer an injection and monitoring plan to an independent panel or relevant public authority before determining that approval of the plan is in the public interest in accordance with section 98(2)(b).

### **101 Appointment of panel**

- (1) The Minister may, by instrument, appoint a panel of persons to consider applications for approval of injection and monitoring plans.
- (2) The persons appointed to the panel must be persons who have knowledge of or experience in the matters that the panel is to consider.
- (3) Subject to any specifications of the Minister when appointing the panel, a panel may regulate its own proceedings.
- (4) The panel must cause a notice to be published in a newspaper circulating generally in the area in which the injection and permanent storage of the greenhouse gas substance is proposed to be carried out inviting submissions on the approval of the proposed plan within the period specified in the notice.

- (5) After considering all submissions referred or made to it, the panel must report its findings in writing to the Minister within the period specified by the Minister.
- (6) The panel may include in its report any recommendations that it thinks fit.
- (7) A member of a panel is entitled to be paid any fees and allowances fixed by the Governor in Council.
- (8) If the Minister does not follow a recommendation made by the panel, he or she must give written reasons for that decision.

#### **102 Community consultation**

- (1) This section applies if an applicant for approval of an injection and monitoring plan is not required to undertake an Environmental Effects Statement in accordance with the **Environment Effects Act 1978** in respect of the works proposed in the plan.
  - (2) The Minister must, on receiving an application for approval of an injection and monitoring plan, cause to be published in a newspaper circulating generally throughout Victoria a notice providing—
    - (a) that the Minister has received an application for approval of an injection and monitoring plan; and
    - (b) details of the place or places at which a copy or a summary of the application and a copy or summary of the accompanying plan may be examined; and
    - (c) that any person or body interested in the application may request and on payment of the prescribed fee receive from the Minister a summary of the application; and
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- (d) that any person or body interested in the application may within 21 days of the publication of the notice comment in writing on the application; and
  - (e) that any person or body interested in the application may ask the Minister in writing to be notified if the Minister approves the injection and monitoring plan.
- (3) At the expiration of 21 days from the publication of a notice under subsection (2) the Minister may if any written comments have been received from any person or body interested in the application in accordance with subsection (2)(d) hold a conference in accordance with section 103.
  - (4) The Minister must consider any written comments received under subsection (2)(d) before approving an injection testing plan.
  - (5) If the Minister receives a request under subsection (2)(e), the Minister must notify the person or body that made the requests that it has approved the injection and monitoring plan by—
    - (a) sending notice of the issue to the person or body (or if a request is made by a number of people or bodies jointly, to a representative of those people or bodies); or
    - (b) publishing notice of the issue in a newspaper circulating generally throughout Victoria.

### **103 Conferences**

- (1) If the Minister is of the opinion that a conference of persons concerned in any matter under consideration by the Minister may assist in a just resolution of the matter, the Minister may invite all or any of the interested parties to a conference.

- (2) All persons invited to attend a conference under this section must be advised in writing of the time and place at which the conference is to be held.
- (3) A conference held under this section must be presided over by the Minister or a person nominated by the Minister for the purpose.
- (4) The Minister must take into consideration the discussions and resolutions of any conference under this section and the recommendations of any person presiding at that conference.

#### **104 Compensation agreement**

- (1) If the Minister has approved an injection and monitoring plan in accordance with section 96, the injection and monitoring licence holder must not carry out any activity under an approved injection and monitoring plan unless—
  - (a) the licence holder has entered into a compensation agreement with the holder of a resource authority for a resource in the licence area that is likely to be contaminated or sterilised; or
  - (b) VCAT has determined the amount of compensation that is payable in relation to the proposed work to the holder of a resource authority for a resource in the licence area that is likely to be contaminated or sterilised.

Penalty: 240 penalty units.

- (2) A person may only make an application to VCAT in respect of a claim after the expiry of any period of time specified for the purposes of this section by the regulations.

- (3) A party who makes an application to VCAT is only entitled to have that claim determined by VCAT if VCAT is satisfied that the party has attempted to settle the claim by conciliation, but has not been able to do so because the other party has refused to negotiate a settlement or because both parties are unable to agree.

**105 What compensation is payable for—resource authority holders**

Compensation is payable by the holder of an injection and monitoring licence to any holder of a resource authority for any loss or damage that has been, or will be, sustained in relation to the land or resource as a direct, natural and reasonable consequence of the carrying out of any activity under the injection and monitoring plan including for—

- (a) deprivation of access to the resource; and
- (b) loss of opportunity to recover or use the resource.

**106 Injection and monitoring plan must be adhered to**

The holder of an injection and monitoring licence must ensure that greenhouse gas substance injection and monitoring is carried out in accordance with—

- (a) the injection and monitoring plan; and
- (b) the risk management plan prepared as part of the injection and monitoring plan; and
- (c) the monitoring and verification plan prepared as part of that plan; and
- (d) any conditions attached to the approval of the injection and monitoring plan.

Penalty: 240 penalty units.

**107 Minister may require variation of injection and monitoring plan**

- (1) The Minister may require the holder of an injection and monitoring licence to vary the injection and monitoring plan including any risk management plan or monitoring and verification plan prepared as part of that plan that applies to the licence.
- (2) The Minister may only do this after consulting with the holder of the licence.

**108 Minister to consult**

- (1) Before requiring the holder of an injection and monitoring licence to vary the injection and monitoring plan and any risk management plan or monitoring and verification plan prepared as part of that plan, the Minister must provide a copy of the proposed variation to—
    - (a) the Minister administering the **Environment Protection Act 1970**;
    - (b) the Minister administering the **Water Act 1989**;
    - (c) the Environment Protection Authority.
  - (2) A person or body referred to in subsection (1) may make a recommendation that the variation to the injection and monitoring plan not be required or be required subject to conditions if the person or body is of the opinion that—
    - (a) the work that is proposed to be carried out under the varied plan will present a risk to the environment; or
    - (b) the details about how any risks to the environment will be managed are inadequate, including details contained in any risk management plan or monitoring and verification plan.
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- (3) If a recommendation is made within 40 days after the proposed plan is provided to a person or body under this section, the recommendation is binding on the Minister.
  - (4) If a person or body requests that the Department provide further information in relation to an application for approval of an injection testing plan, the time in which the person or body may make a recommendation does not include the period from the date that the request for further information is made until the date that the information is received.

**109 EPA may require variation of monitoring and verification plan**

- (1) The Environment Protection Authority may require the holder of an injection and monitoring licence to vary the monitoring and verification plan prepared as part of the injection and monitoring plan.
- (2) The Environment Protection Authority may only do this after consulting with the permit holder.
- (3) The Environment Protection Authority must consult the Minister before requiring a variation under subsection (1).

**110 Minister may allow variation of injection and monitoring plan**

- (1) On the written application of the holder of an injection and monitoring licence, the Minister may allow the holder of the licence to vary the injection and monitoring plan including any risk management plan or monitoring and verification plan prepared as part of that plan that applies, or is to apply, to the licence.

- (2) An application for variation of an injection and monitoring plan must be accompanied by an assessment of the risks associated with the proposed variation.
- (3) Sections 96 to 103 apply to an application for approval of a variation.

**Division 7—Conditions of greenhouse gas substance injection and monitoring licence**

**111 Reporting**

- (1) If the holder of an injection and monitoring licence has an approved injection and monitoring plan, it is a condition of the injection and monitoring licence that the holder of the licence provide to the Minister a report on the outcome of all monitoring and verification activities carried out under the licence.
- (2) A report under subsection (1) must be provided—
  - (a) at the times specified in the monitoring and verification plan; or
  - (b) if no times are specified in the monitoring and verification plan, every three months.
- (3) The Minister must ensure that a copy of each report provided under this section is available for public inspection on the greenhouse gas sequestration register.

**112 Payment of long-term monitoring and verification costs**

- (1) It is a condition of an injection and monitoring licence that the holder of the licence must pay an annual instalment of the estimated long-term monitoring and verification costs set out in the approved injection and monitoring plan.

- (2) The annual instalment amount is to be a percentage fixed by the Minister of the total estimated cost.
- (3) The licence holder must pay each instalment by the date that it is due to be paid.

**Division 8—Permanent storage of greenhouse gas substance by a third party**

**113 Agreement to store greenhouse gas substance**

- (1) An injection and monitoring licence holder may enter into an agreement with any person for or in relation to the injection and permanent storage of a greenhouse gas substance in an underground geological storage formation in the licence area.
- (2) An agreement under this section must not be inconsistent with this Act or the licence.

**114 Minister may direct licence holder to store greenhouse gas substance**

- (1) If a licence holder fails to enter an agreement under section 113, the person seeking that agreement (*the applicant*) may apply in writing to the Minister for a direction under subsection (2).
- (2) The Minister may direct the holder of a greenhouse gas injection and monitoring licence to inject and permanently store a greenhouse gas substance in an underground geological storage formation in the licence area if the Minister is satisfied that—
  - (a) the underground geological storage formation has the capacity to store the greenhouse gas substance owned by the applicant; and

- (b) the composition of the greenhouse gas substance owned by the applicant is geologically suitable for injection and permanent storage in the underground geological storage formation; and
  - (c) injecting the applicant's greenhouse gas substance will not significantly interfere with the activities of the licence holder being carried out under the licence; and
  - (d) the injection and permanent storage of the applicant's greenhouse gas substance in the underground geological storage formation is in the public interest.
- (3) The Minister must consult with the licence holder before giving a direction under subsection (2).

**115 Licence holder must comply with directions**

The holder of a greenhouse gas injection and monitoring licence must comply with a direction given under section 114.

Penalty: 240 penalty units.

**116 Minister may amend licence**

Despite anything to the contrary in this Act, the Minister may amend a greenhouse gas injection and monitoring licence (including any condition of the licence) for the purpose of giving effect to a direction given under section 114.

**117 Revised injection and monitoring plan**

If the Minister gives a direction under section 114, the licence holder must submit a revised injection and monitoring plan for approval in accordance with Division 6.

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**118 Compensation of licence holder**

- (1) If the Minister gives a direction under section 114, the licence holder is not required to inject and permanently store a greenhouse gas substance unless—
    - (a) the applicant has entered into a compensation agreement with the licence holder; or
    - (b) VCAT has determined the amount of compensation that is payable to the licence holder in relation to the direction.
  - (2) A person may only make an application to VCAT in respect of a claim after the expiry of any period of time specified for the purposes of this section by the regulations.
  - (3) A party who makes an application to VCAT is only entitled to have that claim determined by VCAT if VCAT is satisfied that the party has attempted to settle the claim by conciliation, but has not been able to do so because the other party has refused to negotiate a settlement or because both parties are unable to agree.
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**PART 6—UNIT DEVELOPMENT**

**119 Unit development**

- (1) This section applies if an underground geological storage formation that is likely to be geologically suitable for the injection and permanent storage of a greenhouse gas substance extends over a number of areas in a way that legally entitles more than one holder of an injection and monitoring licence to carry out greenhouse gas substance injection and monitoring.
  - (2) The Minister may require any person who is entitled to carry out greenhouse gas substance injection and monitoring to enter into a co-operative arrangement for one or more of the following purposes—
    - (a) to enable more effective greenhouse gas substance injection and monitoring;
    - (b) to maximise the volume of greenhouse gas substances stored; and
    - (c) to minimise the impact of greenhouse gas substance injection and monitoring on public health and the environment.
  - (3) In making such a requirement, the Minister must ensure—
    - (a) that written notice of the requirement is given to each person on whom the requirement is made; and
    - (b) that the notice specifies by when the requirement must be complied with; and
    - (c) that the notice specifies how any dispute concerning the terms of the required co-operative arrangement is to be resolved; and
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(d) that the notice specifies what action the Minister may take if the requirement is not complied with.

(4) For the purposes of subsection (3)(b), the Minister must allow a period of at least 90 days from the date the notice is given.

**120 Consultation concerning unit development if part of underground geological storage formation interstate**

(1) This section applies if section 119 applies, but part of the underground geological storage formation is outside Victoria (or the Minister reasonably believes that part of the formation is outside Victoria).

(2) The Minister must not make a requirement under section 119 unless he or she has obtained the approval of any authority or body that is responsible for regulating the injection and permanent storage of greenhouse gas substances in that formation outside Victoria.

**121 Minister may amend licence for unit development**

Despite anything to the contrary in this Act, the Minister may amend an injection and monitoring licence (including any condition of the licence)—

(a) for the purpose of giving effect to a co-operative arrangement made under section 119; or

(b) as a result of the failure of a person to comply with a requirement made under section 119, but only for the purpose of attempting to achieve, to the maximum extent that is possible, the object that the requirement sought to achieve.

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**PART 7—GREENHOUSE GAS INFRASTRUCTURE LINES**

**122 Meaning of greenhouse gas infrastructure line**

A *greenhouse gas infrastructure line* is a pipe or system of pipes—

- (a) that is for the conveyance of a greenhouse gas substance; and
- (b) which forms part of a greenhouse gas sequestration infrastructure facility.

**123 Minister may exempt greenhouse gas infrastructure line from Pipelines Act**

- (1) The Minister may exempt a greenhouse gas infrastructure line from the application of the **Pipelines Act 2005**.
- (2) The Minister may—
  - (a) require that certain conditions be met before he or she grants the exemption; and
  - (b) exempt the greenhouse gas infrastructure line wholly from the **Pipelines Act 2005** or from specified provisions of that Act; and
  - (c) impose conditions that must be complied with to maintain the exemption.
- (3) An exemption must be in writing.
- (4) The **Pipelines Act 2005** does not apply to a greenhouse gas infrastructure line to the extent set out in any exemption granted under this section.

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**PART 8—SPECIAL ACCESS AUTHORISATIONS**

**124 Special access authorisation**

- (1) A special access authorisation authorises the person holding it to carry out the following activities in the area in respect of which it is granted—
  - (a) carry out a seismic survey or any other kind of survey;
  - (b) carry out a baseline investigation;
  - (c) take a sample;
  - (d) make a well;
  - (e) monitor the behaviour of a liquid or gas that has been injected or stored in part of an underground geological storage formation.
- (2) A special access authorisation does not give the holder of the authorisation any rights with respect to greenhouse gas substance injection and monitoring within the area in respect of which it is granted.
- (3) A special access authorisation may only be granted to the holder of an exploration permit, a retention lease or an injection and monitoring licence.

**125 Application for special access authorisation**

- (1) The holder of an exploration permit, retention lease or an injection and monitoring licence may apply to the Minister for the grant of a special access authorisation in respect of any area.

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- (2) In addition to complying with section 147, an applicant for a special access authorisation—
- (a) must describe and precisely identify the area in respect of which the authorisation is sought; and
  - (b) must describe in detail the greenhouse gas sequestration formation exploration operations that the person seeks to carry out in that area; and
  - (c) must submit details of—
    - (i) its relevant technical qualifications and of the relevant technical qualifications of its employees; and
    - (ii) the relevant technical advice available to it; and
    - (iii) the financial resources available to it.

**126 Grant of special access authorisation**

- (1) The Minister may grant or refuse to grant a special access authorisation.
  - (2) In determining whether or not to grant a special access authorisation, the Minister must take into account the geological and geophysical nature of the area in respect of which the application is made, and any discoveries that have been made in the area by any other person.
  - (3) The Minister must not grant an application for an authorisation unless he or she is satisfied that the applicant—
    - (a) has the technical qualifications (or has employees that have the technical qualifications), has access to the technical advice and has the financial resources that will be necessary to enable the operations
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proposed in the application to be undertaken;  
and

(b) has the ability to comply with this Act.

(4) The Minister must not grant an authorisation in respect of an area unless he or she is satisfied that the size of the area is appropriate having regard to the operations proposed in respect of the area by the person applying for the authorisation.

**127 Criteria that apply to permit, lease and licence areas**

(1) This section applies if any part of the area in respect of which a special access authorisation is sought falls within an area that is the subject of an exploration permit, a retention lease or an injection and monitoring licence.

(2) The Minister must not grant an authorisation in respect of that part of the area unless—

(a) he or she has taken into account the work program of the holder of the permit, lease or licence; and

(b) he or she is satisfied that the operations proposed to be carried out under the authorisation will not be detrimental to, or unduly interfere with, any current or proposed future operations of the holder of the permit, lease or licence; and

(c) the holder of the permit, lease or licence has consented in writing to the issue of the authorisation in respect of that part of the area.

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**128 Exception to section 127**

Despite section 127(2)(c), the Minister may grant a special access authorisation in respect of an area that is the subject of an exploration permit, a retention lease or a greenhouse gas injection and monitoring licence without the consent of the holder of the permit, lease or licence if—

- (a) in the opinion of the Minister, the likely geological information to be gained if the authorisation is granted in respect of that area will be of significant benefit to Victoria; and
- (b) the Minister—
  - (i) notifies the holder of the permit, lease or licence in writing that the Minister is proposing to exercise his or her powers under this section, and of the reasons why he or she is proposing to do so; and
  - (ii) gives the holder 28 days to make any submissions it wishes in relation to the proposal; and
- (c) the Minister considers any submissions made in response to the notice and also takes into account any commercial consequences to the holder of the permit, lease or licence that may be likely if the authorisation is granted.

**129 Minister may vary area to which authorisation applies**

In granting a special access authorisation, the Minister may vary, in any way he or she considers appropriate, the size or the boundaries of the area in respect of which the authorisation was sought.

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**130 Authorisation does not give exclusive rights**

- (1) The Minister may grant a special access authorisation in respect of an area, or any part of an area, that is already the subject of another special access authorisation.
- (2) The Minister may grant an exploration permit, a retention lease or a greenhouse gas injection and monitoring licence in respect of an area, or any part of an area, that is already the subject of a special access authorisation.

**131 Term of authorisation**

A special access authorisation continues in force for the period prescribed by the regulations, unless it is cancelled or surrendered earlier or unless this Act otherwise provides.

**132 Extension of term of authorisation**

On the application of the holder of a special access authorisation, the Minister may grant one extension for up to one year of the period for which the authorisation remains in force.

**133 Special access well plan**

- (1) This section applies to the holder of a special access authorisation who proposes to make a well under that authorisation.
  - (2) The holder of a special access authorisation must prepare a special access well plan in accordance with the regulations.
  - (3) A special access well plan must be taken to form part of the operation plan and may be submitted by the holder of a special access authorisation—
    - (a) with the operation plan required under section 209; or
    - (b) at any later time by submitting a variation under section 212.
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**134 Plan to be approved before well can be made**

The holder of a special access authorisation must not make a well in the authority area unless the Minister has approved the authority holder's special access well plan for the area.

Penalty: 240 penalty units.

**135 Approval of special access well plan**

- (1) Subject to section 136, the Minister may approve a special access well plan if he or she is satisfied that the proposed well—
  - (a) will not present a risk to public health or the environment; and
  - (b) will not present a significant risk of contaminating or sterilising resources in the authority area.
- (2) The Minister may approve a special access well plan under this section subject to any conditions that he or she considers necessary.
- (3) The Minister may refer a special access well plan to an independent panel or any relevant public authority for a recommendation concerning acceptance of the plan.

**136 Risk to the environment**

- (1) For the purposes of determining whether making a well will present a risk to the environment, the Minister must, within 21 days of receiving a special access well plan for approval, provide a copy of the proposed plan to—
  - (a) the Minister administering the **Environment Protection Act 1970**;
  - (b) the Minister administering the **Water Act 1989**;
  - (c) the Environment Protection Authority.

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- (2) A person or body referred to in subsection (1) may make a recommendation that a special access well plan not be approved or be approved subject to conditions if the person or body is of the opinion that—
- (a) the work that is proposed to be carried out under the plan will present a risk to the environment; or
  - (b) the details about how any risks to the environment will be managed are inadequate.
- (3) If a recommendation is made within 40 days after the proposed plan is provided to a person or body under this section, the recommendation is binding on the Minister.
- (4) If a person or body requests that the Department provide further information in relation to an application for approval of a special access well plan, the time in which the person or body may make a recommendation does not include the period from the date that the request for further information is made until the date that the information is received.

**137 Contamination or sterilisation of a resource**

- (1) This section applies if, in the opinion of the Minister, the making of the proposed well will present a significant risk of contaminating or sterilising other resources within the authority area but will not present a risk to public health or the environment.
- (2) Despite section 135(1)(b), the Minister may approve the special access well plan if—
- (a) the holder of a special access authorisation has consent to make the proposed well from any holder of a resource authority in the special access area if the resource for which
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they hold an authority is likely to be contaminated or sterilised; or

- (b) in the opinion of the Minister, approval of the plan is in the public interest.

### **138 Consent of other resource authority holders**

A special access authority holder who proposes to make a well that will present a significant risk of contaminating or sterilising other resources in the special access area must take all reasonable steps to obtain consent to undertake that work from any holder of a resource authority in the special access area if the resource for which they hold an authority is likely to be contaminated or sterilised.

Penalty: 240 penalty units.

### **139 Referral of plans to independent panel**

- (1) Before approving a special access well plan, the Minister may refer the plan to an independent panel or any relevant public authority for a recommendation concerning approval of the plan.
- (2) Despite subsection (1), the Minister must refer a special access well plan to an independent panel or relevant public authority before determining that approval of the plan is in the public interest in accordance with section 137(2)(b).

### **140 Appointment of panel**

- (1) The Minister may, by instrument, appoint a panel of persons to consider applications for approval of a special access well plan.
  - (2) The persons appointed to the panel must be persons who have knowledge of or experience in the matters that the panel is to consider.
  - (3) Subject to any specifications of the Minister when appointing the panel, a panel may regulate its own proceedings.
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- (4) The panel must cause a notice to be published in a newspaper circulating generally in the area in which the well is proposed to be made inviting submissions on the approval of the proposed plan within the period specified in the notice.
  - (5) After considering all submissions referred or made to it, the panel must report its findings in writing to the Minister within the period specified by the Minister.
  - (6) The panel may include in its report any recommendations that it thinks fit.
  - (7) A member of a panel is entitled to be paid any fees and allowances fixed by the Governor in Council.
  - (8) If the Minister does not follow a recommendation made by the panel, he or she must give written reasons for that decision.

**141 Special access well plan must be adhered to**

The holder of a special access authorisation must ensure that any work to make a well is carried out in accordance with—

- (a) the special access well plan; and
- (b) any conditions attached to the approval of the special access well plan.

Penalty: 240 penalty units.

**142 Minister may require variation of special access well plan**

- (1) The Minister may require the holder of a special access authorisation to vary the special access well plan including any risk management plan or monitoring and verification plan prepared as part of that plan that applies to the special access authorisation.

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- (2) The Minister may only do this after consulting with the holder of the special access authorisation.

**143 Minister to consult**

- (1) Before requiring the holder of a special access authorisation to vary the special access well plan and any risk management plan or monitoring and verification plan prepared as part of that plan, the Minister must provide a copy of the proposed variation to—
- (a) the Minister administering the **Environment Protection Act 1970**;
  - (b) the Minister administering the **Water Act 1989**;
  - (c) the Environment Protection Authority.
- (2) A person or body referred to in subsection (1) may make a recommendation that the variation to the special access well plan not be required or be required subject to conditions if the person or body is of the opinion that—
- (a) the work that is proposed to be carried out under the varied plan will present a risk to the environment; or
  - (b) the details about how any risks to the environment will be managed are inadequate, including details contained in any risk management plan or monitoring and verification plan.
- (3) If a recommendation is made within 40 days after the proposed plan is provided to a person or body under this section, the recommendation is binding on the Minister.

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- (4) If a person or body requests that the Department provide further information in relation to an application for approval of special access well plan, the time in which the person or body may make a recommendation does not include the period from the date that the request for further information is made until the date that the information is received.

**144 EPA may require variation of special access well plan**

- (1) The Environment Protection Authority may require the holder of a special access authorisation to vary the monitoring and verification plan prepared as part of the special access well plan.
- (2) The Environment Protection Authority may only do this after consulting with the holder of the special access authorisation.
- (3) The Environment Protection Authority must consult the Minister before requiring a variation under subsection (1).

**145 Minister may allow variation of special access well plan**

- (1) On the written application of the holder of a special access authorisation, the Minister may allow the holder of the authorisation to vary the special access well plan including any risk management plan or monitoring and verification plan prepared as part of that plan that applies, or is to apply, to the special access authorisation.
- (2) An application for variation of a special access well plan must be accompanied by an assessment of the risks associated with the proposed variation.
- (3) Sections 135 to 140 apply to an application for approval of a variation.

**146 Permit, lease or licence holder not liable for actions of authorisation holder**

- (1) This section applies if any part of the area in respect of which a special access authorisation is granted falls within an area that is the subject of an exploration permit, a retention lease or a greenhouse gas injection and monitoring licence.
  - (2) The holder of the permit, lease or licence is not liable in any way for any thing that is done or not done by the holder of the authorisation.
  - (3) Subsection (2) applies even if the holder of the permit, lease or licence consented to the granting of the authorisation in respect of the permit, lease or licence area.
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**PART 9—PROVISIONS APPLYING TO AUTHORITIES  
GENERALLY**

**Division 1—Applications**

**147 Application for authorities**

- (1) An applicant for an authority—
  - (a) must apply for the authority in the manner required by the Minister; and
  - (b) must submit a proposed work program and details of how much the applicant intends to spend on each part of that program; and
  - (c) must submit a proposed consultation plan;
  - (d) must submit details of any matter required by the Minister to enable the Minister to assess the application; and
  - (e) must submit evidence of the applicant's ability to comply with this Act; and
  - (f) may set out other matters that the applicant wishes the Minister to consider.
- (2) In the case of an applicant for a retention lease who does not intend to carry out any greenhouse gas injection and monitoring operations under the lease, it is sufficient compliance with subsection (1)(b) if the applicant submits a document declaring that intention.

**148 Work programs**

A work program in relation to an authority is a document—

- (a) that outlines the work that it is intended to do under the authority; and
  - (b) that outlines how the work is to be structured and the intended extent of the work; and
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- (c) that sets out proposed timelines for the various phases of the work; and
- (d) that is in the form required by the regulations; and
- (e) that contains any other details required by the regulations.

**149 Applications are not transferable**

An application for an authority is not transferable.

**150 Native title**

If there is a native title holder in relation to land that is subject to an application for an authority, the Minister must not issue the authority in respect of that land unless the Minister is satisfied that the relevant procedures under the Native Title Act have been followed.

**151 Existing permits and leases continue until renewal applications etc. decided**

- (1) This section applies if—
  - (a) an application is made for—
    - (i) the renewal of an exploration permit; or
    - (ii) a retention lease in respect of an area held under an exploration permit; or
    - (iii) an injection and monitoring licence in respect of an area held under a retention lease or an exploration permit; and
  - (b) the application has not been determined at the time the original permit or lease is due to expire.

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- (2) The original permit or lease continues in force until the first of these events occurs—
- (a) the Minister gives the applicant a written notice stating that he or she refuses to grant the application; or
  - (b) if the application is granted, the lease, licence or new permit takes effect; or
  - (c) the application is withdrawn or lapses.
- (3) If the application is not made in respect of exactly the same area to which the original permit or lease applies, subsection (2) only applies to the area that is common to the original permit or lease and the area in respect of which the application is made.

### **Division 2—Community consultation**

#### **152 Duty to consult with the community**

The holder of an authority has a duty to consult with the community and relevant municipal councils throughout the period of the authority by—

- (a) sharing with the community and relevant municipal councils information about any activities authorised by the authority that may affect the community; and
- (b) giving members of the community and relevant municipal councils a reasonable opportunity to express their views about those activities.

#### **153 Community consultation plan**

- (1) If an applicant for an authority is not required to prepare an Environment Effects Statement under the **Environment Effects Act 1978**, the applicant must submit with the application for an authority under this Act—

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- (a) a community consultation plan; and
  - (b) a list of stakeholders.
- (2) The purpose of a community consultation plan is to detail how the applicant will consult with members of the community and relevant municipal councils during the life of the authority.
- (3) A community consultation plan may only be submitted after the applicant has consulted with members of the community and relevant municipal councils in relation to the content of the proposed plan.

**154 Requirements for community consultation plan**

- (1) A community consultation plan must include—
- (a) general information about the types of activities the applicant for an authority intends to carry out; and
  - (b) information about how any potential adverse impacts on the public health and the environment that may result from those activities will be managed; and
  - (c) details of the procedures that are to be followed under this Act and any other Act to permit the proposed activities; and
  - (d) a statement—
    - (i) advising that members of the community and relevant municipal councils may seek independent legal advice on the proposed activities; and
    - (ii) setting out the current contact information for the Department and the applicant for the authority.
- (2) The Minister may publish guidelines concerning the preparation of community consultation plans.
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**155 Minister to approve community consultation plan**

- (1) The Minister must within 21 days of receiving a community consultation plan advise the applicant of whether or not the plan is adequate.
- (2) If the Minister advises that the community consultation plan is not adequate, the applicant may—
  - (a) submit a new community consultation plan to the Minister; or
  - (b) submit amendments to the community consultation plan to the Minister.
- (3) If a new community consultation plan or amendments to a community consultation plan are submitted to the Minister under subsection (2), the Minister must within 21 days after receiving the plan or amendments advise the applicant whether or not the new community consultation plan or the community consultation plan as amended is adequate.

**156 Plan to be provided to community**

If an application for an authority is granted, the holder of the authority must within 21 days provide a copy of the community consultation plan to any members of the community and each relevant municipal council who may be affected by the activities proposed to be carried out under the authority.

**Division 3—Conditions**

**157 Conditions that may apply to authorities**

- (1) The Minister may specify that an authority to be granted is to be subject to any conditions that he or she considers to be appropriate.

- (2) The Minister may also specify that a person must comply with any conditions that the Minister considers to be appropriate before the Minister will issue an authority to the person.
- (3) Without limiting the conditions the Minister may specify under this section, the Minister may specify conditions—
- (a) relating to the operations that are to be carried out under the authority;
  - (b) requiring the expenditure of a minimum amount of money in relation to operations under the authority;
  - (c) requiring the carrying out of approved work programs during the term of the authority;
  - (d) concerning the protection of public health;
  - (e) concerning the protection of the environment;
  - (f) concerning the rehabilitation of any land affected by operations under the authority;
  - (g) requiring compliance with any written directions of the Minister in relation to any matters covered by the authority that are not otherwise the subject of a condition;
  - (h) requiring the holder of the authority to obtain specified approvals or submit specified information to the Minister before beginning a specified operation or using specified equipment;
  - (i) requiring the holder of the authority to provide other specified information to the Minister.
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**158 Statutory condition of authority**

- (1) In addition to the conditions specified on the authority by the Minister under this Part, an authority is subject to the condition that the holder of the authority must comply with all applicable laws in carrying out any activity under the authority.
- (2) Despite anything to the contrary in this Act (other than Division 10), this condition cannot be varied.

**159 Minister may vary conditions unilaterally**

- (1) This section does not apply to an injection testing plan, an injection and monitoring plan or a special access well plan.
  - (2) The Minister may vary any condition imposed on an authority.
  - (3) To do this, the Minister must—
    - (a) notify the holder of the authority in writing of the variation the Minister proposes to make and invite the holder to make any submissions it may wish to make in respect of the proposal within the time specified by the Minister; and
    - (b) consider any submissions made by the holder of the authority.
  - (4) The Minister must allow a period of at least 28 days for the purposes of subsection (3)(a).
  - (5) If, after complying with subsection (3), the Minister decides to vary the condition, he or she must give the holder of the authority notice in writing of the decision.
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- (6) The Minister may only vary a condition on a retention lease or an injection and monitoring licence if at least 5 years have elapsed since the condition was imposed or last varied (whichever is the later event) under this section.
  - (7) For the purposes of subsection (6), a condition is not imposed or varied if the holder of the authority, in response to a notice under subsection (3)(a), does not object to the imposition or variation of the condition.

**160 Minister may vary conditions by consent**

- (1) This section does not apply to an injection testing plan, an injection and monitoring plan or a special access well plan.
- (2) On the application of the holder of an authority, the Minister may vary any condition imposed on an authority.
- (3) In varying a condition under this section, the Minister—
  - (a) may also vary any associated condition; and
  - (b) need not vary the condition in exactly the way sought in the application.
- (4) The holder of the authority may withdraw an application if the Minister indicates that he or she will exercise his or her powers under subsection (3) in granting the application.
- (5) The Minister cannot, under this section, vary a condition imposed on an authority if the holder of the authority has withdrawn its application to vary the condition.

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**161 Variation of conditions on renewal, consolidation or transfer**

- (1) This section does not apply to an injection testing plan, an injection and monitoring plan or a special access well plan.
- (2) The Minister may vary the conditions that apply to an authority on renewing, wholly transferring or consolidating that authority.
- (3) On transferring part of an authority area to another authority, the Minister may vary the conditions that apply to the area that is being transferred.

**162 Suspension of conditions**

- (1) On the application of the holder of an authority, the Minister may suspend any condition imposed on an authority for a period of up to one year.
  - (2) In suspending a condition under this section, the Minister—
    - (a) may also suspend any associated condition; and
    - (b) need not suspend the condition in exactly the way, or on the terms, sought in the application; and
    - (c) may impose conditions in relation to the suspension.
  - (3) The holder of the authority may withdraw an application if the Minister indicates that he or she will exercise his or her powers under subsection (2) in granting the application.
  - (4) The Minister cannot, under this section, suspend a condition imposed on an authority if the holder of the authority has withdrawn its application to suspend the condition.
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- (5) The holder of an authority that has a condition suspended must comply with any conditions imposed by the Minister under subsection (2)(c).

Penalty: 240 penalty units.

- (6) While a condition of an authority is suspended, the holder of the authority need not comply with the condition.
- (7) Subsection (6) does not apply during any time that the holder of the authority is not complying with a condition imposed under subsection (2)(c).
- (8) The Minister may suspend under this section all of the conditions that apply to an authority.

**163 Term of authority may be extended if condition suspended**

If the Minister suspends a condition of an authority, the Minister may also extend the term of the authority by a period not exceeding the period of the suspension.

**Division 4—Transfers of authorities**

**164 Transfers**

- (1) If the holder of an authority wishes to transfer the authority to another person, either it or the person to whom the authority is to be transferred may apply to the Minister for approval of the transfer.
- (2) A person applying for the approval of a transfer—
- (a) must apply for the approval in the manner required by the Minister; and

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- (b) must submit the following details concerning the person to whom the authority is to be transferred—
    - (i) its relevant technical qualifications and the relevant technical qualifications of its employees; and
    - (ii) the relevant technical advice available to it; and
    - (iii) the financial resources available to it; and
  - (c) must submit evidence of the ability of the person to whom the authority is to be transferred to comply with this Act; and
  - (d) must submit any other details or matter required by the Minister to enable the Minister to assess the application; and
  - (e) may set out other matters that it wishes the Minister to consider; and
  - (f) must submit a transfer document in the form approved by the Minister that has been executed by the parties to the proposed transfer.

**165 Matters Minister must consider in assessing transfer application**

- (1) The Minister may approve the transfer of an authority if, in his or her opinion, the transfer will maintain or increase greenhouse gas sequestration operations in the authority area.
- (2) The Minister may approve the transfer of a retention lease even if the transfer does not comply with subsection (1).
- (3) The Minister must not approve the transfer of an authority that, in his or her opinion, is not in the public interest.

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**166 Creation of interest in authority**

- (1) The mere execution of a document purporting to transfer an authority creates no interest in the authority.
- (2) An interest in an authority is created when the authority is registered in the greenhouse gas sequestration register.

**167 Partial transfers of permits and licences**

- (1) The holder of an exploration permit or an injection and monitoring licence may apply to the Minister to transfer part of the permit or licence area to another person.
  - (2) The Minister may transfer the area if, in the opinion of the Minister, the transfer will maintain or increase greenhouse gas injection and monitoring operations in the area.
  - (3) A transfer is to be effected by the issue of a separate permit or licence to the other person.
  - (4) The separate permit or licence—
    - (a) expires when the permit or licence from which it was derived expires; and
    - (b) is subject to the same conditions as applied to that permit or licence (unless those conditions are varied by the Minister in accordance with this Act).
  - (5) The Minister must not approve a transfer under this section that, in his or her opinion, is not in the public interest.
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**Division 5—Surrender or cancellation of authorities**

**168 Surrender of authority**

- (1) The holder of an authority may surrender the authority with the consent of the Minister.
- (2) The Minister must not give his or her consent to the surrender of an authority unless he or she is satisfied that the holder of the authority—
  - (a) has complied with all the relevant requirements of this Act in relation to the authority; and
  - (b) has complied with all of the conditions that apply to the authority; and
  - (c) has plugged or closed off all wells that were made in the authority area under the authority; and
  - (d) in the case of an exploration permit that has not been renewed, has achieved the key objects of the work program declared by the Minister under Part 3; and
  - (e) in the case of an exploration permit that has been renewed, has achieved the key objects of the work program declared by the Minister under Part 3 that were to have been achieved by or during the year in which the surrender is sought.
- (3) The Minister must not unreasonably refuse to give his or her consent under this section.
- (4) If the Minister is not satisfied as to any matter referred to in subsection (2), he or she may still consent to the surrender of the authority if he or she is satisfied that the failure to comply with the relevant requirement was the result of one or more events beyond the control of the holder of the authority.

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**169 Partial surrender of authority**

- (1) The holder of an authority may apply to the Minister for the Minister's consent to the surrender of part of the area to which the authority applies.
- (2) The Minister must not give his or her consent to the surrender of the part of the area unless he or she is satisfied that the holder of the authority has complied with all of the requirements listed in section 168(2) in respect of the part of the area.
- (3) The Minister may make the giving of his or her consent conditional on the holder of the authority agreeing to the variation of the conditions that apply to the area that will be retained under the authority.
- (4) Sections 168(3) and 168(4) also apply to applications for consent under this section.

**170 Additional criteria for surrender of injection and monitoring licence**

- (1) In addition to the requirements set out in section 168, the Minister may only consent to the surrender of an injection and monitoring licence if—
  - (a) in the opinion of the Minister—
    - (i) the greenhouse gas substance that has been injected into an underground geological storage formation in the licence area is behaving and will continue to behave in a predictable manner; and
    - (ii) the licence holder has reduced the risks associated with the permanent storage of the greenhouse gas substance to as low as is reasonably practicable; and

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- (iii) the stored greenhouse gas substance will not present a risk to public health or the environment; and
  - (b) the licence holder has provided the following information—
    - (i) details of the work carried out under the licence;
    - (ii) details of the physical, geological, hydrological, chemical and biological conditions at the licence area at the time that the application for surrender of the licence is made;
    - (iii) a verifiable estimate of the storage capacity of any underground geological storage formation in which a greenhouse gas substance has been injected for the purpose of permanent storage;
    - (iv) details of the greenhouse gas substance injected under the licence, including a verifiable estimate of the volume of greenhouse gas substance injected, the rate at which it was injected and the injection technique used;
    - (v) an assessment of the processes and pathways for potential greenhouse gas migration and leakage to the environment;
    - (vi) an assessment of the effects that any potential leakage might have on public health or the environment and on any other resources in the licence area;
    - (vii) a risk management plan in the event of leakage to the environment; and
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- (c) the licence holder has prepared, for the approval of the Minister, a long-term monitoring and verification plan including an estimate of the cost of carrying out the activities in the plan.
  - (2) Before the Minister consents to the surrender of an injection and monitoring licence, he or she must approve the applicant's long-term monitoring and verification plan.
  - (3) The Minister may approve the long-term monitoring and verification plan subject to conditions.

#### **171 Surrender of injection and monitoring licence**

- (1) For the purposes of determining whether a stored greenhouse gas substance will present a risk to the environment, the Minister must, within 21 days of receiving an application for surrender of an authority, provide a copy of the application to—
  - (a) the Minister administering the **Environment Protection Act 1970**;
  - (b) the Minister administering the **Water Act 1989**;
  - (c) the Environment Protection Authority.
- (2) A person or body referred to in subsection (1) may make a binding recommendation that the application for surrender of an authority not be approved or be approved subject to conditions if the person or body is of the opinion that—
  - (a) the stored greenhouse gas substance will present a risk to the environment; or
  - (b) the applicant's proposed risk management plan in relation to the environment is inadequate; or

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- (c) the applicant's proposed long-term monitoring and verification plan, including estimated costs in relation to carrying out the activities detailed in that plan, is inadequate.
- (3) If a recommendation is made within 40 days after the application is provided to a person or body under this section, the recommendation is binding on the Minister.
- (4) If a person or body requests that the Department provide further information in relation to an application for surrender of an authority, the time in which the person or body may make a recommendation does not include the period from the date that the request for further information is made until the date that the information is received.

#### **172 Referral of application to independent panel**

Before approving an application for surrender of an injection and monitoring licence, the Minister may refer the application to an independent panel or any relevant public authority for a recommendation concerning acceptance of the application.

#### **173 Appointment of panel**

- (1) The Minister may, by instrument, appoint a panel of persons to consider an application for surrender of an authority.
- (2) The persons appointed to the panel must be persons who have knowledge of or experience in the matters that the panel is to consider.
- (3) Subject to any specifications of the Minister when appointing the panel, a panel may regulate its own proceedings.

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- (4) The panel must cause a notice to be published in a newspaper circulating generally in the area in which the authority is proposed to be surrendered inviting submissions on the approval of the surrender within the period specified in the notice.
  - (5) After considering all submissions referred or made to it, the panel must report its findings in writing to the Minister within the period specified by the Minister.
  - (6) The panel may include in its report any recommendations that it thinks fit.
  - (7) A member of a panel is entitled to be paid any fees and allowances fixed by the Governor in Council.
  - (8) If the Minister does not follow a recommendation made by the panel, he or she must give written reasons for that decision.

**174 Payment of long-term monitoring and verification costs**

- (1) If the Minister consents to the surrender of an injection and monitoring licence, the licence holder must, before surrendering the licence, pay the remaining cost of carrying out long-term monitoring and verification as detailed in the long-term monitoring and verification plan approved under section 170(2) and which has not already been paid in accordance with section 112.
- (2) If the licence holder has paid more than the cost estimated in the long-term monitoring and verification plan, the licence holder is entitled to a refund of the difference between the amount paid and the cost estimated in the approved plan.

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### **175 Cancellation of authority**

The Minister may cancel an authority if—

- (a) the holder of the authority has not complied with the work program that was to have been carried out under the authority; or
- (b) the conditions of the authority or any of the provisions of this Act that apply to the authority have not been complied with; or
- (c) any activity carried out under the authority has caused a risk to public health or the environment; or
- (d) any activity carried out under the authority has caused a serious situation; or
- (e) the holder of the authority has failed to maintain any insurance policy it is required to maintain under this Act or has failed to lodge any bond it was required to lodge under this Act; or
- (f) the holder of the authority no longer has the funds to carry out its work program; or
- (g) the holder of the authority has not paid any amount that is payable under this Act within 90 days after it was due and within 30 days after receiving a written notice from the Minister warning it of the Minister's power under this provision; or
- (h) it is, in the opinion of the Minister, in the public interest to cancel the authority.

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**176 Additional grounds for the cancellation of an injection and monitoring licence**

The Minister may also cancel an injection and monitoring licence if the Minister is satisfied—

- (a) that no greenhouse gas substance is being injected for permanent storage in the licence area in accordance with the work program and the holder of the licence has no present intention to inject a greenhouse gas substance in that area in the immediate future; or
- (b) that no greenhouse gas substance has been injected in the underground geological storage formation in accordance with the work program in the last 2 years.

**177 Procedure to be followed before authority cancelled**

The Minister must not cancel an authority under this Act unless he or she—

- (a) has given the holder of the authority a written notice—
    - (i) stating that the Minister believes that there may be grounds for cancelling the authority; and
    - (ii) providing details of those grounds and providing a copy of the information available to the Minister concerning those grounds; and
    - (iii) inviting the holder of the authority to submit to the Minister within 30 days of the date the holder of the authority is given the notice any material that the holder wishes to submit; and
  - (b) has considered any material submitted by the holder of the authority in response to the notice; and
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- (c) is satisfied that one of the grounds set out in section 175 or 176 that is relevant to the authority exists.

**178 Minister may give directions if authority expires or is surrendered or cancelled**

- (1) This section applies if an authority is surrendered or cancelled or expires.
- (2) The Minister may direct the person who held the authority immediately before the surrender, cancellation, expiry or removal to do one or more of the following to the satisfaction of the Minister—
- (a) remove, or cause to be removed, from the relevant area all property brought into that area under the authority, or to make other arrangements with respect to that property; and
  - (b) plug or close off all wells made in the relevant area under the authority; and
  - (c) subject to this Act, provide for the conservation and protection of the resources in the relevant area; and
  - (d) make good any damage to the surface of the land or the sub-soil in the relevant area caused by any person engaged or concerned in the operations conducted under the authority; and
  - (e) give to the Minister any information that it was obliged to give to the Minister.
- (3) A direction must be given in writing and must specify by when it must be complied with.

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- (4) A person to whom a direction is given must comply with the direction within the time specified in the direction.
- Penalty: 240 penalty units.
- (5) Nothing in this section requires the Minister to give a direction to any person.
- (6) In this section *relevant area* means—
- (a) if an authority expires or is surrendered or cancelled in its entirety, the area to which the authority applied;
  - (b) in any other case, the area to which the authority no longer applies.

#### **Division 6—Miscellaneous matters**

##### **179 Consolidation of adjoining authorities**

- (1) In this section a reference to an authority does not include a reference to a special access authorisation.
- (2) This section applies if the same person holds 2 or more authorities of the same type and each of the authority areas has at least one common boundary with another of those authority areas.
- (3) The person may apply to the Minister to have a single authority of that type issued in respect of all of those authorities.
- (4) The Minister may grant an application if he or she is satisfied—
- (a) that the consolidation of the authorities will not affect the work programs being, or to be, conducted under each of the authorities in respect of which the application is made; and
  - (b) that the consolidated authority area will form one continuous parcel of land.
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- (5) An authority that is the result of the consolidation of 2 or more authorities expires on the earliest date any of the authorities that have been consolidated would have expired.

**180 Excision of area from authority**

- (1) The Minister may excise an identified area from an authority if the Minister is satisfied—
- (a) that no operations have been carried out in the identified area in accordance with the work program in the last 2 years; and
  - (b) excision of the identified area will not interfere with the ongoing operations of the holder of the authority; and
  - (c) excision of the identified area from the authority area is in the public interest.
- (2) Before deciding to excise an identified area from an authority under subsection (1), the Minister—
- (a) must consult with the holder of the authority; and
  - (b) may consult with an independent panel or any relevant public authority for a recommendation concerning excision of the identified area.
- (3) The Minister may amend an authority (including any condition of the authority) to give effect to his or her decision to excise an identified area from the authority under this section.

**181 Reporting of serious situations**

The holder of an authority must within the period of time specified in the regulations report any serious situation that has occurred, or may occur, in the authority area.

Penalty: 240 penalty units.

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**182 Power of Minister to give a direction**

If, in the opinion of the Minister, a serious situation has occurred, the Minister may, in writing, direct an authority holder—

- (a) to take all reasonable steps to ensure that the greenhouse gas substance is injected into the underground geological storage formation in the manner specified in the direction; or
- (b) to take all reasonable steps to ensure that the greenhouse gas substance is stored in the underground geological storage formation in the manner directed; or
- (c) to stop or suspend the injection of a greenhouse gas substance at the place or places specified in the direction; or
- (d) to inject a greenhouse gas substance in an underground geological storage formation at the place or places specified in the direction; or
- (e) to undertake the activities specified in the direction for the purposes of eliminating, mitigating, managing or remedying the serious situation; or
- (f) to take such action as specified in the direction; or
- (g) to refrain from taking such action as specified in the direction.

**183 Offence to fail to comply with direction**

The holder of an authority must comply with a direction given under section 182.

Penalty: 600 penalty units.

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**184 Minister must publish certain details if authority granted**

- (1) The Minister must publish notice of each reportable event in the Government Gazette within 14 days of the event occurring.
- (2) The notice must—
  - (a) state that the reportable event has occurred and when it occurred; and
  - (b) set out details of who holds the relevant permit or licence; and
  - (c) contain a brief description of the area to which the permit or licence applies.
- (3) If there was more than one application for the relevant permit or licence, the notice must also contain—
  - (a) an outline of the reasons why the permit or licence was granted to the successful applicant; and
  - (b) if the chief reason was the superiority of the intended work program of the successful applicant, an outline of that work program.
- (4) The notice may contain any other details the Minister considers to be appropriate.
- (5) In this section *reportable event* means the granting by the Minister of an exploration permit under Division 2 of Part 3, or of a injection and monitoring licence under Division 4 of Part 5.

**185 Variation of an authority**

- (1) The Minister may vary the details of an authority at any time.
- (2) The Minister may not vary the expiry date of an authority under this section.

- (3) A reference to details in this section does not include a reference to the conditions to which the authority is subject.

**186 Expedited procedure for replacement of invalidated title**

- (1) This section applies if—
- (a) a court or tribunal finds an authority to be wholly or partly invalid and the invalidity stems from circumstances that were beyond the control of the holder of the authority; and
  - (b) the person who held the authority applies within 60 days after the finding to the Minister for the grant of an authority of the same type for all or part of the former authority area.
- (2) The Minister may grant the authority to the person without the need to comply with any procedural requirement that would usually apply to the grant of such an authority.
- (3) In granting an authority under this section, the Minister may impose any conditions the Minister considers to be appropriate on the authority.

**187 Occupiers liability**

- (1) For the purposes of Part IIA of the **Wrongs Act 1958** and the rules of common law with respect to the liability of occupiers to people entering on their premises, the holder of an authority is the occupier of that part of any premises on which any operation is being carried out under the authority, and not any other person.
- (2) An occupier of any premises that is in an area to which an authority applies does not, unless the occupier is also the holder of the authority, owe a duty to take care of any person entering on those

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premises for the purpose of carrying out an operation under the authority.

- (3) Subsection (2) applies despite anything to the contrary in Part IIA of the **Wrongs Act 1958** or the rules of common law with respect to the liability of an occupier to a person entering on the occupier's premises.
  - (4) Nothing in subsection (2) limits any other duty owed by an occupier to a person entering on the occupier's premises in the circumstances described in that subsection.
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**PART 10—PLANNING MATTERS**

**188 Definition of planning scheme**

In this Part, *planning scheme* means a planning scheme approved under the **Planning and Environment Act 1987**.

**189 Exploration under exploration permit overrides planning schemes**

- (1) The holder of an exploration permit may carry out in accordance with the permit greenhouse gas sequestration formation exploration in the permit area—
  - (a) without obtaining a permit under the planning scheme that applies to the authority area; and
  - (b) without complying with any conditions specified in that planning scheme in relation to the use or development of that land for exploration.
- (2) Subsection (1) applies even if the planning scheme wholly or partly prohibits the use or development of the authority area for exploration.

**190 Injection and monitoring operations also override planning schemes**

- (1) Despite anything to the contrary in any planning scheme applying to a licence area, the holder of an injection and monitoring licence may be granted a permit under the planning scheme to carry out in the licence area any greenhouse gas substance injection and monitoring authorised by the licence.

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- (2) This section applies even if the planning scheme prohibits the carrying out of greenhouse gas substance injection and monitoring in the area (whether absolutely or unless specified conditions are complied with) and does not provide for the granting of a permit for the carrying out of those operations.

### 191 Alternative approvals

- (1) This section applies if—
- (a) a permit is required under any planning scheme to enable the holder of an injection and monitoring licence to carry out any greenhouse gas substance injection and monitoring authorised by the licence; or
  - (b) the holder of an injection and monitoring licence may be granted a permit under section 190 to carry out a greenhouse gas substance injection and monitoring operation.
- (2) The holder of the licence is not required to obtain a permit under the planning scheme or section 190 to carry out the operation if—
- (a) an Environment Effects Statement has been prepared under the **Environment Effects Act 1978** in relation to the carrying out of the operation; and
  - (b) an assessment of that Statement by the Minister administering the **Environment Effects Act 1978** has been submitted to the Minister; and
  - (c) the Minister has authorised the holder of the licence in writing to carry out the operation.

- (3) If an Environment Effects Statement has not been prepared under the **Environment Effects Act 1978**, the holder of the licence must obtain any permit that is required under a planning scheme before carrying out—
- (a) any greenhouse gas substance injection and monitoring authorised by the licence; or
  - (b) a greenhouse gas substance injection and monitoring operation.
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**PART 11—CONSENT REQUIREMENTS BEFORE  
OPERATIONS ALLOWED ON LAND**

**Division 1—Wilderness Crown land**

**192 Operations on wilderness land barred**

- (1) A person must not carry out any greenhouse gas sequestration operations on land that is a marine national park, a marine sanctuary, a reference area under the **Reference Areas Act 1978** or a wilderness zone or wilderness park under the **National Parks Act 1975**.

Penalty: 240 penalty units.

- (2) No authority granted under this Act can authorise any activity prohibited by subsection (1).

**Division 2—Operations requiring prior consent**

**193 Consent of Minister needed**

- (1) The holder of an authority must not carry out any greenhouse gas sequestration operation on any land without the written consent of the Minister.

Penalty: 240 penalty units.

- (2) The giving of consent by the Minister—
- (a) does not relieve the holder of the authority from the requirement to obtain any consents or other authorities required, or comply with any other requirements imposed, by or under this or any other Act; and
- (b) does not relieve the holder of the authority from liability under this or any other Act for a failure to obtain any necessary consent or other authority or to comply with any applicable requirement.
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**194 Greenhouse gas sequestration operations on restricted Crown land**

A person must not carry out any greenhouse gas sequestration operation on any land specified in Schedule 3 to the **Mineral Resources (Sustainable Development) Act 1990** without the written consent of the Minister responsible for that land.

Penalty: 240 penalty units.

**195 Greenhouse gas sequestration operations on water authority land**

- (1) In this section, *water authority* means—
- (a) a person who holds a water licence or a water and sewerage licence under the **Water Industry Act 1994**; or
  - (b) an Authority that has a water district or a sewerage district under the **Water Act 1989**.
- (2) A person must not carry out any greenhouse gas sequestration operation on any land that is owned, vested in or managed or controlled by a water authority without the written consent of the water authority.

Penalty: 240 penalty units.

- (3) A person must not carry out any greenhouse gas sequestration operation that involves work at a depth of more than 0.75 metres below any land that is within 100 metres of—
- (a) a waterway that is owned by, vested in or managed or controlled by a water authority;
- or

(b) any main drains, sewers, aqueducts, channels or pipelines of a water authority—

without the written consent of the water authority.

Penalty: 240 penalty units.

### **196 Provisions applying to consents**

- (1) If the consent of a person or body is sought for the purposes of this Division, the person or body—
  - (a) must not unreasonably withhold that consent; and
  - (b) may impose any conditions the person or body considers to be appropriate in giving that consent; and
  - (c) must give or refuse to give that consent within 28 days (or any longer period allowed by the Minister) after the consent is sought.
- (2) A person or body (other than a native title holder) which does not comply with subsection (1)(c) in relation to any land is deemed to have given the consent sought.

### **197 Right to seek review of refusal to give consent**

- (1) A person who sought a consent for the purposes of this Division may apply to VCAT for a review of a decision—
  - (a) to refuse to give the consent; or
  - (b) to impose a condition on the consent.
- (2) An application for a review must be made within 28 days after the later of—
  - (a) the day on which the decision is made;
  - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the applicant requests a statement of reasons for the decision, the day on which the statement

of reasons is given to the applicant or the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given.

### **Division 3—Operations requiring notice**

#### **198 Operations on unrestricted Crown land**

- (1) A person must not carry out any significant operation on any unrestricted Crown land as part of a greenhouse gas sequestration operation unless the person has consulted the Minister responsible for controlling or managing the land.

Penalty: 240 penalty units.

- (2) If a person has complied with subsection (1) and the conditions of the relevant authority, the person may carry out the operation without the need to obtain any other consent or authority, despite anything to the contrary in any Act or subordinate instrument other than the **Environment Protection Act 1970**, the **Flora and Fauna Guarantee Act 1988**, the **Water Act 1989** and the Forests (Fire Protection) Regulations 2004.

#### **199 Notice to be given before operation carried out on any land**

- (1) A person must not carry out any greenhouse gas sequestration operation on any land unless the person gives the owner, occupier or person or body responsible for the management of the land a written notice outlining the proposed operation at least 21 days before the activity starts.

Penalty: 120 penalty units.

- (2) The owner, occupier or person or body may waive all or part of the 21-day notice period.

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- (3) In the case of unrestricted Crown land, the notice required by this section must be given to the Minister responsible for controlling or managing the land.
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**PART 12—COMPENSATION**

**200 Consent of, or compensation agreement with, owner etc. needed before operation on private land starts**

- (1) A person must not carry out any greenhouse gas sequestration operation on private land unless—
- (a) the person has obtained the consent of the owners and occupiers of the land to the operation; or
  - (b) it has entered into a compensation agreement with the owners and occupiers of the land in relation to the operation; or
  - (c) VCAT has determined the amount of compensation that is payable to the owners and occupiers of the land under this Act in relation to the operation.

Penalty: 240 penalty units.

- (2) Subsection (1) does not apply to any land that is owned by the person.

**201 What compensation is payable for—private/native title land**

- (1) Compensation is payable by an authority holder to the owners and occupiers of private land and native title land for any loss or damage that has been, or will be, sustained in relation to the land as a direct, natural and reasonable consequence of the approval of any greenhouse gas sequestration operation or the carrying out of any greenhouse gas sequestration operation under the authority including for—
- (a) deprivation of possession of the whole, or any part of the surface, of the land; and
  - (b) damage to the surface of the land; and

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- (c) damage to any improvements on the land;  
and
  - (d) severance of the land from other land of the  
owner or occupier; and
  - (e) loss of amenity, including recreation and  
conservation values; and
  - (f) loss of opportunity to make any planned  
improvement on the land; and
  - (g) any decrease in the market value of the  
owner or occupier's interest in the land.
- (2) The amount of compensation payable under  
subsection (1)—
- (a) must, if it is necessary for the owner or  
occupier of land to obtain replacement land,  
take account of the reasonable incidental  
expenses incurred in obtaining and moving  
to that land; and
  - (b) may be increased by up to 10% by way of  
solatium to compensate the owner or  
occupier for intangible and non-pecuniary  
disadvantages for which compensation is not  
otherwise payable and that result from the  
approval or the carrying out of the operation.
- (3) Compensation is not payable in respect of any  
land which only became private land after a  
greenhouse gas sequestration operation under the  
authority started on that land.
- (4) Any amount of compensation paid, agreed to be  
paid or determined under this Part is not affected  
by any subsequent change in the ownership or  
occupancy of the land.
- (5) An authority holder is not liable to pay any greater  
total amount of compensation because of a change  
in the ownership or occupancy of the land.
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- (6) If—
- (a) a person is entitled to compensation on just terms (within the meaning of the Native Title Act) in respect of any loss or damage in relation to any native title land under subsections (1) and (2); and
  - (b) the compensation the person receives under this section (apart from this subsection) does not amount to compensation on just terms—  
the person is entitled to any additional compensation that is necessary to ensure that compensation is paid on just terms.
- (7) In this section, *planned improvement*, in relation to land, means an improvement on the land in respect of which the owner or occupier had, before an application for an authority covering that land was made—
- (a) applied for, or been granted, a building permit or a planning permit; or
  - (b) otherwise demonstrated a genuine intention to proceed.

**202 Limit on total amount of compensation**

- (1) The total amount of compensation payable under section 201(1) in respect of any land must be no greater if the same person is not the owner and occupier of the land than if the same person was both the owner and occupier of the land.
- (2) Nothing in subsection (1) limits the amount of solatium payable to the owner or occupier under section 201(2).

**203 Compensation not payable for underground geological storage formations**

Compensation is not payable for the value of any underground geological storage formation.

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**204 What compensation is payable for—Crown land**

- (1) This section applies if the Minister is of the opinion that the approval of a greenhouse gas sequestration operation, or the carrying out of any greenhouse gas sequestration operation under an authority, in relation to any Crown land has, or will, result in loss or damage of the following nature being sustained as a direct, natural and reasonable consequence of the approval, or the carrying out of the operation—
- (a) deprivation of possession of the whole, or any part of the surface, of the land; or
  - (b) damage to the surface of the land to such an extent that it cannot be rehabilitated and returned to its former, or a comparable, state; or
  - (c) damage to any improvements on the land; or
  - (d) severance of the land from any other Crown land; or
  - (e) loss of opportunity to make any planned improvement on the land.
- (2) The Minister may require the holder of the authority to pay compensation for the loss or damage—
- (a) to the Crown; or
  - (b) to any person who is authorised to undertake activities on the land under a lease, licence, permit or other authority granted under an Act.
- (3) In determining whether compensation should be paid under subsection (2)(a), the Minister must take into account any benefits that may accrue to the people of Victoria from the greenhouse gas sequestration operation.
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- (4) In determining the amount of compensation to be paid, the Minister may, if it is necessary for the Crown to obtain replacement land, take account of the reasonable incidental expenses incurred in obtaining that land.
  - (5) If the Minister determines that compensation should be paid to a person referred to in subsection (2)(b), the Minister may increase the amount payable by up to 10% by way of solatium to compensate the person for intangible and non-pecuniary disadvantages for which compensation is not otherwise payable and that result from the approval or the carrying out of the operation.
  - (6) Compensation is not payable in respect of any land which only became Crown land after a greenhouse gas sequestration operation under the authority started on that land.
  - (7) Sections 201(4), 201(5) and 201(7) also apply to this section.

#### **205 Time limit on compensation claims**

A claim for compensation for any loss or damage under section 201 by the owner or occupier of private land or under section 201 which is not the subject of an agreement between the relevant parties may be made at any time until the end of the period of 3 years—

- (a) after the loss or damage occurred; or
- (b) after the authority is surrendered or cancelled or expires—

whichever is the earlier.

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**206 Determination of disputes—private/native title land**

- (1) Subject to section 208, the owner or occupier of land or the holder of an authority may—
- (a) apply to VCAT for the determination of a disputed claim for compensation in relation to private land or native title land (other than a claim for just terms compensation under section 53(1) of the Native Title Act); or
  - (b) refer a disputed claim referred to in paragraph (a) to the Supreme Court for determination—

in accordance with Part 10 of the **Land Acquisition and Compensation Act 1986** as if it were a claim for compensation under that Act and as if the authority holder were the Authority referred to in that Part.

- (2) A person may only make an application to VCAT in respect of a claim, or refer a claim to the Supreme Court under subsection (1), after the expiry of any period of time specified for the purposes of this section by the regulations.
- (3) A party who makes an application in respect of, or who refers, a claim under subsection (1) is only entitled to have that claim determined by VCAT or the Court (as the case requires) if VCAT or the Court is satisfied that the party has attempted to settle the claim by conciliation, but has not been able to do so because the other party has refused to negotiate a settlement or because both parties are unable to agree.

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- (4) In its application to a claim that is the subject of an application or reference under subsection (1), Part 10 of the **Land Acquisition and Compensation Act 1986** has effect as if—
- (a) it required VCAT or the Court (as the case requires) in determining the compensation payable to have regard to the provisions of this Part; and
  - (b) section 91(1) provided that the holder of the authority must pay its own costs and the costs of the other party unless—
    - (i) the other party is not the owner or occupier of land in the authority area; or
    - (ii) the other party has been frivolous or vexatious or has otherwise acted unreasonably—in which case VCAT or the Court (as the case requires) may, subject to that section, award the costs that it thinks are appropriate.
- (5) In determining how much compensation is due to a native title holder in any dispute concerning native title land, VCAT or the Court must take into account any relevant amount that has been determined or agreed as compensation under the Native Title Act in relation to that land.
- (6) The holder of the authority must lodge a copy of a determination under this section with the Minister.

**207 Determination of disputes—Crown land**

- (1) The holder of an authority may apply to VCAT for a review of any requirement made by the Minister under section 204.

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- (2) A person who is authorised to undertake activities on Crown land under a lease, licence, permit or other authority granted under an Act may apply to VCAT for a review of any decision made by the Minister under section 204 that affects the person.
- (3) An application for a review under this section must be made within 28 days after the later of—
- (a) the day on which the decision is made;
  - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the applicant requests a statement of reasons for the decision, the day on which the statement of reasons is given to the applicant or the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given.

#### **208 Native Title Act rights prevail**

If—

- (a) the right to negotiate provisions of the Native Title Act have applied; or
- (b) an indigenous land use agreement within the meaning of the Native Title Act applies—

in relation to native title land in respect of the approval, or the carrying out, of any greenhouse gas sequestration operation, the provisions of this Act that provide for similar processes do not apply except to the extent that the parties otherwise agree in writing.

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**PART 13—OTHER OBLIGATIONS ON THE HOLDERS OF  
AUTHORITIES**

**Division 1—Operation plan to be prepared**

**209 Operation plan to be prepared**

Before carrying out any greenhouse gas sequestration operation, the holder of the authority under which the operation is to be carried out must give the Minister an operation plan—

- (a) that identifies the risks of injury or damage that the operation may pose to the environment, to any community, person, land user, land or property in the vicinity of the operation; and
- (b) that specifies what the holder of the authority will do to eliminate or minimise those risks; and
- (c) that specifies what the holder of the authority will do to rehabilitate the land that will be affected by the operation; and
- (d) that sets out any other matters required by the regulations.

Penalty: 240 penalty units.

**210 Operate plan to be approved**

- (1) The holder of the authority must not carry out the greenhouse gas sequestration operation unless the Minister has approved the operation plan for the operation in writing.

Penalty: 240 penalty units.

- (2) The Minister must not approve an operation plan unless he or she is satisfied that the holder of the authority has, in preparing the plan, consulted the

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person who owns, occupies or manages the land on which the operation is to be carried out.

**211 Plan must be observed in carrying out operation**

In carrying out a greenhouse gas sequestration operation, the holder of an authority must ensure that the operation is carried out in accordance with the operation plan approved by the Minister in relation to the operation.

Penalty: 240 penalty units.

**212 Minister may allow variation of operation plan**

- (1) On the written application of the holder of an authority, the Minister may allow the holder of the authority to vary the operation plan that applies, or is to apply, to the authority.
- (2) The Minister may require the holder of an authority to vary the operation plan that applies to the authority.
- (3) The Minister may only do this after consulting with the holder of the authority.
- (4) This section does not apply to a variation of any of the following plans prepared as part of an operation plan—
  - (a) injection testing plans;
  - (b) injection and monitoring plans;
  - (c) special access well plans.

**Division 2—Conduct of operations**

**213 Operation to be conducted in proper manner**

The holder of an authority must ensure that any greenhouse gas sequestration operation carried out in the authority area is carried out in a proper and workmanlike manner.

Penalty: 240 penalty units.

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**214 Other specific obligations concerning conduct of operations**

The holder of an authority must, unless permitted to do otherwise under this Act, take all reasonable steps to—

- (a) control the flow and prevent the waste or escape in the authority area of the greenhouse gas substance or water; and
- (b) prevent the escape in the authority area of any mixture of water or drilling liquid with the greenhouse gas substance or any other matter; and
- (c) prevent greenhouse gas sequestration operations in the authority area from damaging underground geological storage formations in areas outside the authority area; and
- (d) keep separate each greenhouse gas substance injected in the authority area and any sources of water discovered in that area that the Minister directs the holder in writing to keep separate.

Penalty: 240 penalty units.

**215 Maintenance etc. of property**

- (1) The holder of an authority must maintain in good condition and repair all structures, equipment and other property in the authority area that is used in connection with the greenhouse gas sequestration operations being carried out under the authority.

Penalty: 240 penalty units.

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- (2) The holder of an authority must remove from the authority area all structures, equipment and other property that are not being used, or that are not to be used, in connection with the greenhouse gas sequestration operations being conducted under the authority.

Penalty: 240 penalty units.

- (3) Subsections (1) and (2) do not apply in relation to any structure, equipment or other property that was not brought into the authority area by, or with the authority, of the authority holder.

#### **216 Authority holder must not interfere with other rights**

In carrying out greenhouse gas sequestration operations, the holder of an authority must ensure that the operations are carried out in a way that does not interfere with the activities of any other person who is using the land to a greater extent than is necessary for the reasonable exercise of its rights, and the performance of its duties, under the authority.

Penalty: 120 penalty units.

#### **217 Rehabilitation**

- (1) The holder of an authority must rehabilitate any land that is used in carrying out any operation under the authority and must, as far as is practicable, complete the rehabilitation of the land before the authority, or any renewed authority, ceases to apply to the land.
- (2) It is sufficient compliance with this section in respect of an operation if the holder of an authority fully complies with the rehabilitation measures in the operation plan concerning that operation.

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### **218 Insurance must be held**

The holder of an authority must obtain and maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of operations, or the doing of any other thing, under the authority, including the expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of a greenhouse gas substance.

Penalty: 240 penalty units.

### **Division 3—Rehabilitation bond**

#### **219 Definition of rehabilitation bond**

- (1) In this Division *rehabilitation bond* means an instrument acceptable to the Minister securing the payment of a specified amount of money for any rehabilitation work, clean-up work or pollution prevention work that may be necessary as a result of a greenhouse gas sequestration operation.
- (2) A rehabilitation bond is not to include any costs associated with long-term monitoring or verification arising in relation to the surrender of injection rights under an injection and monitoring licence.

#### **220 Requirement to take out rehabilitation bond**

The holder of an authority must not carry out a greenhouse gas sequestration operation unless it has obtained a rehabilitation bond that is acceptable to the Minister and is for an amount specified by the Minister.

Penalty: 240 penalty units.

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**221 Minister may require increased rehabilitation bond**

- (1) This section applies if the Minister believes that the amount secured by a rehabilitation bond in relation to a greenhouse gas sequestration operation is insufficient.
- (2) The Minister may, by written notice, require the holder of the authority to obtain an extension of, or a further, rehabilitation bond for an amount determined by the Minister.
- (3) Before making a requirement, the Minister must consult the holder of the authority.
- (4) The holder of the authority must comply with a notice imposing such a requirement within 30 days after being given the notice.

Penalty: 120 penalty units.

**222 Minister may carry out rehabilitation**

- (1) The Minister may do anything necessary to rehabilitate land that has been used for a greenhouse gas sequestration operation if he or she—
  - (a) is not satisfied that the land has been rehabilitated as required by section 217; or
  - (b) is satisfied that further rehabilitation of the land is necessary; or
  - (c) is asked to do so by the owner of the land.
- (2) The Minister may only do this if he or she has asked the holder or former holder of the authority to rehabilitate the land and the holder or former holder has failed to do so within a reasonable period after the request.

- (3) The Minister may recover as a debt due to the Crown in a court of competent jurisdiction any amount incurred under subsection (1) that cannot be recovered from the rehabilitation bond that applies in respect of the land.
- (4) If the Minister refuses to act on a request under subsection (1)(c), he or she must inform the owner of the land of the reasons for that refusal.

### **223 Return of bond if rehabilitation satisfactory**

The Minister must discharge a rehabilitation bond, or return a rehabilitation bond to the holder or former holder of the authority, as soon as possible once the Minister is satisfied—

- (a) that the relevant land has been rehabilitated as required by section 217; and
- (b) that the rehabilitation is likely to be successful; and
- (c) that any other work in respect of which the bond was required has been satisfactorily completed.

### **Division 4—Royalties and rents**

### **224 Liability for, and rate of, royalty**

- (1) The holder of an injection and monitoring licence must pay to the Minister a royalty in respect of the volume of a greenhouse gas substance injected into an underground geological storage formation within the licence area.
- (2) Royalty is to be paid at the rate, and in accordance with the conditions, specified in the licence under which the greenhouse gas substance injection and monitoring operations took place.

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- (3) The Minister in consultation with the Treasurer may waive the requirement for the holder of an injection and monitoring licence to pay a royalty under this section.

**225 Minister may vary royalty**

- (1) On the application of the holder of an injection and monitoring licence or a person who has applied for an injection and monitoring licence, the Minister may—
- (a) vary the royalty rate specified (or to be specified) in the licence; or
  - (b) provide that a different method of collecting revenue on the volume of a greenhouse gas substance injected into an underground geological storage formation under the licence is to apply.
- (2) The Minister must consult the Treasurer before varying the licence, or proposed licence, under subsection (1)(a) or (b).

**226 When royalty must be paid**

- (1) Any royalty required by this Division must be paid in the manner specified in the relevant injection and monitoring licence and within the time specified in the licence.
- (2) If an injection and monitoring licence does not specify when or how royalty is to be paid under the licence, the holder of the licence must pay any royalty required by this Part in the manner, and within the time, specified by the regulations.

**227 Rent payable in relation to Crown land**

- (1) This section applies if a greenhouse gas sequestration operation being conducted under an authority involves the ongoing occupancy of Crown land.

- (2) The holder of the authority is liable to pay to the Minister rent for the occupancy of that land.
- (3) The amount of rent payable is to be that specified by the Minister in the authority, or if no rent is specified in the authority, the amount required by the regulations.

#### **Division 5—Obligations at end of authority**

#### **228 Equipment must be removed once authority ceases**

- (1) This section applies if an authority ceases to apply to any land.
- (2) The person who held the authority at the time it ceased to apply to the land must remove all equipment brought on to the land under the authority within 60 days after the authority ceases to apply.

Penalty: 120 penalty units.

#### **229 Minister may remove equipment**

- (1) If a person fails to comply with section 228 with respect to any equipment, the Minister may cause the equipment to be removed and may dispose of the equipment.
  - (2) The Minister may recover any cost involved in doing this from the rehabilitation bond that applies in respect of the relevant authority and from any proceeds that result from the disposal of the equipment.
  - (3) If the cost of removing or disposing of any equipment is greater than the amount that can be recovered under subsection (2) in relation to that equipment, the person must pay the difference to the Minister.
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- (4) The Minister may recover as a debt due to the Crown in a court of competent jurisdiction any amount payable under subsection (3).
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**PART 14—INFORMATION**

**Division 1—Information to be given to the Minister**

**230 Minister may require certain information if underground geological storage formation discovered**

- (1) If an underground geological storage formation is discovered in an authority area, the Minister may direct the holder of the authority—
  - (a) to give the Minister in accordance with the regulations any information required regarding the nature of the underground geological storage formation; and
  - (b) to conduct tests or to do anything else that the Minister specifies to obtain the information required in paragraph (a).
- (2) A direction must be given in writing and must specify by when it must be complied with.
- (3) A person to whom a direction is given must comply with the direction within the time specified in the direction.

Penalty: 120 penalty units.

**231 Authority holder must provide information to Minister**

The holder of an authority must—

- (a) collect the information and samples required by the regulations for the purpose of monitoring compliance with this Act; and
- (b) keep the records required by the regulations in the form required by the regulations for the purpose of monitoring compliance with this Act; and

- (c) give the Minister any information, samples or records when required to do so by the regulations for the purpose of monitoring compliance with this Act.

Penalty: 60 penalty units.

**232 Minister may require position of wells etc. to be surveyed**

- (1) The Minister may require the holder of an exploration permit, a retention lease or an injection and monitoring licence—
- (a) to carry out a survey of the position of any well, structure or equipment in the permit, lease or licence area; and
  - (b) to report the results of the survey to him or her in writing.
- (2) If the Minister is not satisfied with a report provided under subsection (1)(b), he or she may require the holder of the permit, lease or licence to give him or her further information in writing about the survey.
- (3) A requirement under subsection (1) or (2) must be made in writing.
- (4) The holder of a permit, lease or licence must comply with any requirement made under this section.

Penalty: 120 penalty units.

**233 Minister may require person to provide information on greenhouse gas sequestration operation**

- (1) This section applies if the Minister has reason to believe that a person has information, a document or a thing that relates to a greenhouse gas sequestration operation.

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- (2) The Minister may require the person—
- (a) to give the information, document or thing to the Minister within a specified time and in a specified form; or
  - (b) to appear before a person specified by the Minister at a time and place specified by the Minister to answer questions relating to the greenhouse gas sequestration operation or to produce the document or thing.
- (3) A requirement under subsection (2) must be made in writing.
- (4) A person—
- (a) must comply with any requirement made of him, her or it under subsection (2); and
  - (b) must answer any question asked of him, her or it under subsection (2)(b); and
  - (c) must produce any document or thing that he, she or it is asked to produce under subsection (2)(b).
- Penalty: 120 penalty units.
- (5) A person is not excused from complying with subsection (4) on the ground that complying with that subsection might tend to incriminate him or her.
- (6) Any information, answer, document or thing given or produced by a person under this section is not admissible in any proceedings other than proceedings in respect of the falsity of the information, answer, document or thing.

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**234 Minister may require information from petroleum operators**

- (1) The Minister may, in accordance with the regulations, direct the holder of an authority issued under the **Petroleum Act 1998** to give the Minister any information required by the regulations.
- (2) A direction must be given in writing and must specify the date by when it must be complied with.
- (3) A person to whom a direction is given must comply with the direction within the time specified in the direction.

Penalty: 120 penalty units.

- (4) In this section, *authority* has the same meaning as it has in the **Petroleum Act 1998**.

**235 False information not to be given**

A person must not—

- (a) in purported compliance with this Division, give any information or answer that the person knows is false or misleading in a material detail; or
- (b) produce any document that the person knows is false or misleading in a material detail, without informing the person to whom the document is produced of the defect in the document.

Penalty: 120 penalty units.

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**Division 2—Release of information**

**236 Meaning of release of information**

- (1) In this Division a reference to the release of information is a reference to making that information publicly known, or available for inspection by a member of the public, regardless of whether a fee is charged in relation to the release.
- (2) In this Division a reference to information includes a reference to any core, cutting or sample and to a portion of a core, cutting or sample.

**237 Meaning of interpretive information**

- (1) In this Division *interpretive information* means any matter contained in a document that is, in the opinion of the Minister, an opinion or conclusion that is based in whole or part on information relating to the sub-soil, the greenhouse gas substance or underground geological storage formation in part of an authority area or proposed authority area.
- (2) The Minister may publish guidelines concerning the identification of interpretive information.

**238 Meaning of information collection date**

In this Division *information collection date* means—

- (a) in the case of factual information obtained during the making of a well, the date on which the first of these events occurs—
  - (i) the drilling rig used to make the well is taken away from the well;
  - (ii) the holder of the authority ceases to be liable for any charges in relation to the making of the well under the contract for the making of the well;

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- (b) in the case of a special study, the date that is 180 days after the date the data analysis defined in the study is completed;
  - (c) in the case of information obtained from surveys, the date that is 180 days after the date the survey was completed;
  - (d) in the case of a reprocessed survey or a special study relating to a survey, the date that is 180 days after the date the work specified in the submission for the survey or study was completed;
  - (e) in any other case, the date on which the information was given to the Minister.

**239 Information that is not to be released**

The Minister must not release at any time any of the following details provided by an applicant for an authority in applying for the authority—

- (a) the technical qualifications of the applicant or of the employees of the applicant;
- (b) the technical advice available to the applicant;
- (c) the financial resources available to the applicant.

**240 Information about applications that may be released**

- (1) This section applies to any information contained in, or accompanying, an application for the grant or renewal of an authority, but does not apply to—
  - (a) the information referred to in section 239;
  - (b) interpretive information.
- (2) The Minister may release any information to which this section applies at any time after the grant or renewal of the authority, or the refusal to grant or renew the authority.

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**241 Release of information about area that is no longer an authority area**

- (1) This section applies to any information given to the Minister under this Act by the holder of an authority that relates to an area to which the authority no longer applies.
- (2) The Minister may release information to which this section applies at any time after the expiry of 180 days from the date the authority under which the information was given expires or was surrendered or cancelled in relation to that area.

**242 Release of factual information concerning licence areas**

- (1) This section applies to any information given to the Minister under this Act by the holder of an injection and monitoring licence that relates to the licence area, but it does not apply to interpretive information.
- (2) The Minister may release any information to which this section applies at any time after the expiry of 1 year from the information collection date.

**243 Release of factual information concerning other authority areas**

- (1) This section applies to any information given to the Minister under this Act by the holder of an authority other than an injection and monitoring licence that relates to an area to which the authority applies, but it does not apply to interpretive information.
  - (2) The Minister may release any information to which this section applies at any time after the expiry of 2 years from the information collection date.
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**244 Restriction on release of information collected so that it could be sold**

- (1) This section applies to information—
  - (a) that was collected under a special access authorisation; and
  - (b) that is available for purchase by any member of the public on reasonable terms.
- (2) The Minister must not release any information to which this section applies before the expiry of 5 years from the date—
  - (a) that the work of collecting the information finished; or
  - (b) that is 180 days after the work of collecting the information started—whichever is the earlier date.
- (3) The Minister may agree to withhold the release of the information for a longer time.

**245 Earlier release of information if consent given**

The Minister may release—

- (a) information concerning an application for an authority, or the renewal of an authority, before the application is granted or refused if the person who made the application—
  - (i) consents in writing to the release; or
  - (ii) has publicly released the information already; and
- (b) other information relating to an authority area before the relevant date specified in this Division if the holder of the authority—
  - (i) consents in writing to the release; or
  - (ii) has publicly released the information already.

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**246 Release of interpretive information relating to current authorities**

The Minister may release any interpretive information given to the Minister under this Act by the holder of an authority at any time after the expiry of 5 years from the information collection date.

**247 Procedure to be followed before interpretive information is released**

- (1) Before the Minister releases any interpretive information, the Minister must—
  - (a) publish a notice in the Government Gazette—
    - (i) stating that the Minister proposes to release the information; and
    - (ii) inviting notices of objection to the release to be submitted within a specified time (which must be a day that is at least 45 days after the publication of the notice); and
    - (iii) stating the grounds on which objections can be made; and
    - (iv) stating that, if no notices of objection are received within the specified time, the information will be released; and
  - (b) if it is practicable to do so—give a copy of the notice to the person who submitted the information to the Minister.
- (2) The only grounds on which a person may object to the release of interpretive information are that the release of the information—
  - (a) would disclose a trade secret; or

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- (b) would, or could reasonably be expected to, adversely affect the lawful business, commercial or financial affairs of the person.
  - (3) If the information which the Minister proposes to release consists of more than one item, a person submitting a notice of objection must make it clear which item or items the objection relates to.
  - (4) On receiving a valid notice of objection, the Minister must, within 45 days after receiving the notice—
    - (a) decide whether to release the information (whether wholly or partly) after considering the objection; and
    - (b) give the person objecting written notice of the decision.
  - (5) If the Minister decides to release any of the information in respect of which a notice of objection was lodged, the notice under subsection (4)(b) must advise the person of the right the person has to seek a review of the decision under section 248.

**248 Right to seek review of disputed release decision**

- (1) A person who submitted a notice of objection to the release of interpretive information and who is dissatisfied with the decision on the objection may ask the Minister to review the decision.
  - (2) The request must—
    - (a) be made by written notice given to the Minister; and
    - (b) be made not later than 28 days after the person was given notice of the decision; and
    - (c) set out the reasons for making the request.
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- (3) On receiving a request, the Minister must, within 45 days after receiving the notice—
- (a) affirm, vary or revoke the original decision; and
  - (b) give the person objecting written notice of the review decision together with his or her reasons for the decision.
- (4) If an objection is made to the release of any item of interpretive information, the Minister must not release the item—
- (a) before he or she complies with subsection (3); or
  - (b) if no request for a review is made, until the 45-day period referred to in that subsection expires.

**249 Minister may give information etc. to other Ministers**

- (1) The Minister may give to another Minister or to a Minister of the Commonwealth or of a State or Territory—
- (a) any information contained in a document to which this Division applies that has been given to the Minister; and
  - (b) any samples that have been given to the Minister.
- (2) The Minister may only give information, cores, cuttings or samples to another Minister or to a Minister of the Commonwealth or of a State or Territory under subsection (1) in accordance with an arrangement between them that includes a provision restricting the release by that Minister of the information, cores, cuttings or samples to circumstances in which it might be released by the Minister under this Act.

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**250 Restriction on obtaining information to meet work program obligation**

- (1) The holder of an exploration permit, a retention lease or an injection and monitoring licence must not attempt to meet its obligations under a work program to obtain certain information by buying or otherwise obtaining information obtained by the holder of a special access authorisation.

Penalty: 60 penalty units.

- (2) Subsection (1) does not apply if the information bought or obtained from the holder of a special access authorisation is only used to assist in the obtaining of the information that has to be obtained under the work program.
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## PART 15—ENFORCEMENT

### Division 1—Inspections

#### 251 Authorisation of inspectors

- (1) The Minister may authorise any person who the Minister considers suitable to carry out inspections for the purposes of this Act.
- (2) The Minister must give each authorised person an identity card that identifies the person by name as an inspector under this Act and that contains a photograph of the person.
- (3) If a person's authorisation as an inspector is revoked or expires, he or she must immediately return his or her identity card to the Minister.

Penalty: 5 penalty units.

#### 252 Production of identity card

An inspector must produce his or her identity card for inspection—

- (a) before exercising a power under this Part other than a requirement made by post; and
- (b) at any time during the exercise of a power under this Part, if asked to do so.

Penalty: 10 penalty units.

#### 253 Monitoring compliance with this Act

- (1) An inspector may enter any premises that the inspector believes has been, is being, or is to be, used in connection with a greenhouse gas sequestration operation at any reasonable hour in the daytime and at any time that the premises is open for business and may—
  - (a) inspect the premises and any thing on the premises;

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- (b) make copies of, or take extracts from, any document kept on the premises;
  - (c) seize any thing on the premises if the inspector believes on reasonable grounds that it is necessary to seize the thing in order to prevent its concealment, loss or destruction;
  - (d) test any equipment on the premises;
  - (e) take any photographs or make any audio or visual recordings that he or she considers necessary;
  - (f) use any assistants the inspector considers necessary to exercise the powers conferred by this section.
- (2) An inspector may exercise powers under this section only to the extent that it is reasonably necessary to do so for the purpose of determining compliance with this Act or in connection with the issue of an improvement notice under section 270 or a prohibition notice under section 271.
  - (3) An inspector may not continue to exercise any powers under this section if he or she fails to produce, on request, his or her identity card for inspection by the occupier of the land.
  - (4) An inspector may not, under this section, enter a residence for the purpose of determining compliance with this Act unless the occupier of the residence has consented in writing to the entry and the carrying out of a search.

#### **254 Emergencies**

- (1) If an inspector reasonably believes that it is necessary to do so because of the existence, on any premises that the inspector believes have been, are being, or are to be, used in connection with a greenhouse gas sequestration operation, of an immediate risk—
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- (a) that one or more people might be injured; or
- (b) that property may be seriously damaged; or
- (c) that significant damage may occur to the environment—

the inspector may at any time enter the premises and exercise any power conferred by section 253(1).

- (2) An inspector may not continue to exercise any powers under this section if he or she fails to produce, on request, his or her identity card for inspection by the occupier of the premises.
- (3) If an inspector exercises a power of entry under this section without the owner or occupier being present the inspector must, on leaving the premises, leave a notice setting out—
  - (a) the time of entry; and
  - (b) the purpose of entry; and
  - (c) a description of all things done while on the premises; and
  - (d) the time of departure; and
  - (e) the procedure for contacting the Department for further details of the entry.

#### **255 Offence-related searches and seizures**

- (1) An inspector may only exercise powers under this section if he or she has reasonable grounds for suspecting that there is on any premises a particular thing that may be evidence of the commission of an offence under this Act.
- (2) The inspector, with any assistants he or she considers necessary, may with the consent in writing of the occupier of the premises, enter the premises and search for the thing without applying for a search warrant.

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- (3) An inspector must not enter and search any premises with the consent of the occupier unless, before the occupier consents to that entry, the inspector has—
- (a) produced his or her identity card for inspection; and
  - (b) informed the occupier—
    - (i) of the purpose of the search; and
    - (ii) that the occupier may refuse to give consent to the entry and search or to the seizure of anything found during the search; and
    - (iii) that the occupier may refuse to consent to the taking of any sample of goods or any copy or extract from a document found on the premises during the search; and
    - (iv) that anything seized or taken during the search with the consent of the occupier may be used in evidence in proceedings.
- (4) If the thing is found during a search under subsection (2), the inspector may—
- (a) inspect any thing on the premises;
  - (b) inspect, and make copies of, or take extracts from, the thing;
  - (c) seize the thing if the inspector believes on reasonable grounds that it is necessary to seize it in order to prevent its concealment, loss or destruction.
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**256 Occupier to be given copy of consent**

- (1) An occupier who consents in writing to the entry and search of their premises or residence under section 253 or 255 must be given a copy of the signed consent immediately.
- (2) If, in any proceeding, a written consent is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry and search.

**257 Search warrant**

- (1) An inspector may apply to a magistrate for the issue of a search warrant in relation to particular premises if the inspector believes on reasonable grounds that there is, or may be within the next 72 hours, on the premises a particular thing that may be evidence of the commission of an offence under this Act.
  - (2) If a magistrate is satisfied that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, on the premises a particular thing that may be evidence of the commission of an offence under this Act, the magistrate may issue a search warrant authorising an inspector named in the warrant and any assistants the inspector considers necessary—
    - (a) to enter the premises, or the part of premises, named or described in the warrant; and
    - (b) to search for and seize any thing named or described in the warrant.
  - (3) In addition to any other requirement, a search warrant issued under this section must state—
    - (a) the offence suspected; and
    - (b) the premises to be searched; and
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- (c) a description of the thing for which the search is to be made; and
  - (d) any conditions to which the warrant is subject; and
  - (e) whether entry is authorised to be made at any time or during stated hours; and
  - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and must be in the form set out in the regulations under that Act.
- (5) Subject to any provision to the contrary in this Act, the rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

**258 Announcement before entry**

- (1) Before executing a search warrant, the inspector named in the warrant or a person assisting the inspector must announce that he or she is authorised by the warrant to enter the premises and give any person at the premises an opportunity to allow entry to the premises.
- (2) The inspector or a person assisting the inspector need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure—
  - (a) the safety of any person; or
  - (b) that the effective execution of the search warrant is not frustrated.

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**259 Copy of warrant to be given to occupier**

If the occupier or another person who apparently represents the occupier is present at the premises when a search warrant is being executed, the inspector must—

- (a) identify himself or herself to that person by producing his or her identity card for inspection by that person; and
- (b) give to that person a copy of the execution copy of the warrant.

**260 Receipt must be given for any thing seized**

- (1) An inspector may not seize a thing, apparently in the possession or custody of a person, unless he or she makes out and tenders to the person a receipt for the thing seized that—
  - (a) identifies the thing; and
  - (b) states the name of the inspector and the reason why the thing is being seized.
- (2) If an inspector is unable to discover the identity of the owner or custodian of any thing seized, the inspector must leave the receipt with, or post it to, the owner of the premises from which the thing was seized.

**261 Copies of certain seized things to be given**

- (1) If an inspector seizes—
  - (a) a document; or
  - (b) a thing that can be readily copied; or
  - (c) a storage device the information in which can be readily copied—

the inspector must give a copy of the thing or information to the owner or custodian of the document, thing or device as soon as practicable after the seizure.

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- (2) Subsection (1) does not apply—
- (a) to any document, thing or device moved under section 262(2); or
  - (b) if the inspector is unable to discover the identity of the owner or custodian of any document, thing or device seized.

**262 Use of equipment to examine or process things**

- (1) An inspector may bring on to a premises any equipment reasonably necessary for the examination or processing of things found at the premises in order to determine whether they are things that may be seized.
  - (2) If—
    - (a) it is not practicable to examine or process the things at the premises; or
    - (b) the occupier of the premises consents in writing—the things may be moved to another place so that the examination or processing can be carried out in order to determine whether they are things that may be seized.
  - (3) The inspector, or a person assisting the inspector, may operate equipment already at the premises to carry out the examination or processing of a thing found at the premises in order to determine whether it is a thing that may be seized, if the inspector or person assisting believes on reasonable grounds that—
    - (a) the equipment is suitable for the examination or processing; and
    - (b) the examination or processing can be carried out without damage to the equipment or the thing.
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**263 Use or seizure of electronic equipment at premises**

- (1) If—
- (a) a thing found at a premises is, or includes, a disk, tape or other device for the storage of information; and
  - (b) equipment at the premises may be used with the disk, tape or other storage device; and
  - (c) the inspector believes on reasonable grounds that the information stored on the disk, tape or other storage device is relevant to determine whether this Act has been contravened—
- the inspector or a person assisting the inspector may operate, or may require the occupier or an employee of the occupier to operate, the equipment to access the information.
- (2) If the inspector or a person assisting the inspector finds that a disk, tape or other storage device at the premises contains information of the kind referred to in subsection (1)(c), he or she may—
- (a) put the information in documentary form and seize the documents so produced; or
  - (b) copy the information to another disk, tape or other storage device and remove that storage device from the premises; or
  - (c) if it is not practicable to put the information in documentary form nor to copy the information, seize the disk, tape or other storage device and the equipment that enables the information to be accessed.
- (3) An inspector or a person assisting an inspector must not operate or seize equipment for the purpose mentioned in this section unless the inspector or person assisting believes on reasonable grounds that the operation or seizure of
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the equipment can be carried out without damage to the equipment.

#### **264 Compensation for damage**

- (1) The Minister must pay compensation for any damage caused by an inspector, or a person assisting an inspector, in exercising (or purporting to exercise) any power conferred by this Act.
- (2) However, the Minister is not liable to pay compensation for any damage caused during any inspection that reveals that there has been a contravention of this Act.
- (3) In determining the amount of compensation payable in relation to any damage caused to electronic equipment, regard is to be had to whether the occupier of the premises and the employees and agents of the occupier, if they were available at the time, had provided any warning or guidance as to the operation of the equipment that was appropriate in the circumstances.

#### **265 Return of seized things**

- (1) If an inspector seizes a thing under this Act, the inspector must take reasonable steps to return the thing to the person from whom it was seized if the reason for its seizure no longer exists.
- (2) If the thing has not been returned before the end of the retention period, the inspector must take reasonable steps to return it unless—
  - (a) proceedings have commenced within the retention period and those proceedings (including any appeal) have not been completed; or
  - (b) a court makes an order under section 266 extending the retention period.

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**266 Magistrates' Court may extend period**

- (1) An inspector may apply to the Magistrates' Court within the retention period or within a period extended by the Court under this section for an extension of that period.
- (2) The Magistrates' Court may order such an extension if satisfied that retention of the thing is necessary—
  - (a) for the purposes of an investigation into whether an offence has been committed; or
  - (b) to enable evidence of an offence to be obtained for the purposes of a prosecution.
- (3) The Court may adjourn an application to enable notice of the application to be given to any person.

**267 Power of inspector to require information or documents**

- (1) An inspector who—
  - (a) exercises a power of entry under this Act; and
  - (b) produces his or her identity card for inspection by a person—

may, to the extent that is reasonably necessary to determine whether this Act has been contravened or whether there exists a risk of a kind referred to in section 254(1), require the person to give information to the inspector, to produce documents to the inspector and to give reasonable assistance to the inspector.

- (2) A person must not refuse or fail, without reasonable excuse, to comply with a requirement made under subsection (1).

Penalty: 240 penalty units.

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- (3) A person must not, in response to a request under this Division—
- (a) give information that the person knows to be false or misleading in a material detail; or
  - (b) produce a document that the person knows to be false or misleading in a material detail without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: 240 penalty units.

### **268 Protection against self-incrimination**

- (1) A natural person may refuse or fail to give information or do any other thing that the person is required to do by or under this Act or the regulations if giving the information or doing the other thing would tend to incriminate the person.
- (2) However, subsection (1) does not apply to—
  - (a) the production of a document or part of a document that the person is required by this Act or the regulations to produce; or
  - (b) the giving of a person's name or address in accordance with this Act or the regulations.

### **269 Offence to obstruct inspector**

A person must not—

- (a) obstruct or hinder; or
- (b) refuse admission to any premises to—  
an inspector, or any person necessarily assisting an inspector, while the inspector is exercising a power given to the inspector by this Act.

Penalty: 240 penalty units.

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**Division 2—Improvement and prohibition notices**

**270 Improvement notice**

- (1) This section applies if the Minister is satisfied that the holder of an authority—
  - (a) is contravening this Act; or
  - (b) has contravened this Act in circumstances that make it likely that the contravention will occur again; or
  - (c) is not complying with a condition of the authority; or
  - (d) has failed to comply with a condition of the authority in circumstances that make it likely that the failure will occur again.
- (2) The Minister may issue to the holder of the authority an improvement notice requiring the holder to take specified action within a specified period to stop the contravention, or failure to comply, from continuing or occurring again.
- (3) The holder of the authority must comply with the notice.

Penalty: 240 penalty units.

**271 Prohibition notice**

- (1) This section applies if an activity or event is occurring, or is likely to occur, in an authority area that, in the opinion of the Minister, creates an immediate risk—
  - (a) that one or more people might be injured; or
  - (b) that property may be seriously damaged; or
  - (c) that significant damage may occur to the environment.

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- (2) The Minister may issue to the holder of the authority a prohibition notice prohibiting the holder—
- (a) from carrying out, or continuing to carry out, any greenhouse gas sequestration operation, or any activity relating to a greenhouse gas substance injection and monitoring operation, in the authority area; or
  - (b) from taking any specified action in the authority area—

until the Minister certifies in writing that any direction included in the prohibition notice has been complied with, or until the expiry of a specified period.

- (3) The Minister—
- (a) may include in the notice directions as to measures to be taken to remove or reduce the risk to which the notice relates;
  - (b) must specify in the notice from when the prohibition is to take effect.
- (4) The holder of the authority must comply with the notice.

Penalty: 600 penalty units.

- (5) If the holder of an authority fails to comply with a notice given to it under this section, it is guilty of an offence for each day the failure to comply in respect of which the notice was given continues after the relevant prohibition takes effect.

Penalty: 20 penalty units for each day the offence continues after the prohibition takes effect.

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### 272 Form of notices

In issuing an improvement or prohibition notice, the Minister must ensure that the notice—

- (a) specifies the grounds on which it was issued; and
- (b) sets out the right of the holder of the authority to have the notice reviewed under this Division.

### 273 Right to review

- (1) A person may apply to VCAT for a review of a decision by the Minister to issue an improvement or prohibition notice.
- (2) An application for a review must be made within 28 days after the later of—
  - (a) the day on which the decision is made;
  - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (3) Despite section 271(3), the holder of an authority that applies for a review of the issue of an improvement notice need not comply with the notice until—
  - (a) VCAT affirms the notice; or
  - (b) the holder abandons the application for the review or receives written notice that VCAT has dismissed the application.

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**274 Defences to charge of failing to comply with a notice**

- (1) In a proceeding for an offence of failing to comply with an improvement notice, it is a defence to the charge for the accused to prove that it did not contravene this Act, or fail to comply with a condition of an authority, in the manner set out in the improvement notice.
- (2) In a proceeding for an offence of failing to comply with an improvement or prohibition notice, it is a defence to the charge for the accused to prove that it took all reasonable steps to comply with the notice.

**275 Remedy of failure to comply with improvement notice**

- (1) If the holder of an authority fails to comply with an improvement notice, the Minister may do anything that should have been done by the holder of the authority to comply with the notice.
- (2) The costs and expenses incurred by the Minister in doing anything under subsection (1) are a debt due by the person to the State.

**Division 3—Offences**

**276 Corporation deemed to have the knowledge of its officers**

For the purposes of this Act, a corporation has the knowledge and intent of any of its officers who is acting, or purporting to act, in the course of his or her duties with the corporation.

**277 Offences by corporations also offences by officers**

- (1) This section applies if—
  - (a) an offence is committed against this Act by a corporation; and

(b) the offence is proved to have been committed at the instigation of, or with the consent or connivance of, or to have been attributable to any wilful neglect on the part of, an officer of the corporation.

(2) The officer is also guilty of the offence and is liable to the penalty for that offence.

**278 Offences by partners**

(1) This section applies if a person holds an authority in partnership with one or more other people.

(2) The person is also guilty of any offence against this Act that the person's partner or partners are found guilty of in acting, or purporting to act, on behalf of the partnership, and is liable to the penalty for that offence.

**279 Offences by joint venturers**

(1) This section applies if a person holds an authority as part of a joint venture with one or more other people.

(2) The person is also guilty of any offence against this Act that the other person is, or that the other persons are, found guilty of in acting, or purporting to act, on behalf of the joint venture, and is liable to the penalty for that offence.

**280 Offences by employees and agents**

(1) This section applies if a person who commits an offence under this Act committed the offence while acting—

(a) for or on behalf of another person; and

(b) within the scope of the actual or apparent authority given to him or her by the other person.

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- (2) The other person is also guilty of the offence and is liable to the penalty for that offence.
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**PART 16—ADMINISTRATIVE MATTERS**

**Division 1—Greenhouse gas sequestration register**

**281 Greenhouse gas sequestration register**

- (1) The Minister must cause a greenhouse gas sequestration register to be established and maintained.
  - (2) The Minister must record the following in the greenhouse gas sequestration register—
    - (a) authorities;
    - (b) variations, cancellations, suspensions, extensions, or the surrender of all or part of an authority or the conditions of an authority;
    - (c) any part of an agreement that purports to create, transfer, assign, devolve or affect any interest in, or conferred by, an authority;
    - (d) unit development agreements;
    - (e) the volume of greenhouse gas substances that are permitted to be injected into an underground geological storage formation under an authority;
    - (f) the actual volumes of greenhouse gas substances that are injected into underground geological storage formation by holders of an authority;
    - (g) the details of any exemption of land from the application of this Act and any revocation of that exemption;
    - (h) copies of any reports on the outcome of all monitoring and verification activities carried out under an injection and monitoring licence.
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- (3) The Minister, by notice published in the Government Gazette, may also require that a document of a specified kind relating to an authority be registered.
  - (4) The greenhouse gas sequestration register may be kept electronically.

**282 Need for registration**

The items specified in sections 281(2)(a) to 281(2)(d) and section 281(3) have no effect until a document that is in a form specified, or approved, by the Minister and that contains evidence of the item is registered in the greenhouse gas sequestration register.

**283 Entries in register on devolution of title**

- (1) The devolution by operation of law of any rights under an authority, or any interest in, or conferred by, an authority, has no effect until a document in a form approved by the Minister that provides evidence of the devolution is registered in the greenhouse gas sequestration register.
- (2) Subsection (1) applies despite anything to the contrary in any Act or rule of law.
- (3) Nothing in this section limits any discretion conferred on the Minister by Division 3 of Part 9.

**284 Registration**

- (1) To register a document, the Minister must—
  - (a) either—
    - (i) enter details of the document in the greenhouse gas sequestration register; or
    - (ii) lodge a copy of the document in the register; and

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- (b) enter in the register the date the details were entered or the document was lodged; and
  - (c) give the person who sought registration of the document a copy of the document endorsed with a notation that the document has been registered and details of the date and time entered in the register under paragraph (b).
- (2) The Minister may—
- (a) determine what details of a document are to be lodged in the register;
  - (b) require that documents of a particular type be in a specified form before accepting them for registration;
  - (c) require that documents of a particular type contain specified information before accepting them for registration.

### **285 Effect of registration**

The registration of a document does not give any right, interest or dealing that is evidenced by that document any force or effect that the right, interest or dealing would not have had if this Part had not been enacted.

### **286 Inspection of register and documents**

- (1) On the payment of any fee required by the regulations, a person may inspect the greenhouse gas sequestration register and any documents that form part of the register at any time that the office in which the register is kept is open for business.
  - (2) On the payment of any fee required by the regulations, a person may obtain a copy of any entry or document in the greenhouse gas sequestration register.
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**287 Minister's certificates**

- (1) A certificate certifying as to any matter relating to the contents of the greenhouse gas sequestration register and purporting to be signed by the Minister is admissible in evidence in any proceeding as evidence of the matter certified.
- (2) The Minister may supply such a certificate to any person who applies for the certificate and pays any fee required by the regulations for the purposes of this section.

**288 Minister may make corrections to register**

- (1) The Minister may alter the greenhouse gas sequestration register to correct a clerical error or an obvious defect in the register.
- (2) The Minister may, on application being made in writing to the Minister by a person or on his or her own initiative, make any entries in the register that the Minister considers appropriate for the purposes of ensuring that the register accurately records the interests and rights existing in relation to an authority.
- (3) The Minister must give the holder of the authority to which an alteration relates written details of the alteration.

**289 Right to review of register entries**

- (1) A person may apply to VCAT for a review of the Minister's decision to make or vary an entry in the greenhouse gas sequestration register under section 288.
- (2) An application for a review must be made within 28 days after the later of—
  - (a) the day on which the decision is made;

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- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

### **290 Offences relating to the register**

A person must not wilfully—

- (a) make, cause to be made, or concur in making, a false entry in the greenhouse gas sequestration register; or
- (b) produce or tender in evidence a document falsely purporting to be a copy of, or extract from, an entry in the register or of or from a document lodged with the Minister under this Part.

Penalty: 120 penalty units.

### **Division 2—Other administrative matters**

#### **291 Minister may require further information**

The Minister may require an applicant under this Act to provide him or her with more information concerning an application and may require the applicant to provide the information within the time specified in the request.

#### **292 Form of documents**

- (1) Each document that a person submits to the Minister under this Act must be in the form, if any, required by the Minister.
- (2) Each authority or other document that the Minister issues under this Act is to be in the form determined by the Minister.

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**293 Pecuniary interest statement**

A person who is employed in the administration of this Act must comply with any of the requirements of the regulations with respect to the disclosure of his or her pecuniary interests.

Penalty: 60 penalty units.

**294 Surveys and drilling operations**

- (1) The Minister may authorise in writing any person to enter, or fly over, any land for the purpose of making a land, mining or geological survey on behalf of the Department.
- (2) The Minister may authorise any person to enter any land for the purpose of the carrying out by the Department of any drilling operations for the purpose of carrying out geological tests.
- (3) A person authorised to enter land under subsection (1) or (2)—
  - (a) may do any thing on the land that is necessary for the purposes of the survey or drilling operations; and
  - (b) must cause as little harm and inconvenience and do as little damage as possible to the land and anything on or growing on the land; and
  - (c) must remain on the land only for so long as is reasonably necessary; and
  - (d) must remove from the land on completion of the survey or drilling operations all plant, machinery, equipment, goods or buildings brought onto, or erected on, the land other than any of those things that the owner or occupier agrees may be left on the land; and

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- (e) must leave the land, as nearly as possible, in the condition in which it was immediately before the commencement of the survey or drilling operations; and
  - (f) must use the person's best endeavours to co-operate with the owner and occupier.
- (4) Part 12 applies to any drilling operation under subsection (2)—
- (a) as if a reference in that Part to a licensee was a reference to the Department; and
  - (b) as if a reference in that Part to the approval of the work plan or the doing of work under the licence was a reference to the carrying out of the drilling operation.
- (5) Compensation is not payable for any loss or damage arising from the making of a survey under subsection (1).

**295 Department surveys**

- (1) The Minister may authorise a person employed in, or acting on behalf of, the Department to enter any land to carry out greenhouse gas sequestration formation exploration.
  - (2) Part 12 (other than section 200) applies to any greenhouse gas sequestration formation exploration operation under subsection (1) as if a reference to the holder of an authority in that Part was a reference to the Department.
  - (3) Despite subsection (2), the holder of an authority in respect of any land on which a greenhouse gas sequestration formation exploration operation is carried out under subsection (1)—
    - (a) is not entitled to any compensation for the fact that the operation is being carried out; but
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(b) is entitled to compensation for any injury caused to any person working for it (or on its behalf), or for any damage caused to its equipment or facilities, as a result of the negligence of the person authorised by the Minister.

**296 Delegation**

- (1) The Minister may, in writing, delegate to any person employed in the Department any power of the Minister under this Act, other than this power of delegation.
- (2) The Secretary may, in writing, delegate to any person employed in the Department any power of the Secretary under this Act, other than this power of delegation.

**Division 3—Fees and penalties**

**297 Applications not to be processed unless fee paid**

If the regulations require the payment of a fee for an application under this Act, the application must not be considered until the fee is paid.

**298 Fees and penalties debts due to the State**

A fee, royalty or other amount payable under this Act is a debt due to the State by the person by whom the amount is payable and is recoverable in any court of competent jurisdiction.

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**PART 17—GENERAL**

**299 Officials must not disclose information**

- (1) A person must not disclose any information that is obtained by him or her while exercising a power conferred by this Act.

Penalty: 240 penalty units.

- (2) A person must not use any such information to obtain directly or indirectly any pecuniary advantage for himself or herself or for any other person.

Penalty: 240 penalty units.

- (3) However, a person may disclose or use such information if—

- (a) the disclosure or use is made in the performance of a duty under, or in connection with, this Act; or
- (b) the person has the consent of the person to whom the information belongs; or
- (c) the disclosure or use is made in legal proceedings at the direction of a court; or
- (d) the information is in the public domain at the time it is disclosed or used.

- (4) Subsection (3) is not intended to interfere with any rights another person may have with regard to the disclosure or use of the information.

**300 Minister may vary method of identifying authority areas**

- (1) The Minister may from time to time, by notice published in the Government Gazette, specify the method that is to be used to identify and define authority areas.

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- (2) The Minister may amend or substitute a notice given under this section at any time by publishing notice of the amendment or substitution in the Government Gazette.
  - (3) An amendment or substitution takes effect on the date specified in the notice setting out the amendment or substitution.

### **301 Codes of practice**

- (1) For the purpose of providing practical guidance to the holders of authorities in carrying out greenhouse gas sequestration operations, the Minister may approve a code of practice.
  - (2) A code of practice may—
    - (a) consist of any code, standard, rule, specification or provision relating to greenhouse gas sequestration operations; and
    - (b) apply, incorporate or refer to any document formulated or published by any person or body as in force at the time the code of practice is approved or as amended, formulated or published from time to time.
  - (3) The Minister may approve any revision of the whole or any part of a code of practice or revoke the approval of a code of practice.
  - (4) The Minister must cause to be published in the Government Gazette notices of—
    - (a) the approval of a code of practice;
    - (b) the approval of a revision of the whole or any part of a code of practice;
    - (c) the revocation of approval of a code of practice.
  - (5) The Minister must cause a copy—
    - (a) of every approved code of practice;
-

- (b) if an approved code of practice has been revised and that revision has been approved, of every approved code of practice as so revised;
- (c) if an approved code of practice applies, incorporates or refers to any other document, of every such document—

to be made available for inspection by members of the public without charge at the principal office of the Department during normal office hours.

- (6) An approved code of practice comes into effect—
  - (a) on the day on which notice of the approval of the code of practice is published in the Government Gazette or on any later day that may be specified in the notice; and
  - (b) if the code of practice has been revised in whole or in part, to the extent of that revision on the day on which notice of the approval of that revision is published in the Government Gazette or on any later day that may be specified in the notice.
- (7) An approved code of practice ceases to be of effect at the end of the day on which notice of the revocation of the approval of the code of practice is published in the Government Gazette.
- (8) A person is not liable to any civil or criminal proceedings only because the person has failed to observe any provision of an approved code of practice.

### **302 Use of codes of practice in proceedings**

If in any proceeding under this Act it is alleged that a person contravened a provision of this Act in relation to which an approved code of practice was in effect at the time of the alleged contravention—

- 
- (a) the approved code of practice is admissible in evidence in that proceeding; and
  - (b) if the court is satisfied in relation to any matter which it is necessary for the prosecution to prove in order to establish the alleged contravention that—
    - (i) a provision of the approved code of practice is relevant to that matter; and
    - (ii) the person failed at any material time to observe that provision—

that matter must be taken as proved unless the court is satisfied that in respect of that matter the person complied with the provision of this Act otherwise than by way of observance of that provision of the approved code of practice.

### **303 Regulations**

- (1) The Governor in Council may make regulations for or with respect to—
    - (a) determining the dimensions, boundaries, form, position and extent of an authority area; and
    - (b) determining the requirements to be complied with by people who wish to acquire authorities; and
    - (c) prescribing conditions that are to apply to a particular type of authority or to authorities generally; and
    - (d) prescribing the fees payable for authorities, and the fees for applications, the processing of applications, renewals, authority variations and extensions, surveys, inspections by inspectors, technical and other assessments, exemptions, registrations in the greenhouse gas sequestration register,
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- inspection of the greenhouse gas sequestration register and access to released information; and
- (e) prescribing annual fees payable by the holders of authorities; and
  - (f) prescribing the rent that is payable by the holders of authorities for occupying Crown land; and
  - (g) requiring the holders of authorities to submit specified information to the Minister and to keep specified information, records and samples; and
  - (h) requiring information to be contained in work programs, development plans, unit developments, operation plans, injection testing plans, injection and monitoring plans, risk management plans, monitoring and verification plans, special access well plans, and other plans, manuals and reports required of authority holders; and
  - (i) requirements for pecuniary interests statements; and
  - (j) the greenhouse gas sequestration register and the documents to be registered; and
  - (k) regulating inquiries and investigations conducted into matters under this Act; and
  - (l) regulating unit agreements; and
  - (m) requirements for greenhouse gas infrastructure lines; and
  - (n) regulating injection testing under an authority; and
  - (o) regulating injection under an authority; and
  - (p) regulating monitoring and verification of a greenhouse gas substance; and
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- 
- (q) prescribing the methods to be adopted if a well is abandoned; and
  - (r) regulating the injection testing of wells; and
  - (s) prescribing the equipment, materials and casings that are to be used in greenhouse gas sequestration operations; and
  - (t) regulating the underground geological storage of greenhouse gas substances; and
  - (u) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
- (a) may be of general or of specially limited application; and
  - (b) may differ according to differences in time, place or circumstance; and
  - (c) may require a matter affected by the regulations to be—
    - (i) in accordance with a specified standard or specified requirement; or
    - (ii) approved by or to the satisfaction of a specified person or a specified class of person; or
    - (iii) as specified in both subparagraphs (i) and (ii); and
  - (d) may apply, adopt or incorporate any matter contained in any document whether—
    - (i) wholly or partially or as amended by the regulations; or
    - (ii) as in force at a particular time or as in force from time to time; and
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- 
- (e) may confer a discretionary authority or impose a duty on a specified person or a specified class of person; and
  - (f) may provide in a specified case or class of case for the exemption of people or things from any of the provisions of this Act, whether unconditionally or on specified conditions, and either wholly or to such an extent as is specified; and
  - (g) may impose a penalty not exceeding 20 penalty units for a contravention of the regulations; and
  - (h) may be expressed as requiring the achievement of a specified object in relation to any particular subject matter.
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**PART 18—TRANSITIONAL PROVISIONS AND  
CONSEQUENTIAL AMENDMENTS**

**Division 1—Water Act 1989 licences**

**304 Transitional provision—Water Act 1989**

Nothing in this Act affects the operation of a licence, permit or other authority issued under the **Water Act 1989** that was in force immediately before the commencement of section 16 of this Act.

**Division 2—EPA to administer monitoring and verification**

**305 Injection testing to be carried out in accordance with approved plan**

At the end of section 50 of the **Greenhouse Gas Geological Sequestration Act 2008** insert—

"(2) Without limiting any other power or function of the Environment Protection Authority, the Environment Protection Authority may prosecute an offence against subsection (1)(c)."

**306 Exploration permit—reporting**

- (1) In section 55(1) of the **Greenhouse Gas Geological Sequestration Act 2008**, for "Minister" substitute "Environment Protection Authority".
- (2) For section 55(3) of the **Greenhouse Gas Geological Sequestration Act 2008** substitute—
  - "(3) The Environment Protection Authority must give the Minister a copy of each report provided under this section.

- (4) The Minister must ensure that a copy of each report provided under this section is available for inspection on the greenhouse gas sequestration register."

**307 Injection and monitoring plan must be adhered to**

At the end of section 106 of the **Greenhouse Gas Geological Sequestration Act 2008** insert—

- "(2) Without limiting any other power or function of the Environment Protection Authority, the Environment Protection Authority may prosecute an offence against subsection (1)(c)."

**308 Injection and monitoring licence—reporting**

- (1) In section 111(1) of the **Greenhouse Gas Geological Sequestration Act 2008**, for "Minister" substitute "Environment Protection Authority".
- (2) For section 111(3) of the **Greenhouse Gas Geological Sequestration Act 2008** substitute—
- "(3) The Environment Protection Authority must give the Minister a copy of each report provided under this section.
- (4) The Minister must ensure that a copy of each report provided under this section is available for inspection on the greenhouse gas sequestration register."

**309 Authorisation of inspectors**

For section 251 of the **Greenhouse Gas Geological Sequestration Act 2008** substitute—

**"251 Authorisation of inspectors**

- (1) The Minister may authorise any person who the Minister considers suitable to carry out inspections for the purposes of this Act.
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- (2) The Environment Protection Authority may authorise any person who the Environment Protection Authority considers suitable to carry out inspections for the purpose of monitoring compliance with any monitoring and verification plan forming part of an injection testing plan or an injection and monitoring plan approved under this Act.
- (3) The Minister or the Environment Protection Authority (as the case may be) must give each authorised person an identity card that identifies the person by name as an inspector under this Act or an inspector for the purposes of monitoring and verification activities and that contains a photograph of the person.
- (4) If a person's authorisation as an inspector is revoked or expires, he or she must immediately return his or her identity card to the Minister or the Environment Protection Authority (as the case may be).

Penalty: 5 penalty units."

### **310 Monitoring compliance with this Act**

In section 253(2) of the **Greenhouse Gas Geological Sequestration Act 2008**—

- (a) after "section 270" insert "or 270A"; and
- (b) after "section 271" insert " or 271A".

### **311 Compensation for damage**

In sections 264(1) and 264(2) of the **Greenhouse Gas Geological Sequestration Act 2008**, after "the Minister" insert "or the Environment Protection Authority".

### 312 Improvement notices

After section 270 of the **Greenhouse Gas Geological Sequestration Act 2008** insert—

#### **"270A Compliance with monitoring and verification plan—improvement notice**

- (1) This section applies if the Environment Protection Authority is satisfied that the holder of an authority is not complying with a monitoring and verification plan forming part of an injection testing plan or a monitoring and verification plan approved in relation to that authority.
- (2) The Environment Protection Authority may issue to the holder of the authority an improvement notice requiring the holder to take specified action within a specified period to stop the failure to comply from continuing or occurring again.
- (3) The holder of the authority must comply with the notice.  
Penalty: 240 penalty units.
- (4) Without limiting any other power or function of the Environment Protection Authority, the Environment Protection Authority may prosecute an offence against subsection (3)."

### 313 Prohibition notices

After section 271 of the **Greenhouse Gas Geological Sequestration Act 2008** insert—

#### **"271A Compliance with monitoring and verification plan—prohibition notice**

- (1) This section applies if—
  - (a) the Environment Protection Authority is satisfied that the holder of an authority is not complying with a

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monitoring and verification plan forming part of an injection testing plan or a monitoring and verification plan approved in relation to that authority; and

(b) that failure to comply is causing an activity or event to occur, or an activity or event is likely to occur, in an authority area that, in the opinion of the Environment Protection Authority, creates an immediate risk—

(i) that one or more people might be injured; or

(ii) that property may be seriously damaged; or

(iii) that significant damage may occur to the environment.

(2) The Environment Protection Authority may issue to the holder of the authority a prohibition notice prohibiting the holder—

(a) from carrying out, or continuing to carry out, any greenhouse gas sequestration operation, or any activity relating to a greenhouse gas substance injection and monitoring operation, in the authority area; or

(b) from taking any specified action in the authority area—

until the Environment Protection Authority certifies in writing that any direction included in the prohibition notice has been complied with, or until the expiry of a specified period.

- 
- (3) The Environment Protection Authority—
- (a) may include in the notice directions as to measures to be taken to remove or reduce the risk to which the notice relates;
  - (b) must specify in the notice from when the prohibition is to take effect.
- (4) The holder of the authority must comply with the notice.
- Penalty: 600 penalty units.
- (5) If the holder of an authority fails to comply with a notice given to it under this section, it is guilty of an offence for each day the failure to comply in respect of which the notice was given continues after the relevant prohibition takes effect.
- Penalty: 20 penalty units for each day the offence continues after the prohibition takes effect.
- (6) Without limiting any other power or function of the Environment Protection Authority, the Environment Protection Authority may prosecute an offence against subsection (4) or (5)."

#### **314 Form of notices**

In section 272 of the **Greenhouse Gas Geological Sequestration Act 2008** after "Minister" insert "or the Environment Protection Authority (as the case may be)".

#### **315 Right to review**

In section 273(1) of the **Greenhouse Gas Geological Sequestration Act 2008** after "Minister" insert "or the Environment Protection Authority (as the case may be)".

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**316 Remedy of failure to comply with improvement notice**

In section 275(1) and 275(2) of the **Greenhouse Gas Geological Sequestration Act 2008** after "Minister" **insert** "or the Environment Protection Authority".

**317 Delegation**

After section 296(2) of the **Greenhouse Gas Geological Sequestration Act 2008 insert—**

"(3) The Environment Protection Authority may, in writing, delegate to any person employed in the Environment Protection Authority any power of the Environment Protection Authority under this Act, other than this power of delegation."

**318 Regulations**

(1) In section 303(1)(g) of the **Greenhouse Gas Geological Sequestration Act 2008**, after "the Minister" **insert** "or the Environment Protection Authority".

(2) In section 303(2) of the **Greenhouse Gas Geological Sequestration Act 2008—**

(a) in paragraph (h), for "subject matter." **substitute** "subject matter; and";

(b) after paragraph (h) **insert—**

"(i) may contain provisions of a transitional nature consequent on the transfer of the administration of monitoring and verification activities to the Environment Protection Authority."

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**Division 3—Consequential amendments to other Acts**

**319 Catchment and Land Protection Act 1994**

(1) In section 33(4) of the **Catchment and Land Protection Act 1994**—

(a) after paragraph (ba) **insert**—

"(bb) exploration for underground geological formations or injection of greenhouse gas substances into an underground geological storage formation within the meaning of the **Greenhouse Gas Geological Sequestration Act 2008**; or"; and

(b) in paragraph (c), after "**Geothermal Energy Resources Act 2005**" **insert** ", **Greenhouse Gas Geological Sequestration Act 2008**".

**320 National Parks Act 1975**

In section 40(2) of the **National Parks Act 1975**, for "**Petroleum Act 1998** or the **Geothermal Energy Resources Act 2005**" substitute "**Geothermal Energy Resources Act 2005**, the **Greenhouse Gas Geological Sequestration Act 2008** or the **Petroleum Act 1998**".

**321 Nuclear Activities (Prohibitions) Act 1983**

In section 2 of the **Nuclear Activities (Prohibitions) Act 1983**, in the definition of *mining title*, after "**Geothermal Energy Resources Act 2005**," **insert** "the **Greenhouse Gas Geological Sequestration Act 2008**,".

**322 Victorian Plantations Corporation Act 1993**

In sections 9(2)(b) and 26(1) of the **Victorian Plantations Corporation Act 1993** after "**Geothermal Energy Resources Act 2005**," **insert** "the **Greenhouse Gas Geological Sequestration Act 2008**,".

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**323 Water Act 1989**

After section 76(6) of the **Water Act 1989**  
**insert—**

"(7) This section does not apply to the holder of an authority under the **Greenhouse Gas Geological Sequestration Act 2008** in relation to work carried out in accordance with an approved injection testing plan or an approved injection and monitoring plan."

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## ENDNOTES

† *Minister's second reading speech—*

*Legislative Assembly: 12 September 2008*

*Legislative Council: 16 October 2008*

The long title for the Bill for this Act was "A Bill for an Act to regulate the injection, and permanent storage, of greenhouse gas substances in onshore Victoria and to make consequential amendments to other Acts and for other purposes."

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