Petroleum (Submerged Lands) (Amendment) Bill

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EXPLANATORY MEMORANDUM

General

The Petroleum (Submerged Lands) (Amendment) Bill ("the Bill") amends the Petroleum (Submerged Lands) Act 1982 to mirror amendments previously made to the corresponding Commonwealth Petroleum (Submerged Lands) Act 1967. This is to honour the Offshore Constitutional Settlement dating from 1967, under which the Commonwealth and the States agreed that "the Commonwealth and States should endeavour to maintain, as far as practicable, common principles, rules and practices in the regulation and control of the exploration for and the exploitation of the petroleum resources in submerged lands". The Bill mirrors amendments made by the following seven Commonwealth Acts—

- **Maritime Legislation Amendment Act 1994 No. 20, 1994**

- **Petroleum (Submerged Lands) Legislation Amendment Act 1994 No. 93, 1994**
  allowing an access authority to be granted over an adjoining block if the title-holder of that block has consented in writing.

- **Primary Industries and Energy Legislation Amendment Act (No. 2) 1995 No. 133, 1995**
  providing legislative support for the guaranteed work program system for bidding.

- **Primary Industries and Energy Legislation Amendment Act (No. 2) 1997 No. 22, 1997**
clarifying rights and obligations in relation to pipelines where the petroleum in the pipeline may not have been recovered in the area. In particular, it provides that pipelines may carry petroleum irrespective of where it has been recovered and that the pipeline owner need not hold a production licence.

providing that, where a person other than the registered holder of the production licence for an area makes an application to construct a pipeline to carry petroleum recovered in that area, the application may be refused.

ensuring that changes to the territorial sea baseline do not impact on pipeline licences.

clarifying that the provisions of the Act relating to pipelines for carrying petroleum recovered from beyond Australian waters have effect subject to the obligations of Australia under international law, including obligations under any agreement between Australia and any other country or countries.

• **Primary Industries and Energy Legislation Amendment Act (No. 1) 1998** No. 102, 1998

  providing that production licences are granted for an indefinite term (section 53). The term was previously 21 years. A licence can still be cancelled if the licensee does not comply with the Act or conditions of the licence. The licence is terminated if there are no operations in the licence area for 5 years (section 53A). In that case, the licensee would be allowed to apply for a retention licence (sections 38BB, 38BC, 38BD). This amendment takes account of the variation in the life-spans of petroleum fields. A small field may only be productive for 5 years, whereas some fields are still productive after 25 years. This amendment provides security of tenure during production and reduces administration.

• **Petroleum (Submerged Lands) Legislation Amendment Act (No. 1) 2000** No. 5, 2000

  improving Government administration and the efficiency of exploration for, and production of, petroleum resources and adapting the Act to modern economic and technical characteristics of the petroleum industry.

  repealing a number of technical provisions with a view to incorporating them into regulations.
providing for infrastructure licences, a new class of licence to provide rights over processing, storage or offloading facilities. This is to cater for at-sea operations that do not strictly fall within the ambit of production or pipeline licences (already provided for). Infrastructure licences allow the construction and operation of facilities for a range of field processing activities, without the licensee holding a production licence over the area in which the facilities will be located. The availability of infrastructure licences has introduced a new flexibility into the regime and has opened up possibilities such as using existing platforms for purposes other than petroleum recovery. There is also the opportunity to carry out processing of a kind that may fall outside the rights conferred by production licences, such as conversion of petroleum to methanol

providing for continued use of production facilities in lapsed licence areas, with the transfer of obligations to parties continuing to use the facilities

introducing an option for supplementary bids that are ranked equally

giving persons submitting information required under the Act a right to make a declaration which will determine whether and when the information may be publicly released. However, this may be challenged by the Minister and the underlying policy aim is to ensure that the greatest amount of data is publicly released consistent with the security of tenure associated with the title

creating a new offence of deliberately damaging or interfering with offshore petroleum operations or installations

revising provisions as follows—

- removing the discretion of the Ministers to fix the number of blocks for renewals of exploration permits at 16. The minimum size of a permit area after halving will be 4 blocks. This will remove bias in favour of existing explorers in mature acreage over new entrants, while at the same time providing for a sufficiently large minimum permit size to allow a meaningful exploration program

- constraints are placed on fragmentation of areas covered by permits proposed to be renewed
• the term of pipeline licences is changed from a 21 year term to an indefinite period, but the licence may be terminated 5 years after the pipeline ceases to be used. This period could be extended by the Minister. The 1998 amendments (see Primary Industries and Energy Legislation Amendment Act (No. 1) 1998 above) made the term of a new production licence indefinite. This amendment provides consistency by treating the term of a pipeline licence in the same way as a production licence. This has been agreed by all jurisdictions. The objective is to allow the use of a pipeline for more than one petroleum development refining provisions to—

• modify the halving rule for permit renewals when consideration is given to renewing an expiring permit covering 6 blocks or less

• ensure that the withdrawal of an applicant before the awarding of an exploration permit creates fewer complications for the overall process

making a number of minor machinery amendments to reflect modern administrative practices, including dispensing with approved forms and converting pecuniary penalties to penalty units

ensuring that the costs of administering infrastructure licences are covered by fees in the same way as the costs of administering other licences.

• Petroleum (Submerged Lands) Legislation Amendment Act 2001 No. 28, 2001

implementing reforms arising from an evaluation of the Commonwealth Government’s role in administering petroleum and submerged lands

providing for adoption of the Geocentric Datum of Australia, in response to increased use of the Global Positioning System for surveying, navigation and similar purposes

making technical amendments to remedy errors, defects and anomalies.

Clause Notes
PART 1—PRELIMINARY

Clause 1 sets out the main purpose of the Bill.

Clause 2 provides for commencement of Part 1 and Part 3 the Bill to occur on the day after Royal Assent, and for Part 2 to commence on a day or days to be proclaimed. However, if any provision in Part 2 has not been proclaimed prior to 1 January 2003, then it comes into operation on that day.

Clause 3 defines the Principal Act as the Petroleum (Submerged Lands) Act 1982.

PART 2—INFRASTRUCTURE LICENCES

Note: Amendments in Part 2, relating to infrastructure licences, will commence on proclamation or, if not proclaimed before 1 January 2003, on that day. This is to allow time for regulations to be made setting an application fee for infrastructure licences.

Clause 4 amends section 4 (Definitions) to—

- insert definitions for new terms introduced in the Bill in relation to infrastructure licences, including "facility", "good processing and transport practices", "infrastructure facilities" (by reference to new section 4A inserted by clause 5), "infrastructure licence" (with reference to Part III of the Principal Act), "infrastructure licence area", "infrastructure licensee", and "operation" (with reference to Part III of the Principal Act)

- amend the definition of "registered holder" to include a definition of a register holder in relation to an infrastructure licence

- amend the definition of "relinquished area" to define a relinquished area in relation to an infrastructure licence area. This area needs to be defined because of existing requirements that holders of titles who relinquish areas take steps to remove their property from those areas

- amend sub-section (4), to extend to infrastructure licences the definition given in this sub-section to the term of other titles under the Principal Act, that is, the period during which the title remains in force
• amend sub-section (5) to extend to infrastructure licences the definition given in this sub-section to a year of the term of other titles under the Principal Act, that is a period of one year commencing on the day on which the title comes into force or on any anniversary of that day

• amend sub-section (10) to extend to infrastructure licences the provision in this sub-section whereby any reference to a title under the Principal Act is a reference to that title as varied for the time being under the Principal Act.

Clause 5 inserts a new section 4A which defines "infrastructure facilities".

Clause 6 inserts in Part III a new Division 3A—Infrastructure Licences.

• the new section 59A extends to infrastructure facilities the provision that applies to production facilities and pipelines, making it an offence to do anything for the construction or operation of those facilities except under and in accordance with the relevant licence, in this case an infrastructure licence. The maximum penalty for an offence under this section is to be equal to that applying to unauthorised petroleum exploration, production and pipeline construction

• the new section 59B specifies the process for submitting an application for an infrastructure licence, which is analogous to the process set out in the Principal Act for submitting a production licence application

• the new section 59C specifies the process for notifying a successful infrastructure licence applicant, which is analogous to the process set out in the Principal Act for notifying a successful production licence applicant

• the new section 59D specifies the consultation process with third parties that needs to be gone through before an offer of an infrastructure licence is made. This procedure is largely analogous to the consultation procedure that is currently gone through before access authorities are granted under section 112 of the Principal Act. The difference is that, since special prospecting authorities and access authorities tend to be relatively short term titles, holders of these titles will not need to be
consulted if the title will expire before any construction or operation of facilities under the proposed infrastructure licence would occur. The section also provides that the consultation process may be waived by any of the third parties having an interest in the block consenting in writing to the grant of the infrastructure licence. The consultation procedure reflects the concept that plans for infrastructure licences should create minimum disturbance for other title-holders in the area.

- the new section 59E specifies the process for accepting an offer of an infrastructure licence, which is analogous to the process set out in the Principal Act for accepting an offer of a production licence.

- the new section 59F inserts a statement of rights conferred by an infrastructure licence. These rights are essentially to construct and operate infrastructure facilities (as defined in new section 4A inserted by clause 5). It is also made clear that the infrastructure licence is not a pre-requisite for doing anything that could be authorised by an exploration permit, lease, production licence or pipeline licence.

- the new section 59G provides an indefinite term for an infrastructure licence, subject to compliance with all other requirements in Part III.

- the new section 59H gives the Minister power to terminate an infrastructure licence, which is analogous to the power to terminate a production licence. This power is exercisable in cases where, for a continuous period of at least 5 years, there has been no construction work on the facilities. After the facilities have been constructed, the power is also exercisable where there has been no use of the facilities for a similar period. In calculating the date at which the power to terminate an infrastructure licence may be invoked, periods when construction or use was precluded by circumstances beyond the licensee's control are to be disregarded.

*Note:* There is no section 59I. This is to maintain consistency of numbering with the Commonwealth Act, which does not use that section number.
• the new section 59J gives the Minister power to grant infrastructure licences subject to such conditions as the Minister thinks fit and are specified in the licence. This power is identical to the Minister’s power to attach conditions to other titles granted under the Principal Act, for example: exploration permits, retention leases, production licences and pipeline licences

• the new section 59K establishes a process for the variation of an infrastructure licence, which is analogous to the process for varying an access authority except that consultation is not required with holders of special prospecting authorities and access authorities whose title will expire before any construction or operation of facilities under the proposed infrastructure licence.

Clause 7 makes consequential amendments to the Principal Act so that provisions in several sections are extended to apply to infrastructure licences.

Sub-clause (1) amends section 18(1) & (2) to extend the Minister’s current power to reserve specific blocks to include the power to reserve blocks from the grant of an infrastructure licence.

Sub-clause (2) inserts references to infrastructure licences in—

• section 75AA to include a reference to an infrastructure licence in the definition of “title” for the purposes of Part III Division 5—Registration of Instruments

• section 76(1), which specifies the details that the Minister shall enter in the register of titles

• section 81A(4)(a)(i), which refers to dealings in relation to titles that may in the future come into existence and the prescribed period during which a person who is party to such a dealing may lodge a provisional application for approval of the dealing. This amendment provides that the prescribed period in respect of a dealing in an infrastructure licence will commence on the day the Minister serves an instrument on the applicant for the infrastructure licence informing them that the Minister is prepared to grant the infrastructure licence. The prescribed period will end on the day the infrastructure licence comes into existence.
• section 93 with the effect that exemptions from duty applying to titles, transfers and instruments under the Principal Act will apply in respect of infrastructure licences

• section 94 to provide that the Minister must publish a notice in the Government Gazette, and such particulars as he or she thinks fit, of the grant, variation, surrender, cancellation or termination of an infrastructure licence

Sub-clause (3) inserts a new sub-section (2A) in section 95, which provides that the surrender or cancellation of an infrastructure licence has effect on and from the day on which notice of the surrender or cancellation is published in the Government Gazette.

Sub-clause (4) amends—

• section 95(4) to provide that a variation of an infrastructure licence has effect on and from the day on which notice of the variation is published in the Government Gazette

• section 96 to provide that the same requirements will apply to infrastructure licensees as apply to holders of other titles in relation to the commencement of work or operations. Specifically, if work or operations are a condition of the infrastructure licence, the work or operations must be commenced within 6 months of the day the infrastructure licence comes into force unless the Minister otherwise directs.

Sub-clause (5) inserts new sub-sections in section 97—

• sub-section (2A), which requires operations under an infrastructure licence to be carried out in a safe manner and in accordance with good oil field, processing and transport practices

• sub-section (2B), which requires an infrastructure licensee to prevent the waste or escape, and control the flow, of substances from a facility that has been constructed under the licence, except where this is specifically authorised, for instance for a "dewatering" plant. These requirements are consistent with the
requirements imposed by section 97 on holders of other titles under the Principal Act.

Sub-clause (6) inserts references to infrastructure licences and licensees in—

- section 97A(1), to extend to infrastructure licensees the requirement that already applies to other title-holders whereby they must, as directed by the Minister, maintain specified types of insurance in relation to operations permitted by their titles

- section 98(1), definition of "operator", to include infrastructure licensees within the definition for the purposes of section 98. This has the effect of extending to infrastructure licensees the requirement that already applies to other title-holders whereby they must maintain all structures, equipment and other property in good condition and repair and remove unused structures, equipment and property

- section 98(1), definition of "the operations area", to provide that the area in which the infrastructure licensee has the maintenance and other obligations imposed by section 98 is the infrastructure licence area as defined by section 4 of the Principal Act (as amended by clause 4 of the Bill)

- section 101(1), to extend to infrastructure licensees the provision that already applies to other title-holders whereby the Minister may serve on the title-holder written directions as to any matter with respect to which regulations may be made

- section 102(2A)(a). Section 102 refers to costs and expenses incurred by the Minister in carrying out actions where the person to whom a direction has been given or to whom the direction is applicable fails to comply with it. Such costs and expenses are a debt payable to the State by the person to whom the direction was given or to whom the direction is applicable. Section 102(2A) provides a defence that may be used by a person who is not the title-holder but to whom the direction is applicable, specifically that the person did not know or could not reasonably be expected to know of the
direction. Section 102(2A)(a) is amended to extend this
defence to persons affected by directions given to
infrastructure licensees

- section 103(1) and (2), to permit the Minister to vary,
suspend or exempt an infrastructure licensee from a
condition of the infrastructure licence

- section 104(1), to insert provisions enabling the holder of
an infrastructure licence to apply for consent to surrender
it. The surrender application is to apply to the
infrastructure licence area as a whole

- section 104(3), to extend to infrastructure licensees the
provision that already applies to other title-holders
whereby the Minister may, in exceptional circumstances,
consent to the surrender of the title even where there has
not been compliance with the requirements set out in
section 104(2) (relating to the payment of fees, meeting
the conditions of the title, removal of property, protecting
the natural resources of the area and making good any
damage to the seabed)

- section 104(5), to insert paragraph (aa) clarifying that, in
the case of infrastructure licences, the abovementioned
requirements of section 104(2) relate to the infrastructure
licence area

- section 105, to extend to infrastructure licences the
cancellation provisions that already apply to other titles in
cases where there is non-compliance with title conditions,
directions, regulations, other requirements of the
Principal Act or payment obligations.

Clause 8 substitutes a new section for section 106. The new section 106
extends to infrastructure licences the provisions that already
apply under the section to other titles. Specifically, conviction
for an offence under the Principal Act will not preclude
cancellation of an infrastructure licence on the same grounds.
Conversely, the cancellation of an infrastructure licence will not
preclude a conviction for an offence on the same grounds.
Likewise, a judgement or a part or full payment after 3 months
will not preclude cancellation of the infrastructure licence on the
grounds that payment was not made within 3 months.
Conversely, the cancellation of an infrastructure licence on
grounds of non-payment will have no effect on liability to pay the arrears and any penalty payments.

Clause 9 substitutes a new section 107(1), amends section 107(2) and substitutes a new section 107(3)(c). These provisions refer to titles that are no longer in force or are in force only in part. The amendments extend to infrastructure licences the Minister's powers in respect of other such titles to issue directions for the removal of property brought into the title area, the plugging or closure of wells, the conservation and protection of natural resources and the making of good any damage to the sea-bed.

Clause 10 substitutes a new section 108 to extend to infrastructure licences the provision that already applies in relation to other titles no longer in force or in force only in part, where a direction given to the title-holder under section 107 was not complied with. Specifically, the Minister may then do any or all of the things that were required by the direction and may, by Government Gazette notice, direct the removal of any property from the area to which the title applied. The same notice is to be served on all persons believed to be owners of the property in question.

Clause 11 makes consequential amendments relating to infrastructure licences to—

- section 113(3)(b). This section refers to costs incurred by the Minister in doing anything that was not done by a title-holder to whom a direction by the Minister applied. This amendment extends to infrastructure licensees the provision that already applies to other title-holders whereby such costs are recoverable by the State from the title-holder in a court of competent jurisdiction

- section 115(1). This section gives the Minister or an inspector power to require a person to provide information or documents held by that person relating to petroleum exploration, production or pipeline construction and operation. Clause 11 extends this power to require information pertaining to facilities constructed under an infrastructure licence, specifically information
on processing or storage of petroleum or preparation of petroleum for transport

• section 122(1), to extend, in respect of infrastructure licensees, the power already held by the Minister to direct persons operating under other titles to maintain records, samples and the like in connection with those operations and to furnish them to the Minister

• section 124, to extend to infrastructure licences the interference minimisation requirement that already applies to persons operating under other titles, specifically as regards interference with navigation, fishing, conservation of the natural resources of the sea and seabed, or other lawful activities of other parties

• section 134(1), to insert a reference to section 59A (inserted by clause 6)—offence to construct or operate infrastructure facilities except in accordance with a licence. Section 134 provides for forfeiture on conviction of certain offences

• section 138A(5), to extend to infrastructure licences the provisions that already apply to other titles in relation to the service of documents where there are 2 or more registered holders of the title.

Clause 12 inserts a new section 140A which provides for an annual fee to be payable to the Minister by an infrastructure licensee. The fee is to be calculated in accordance with the regulations.

Clause 13 amends section 142, which describes how to determine the time when a fee is payable, to apply in respect of infrastructure licences.

Clause 14 makes consequential amendments to new Part IIIB (being inserted by clause 67) concerning the change of datum used to describe an area on the surface of the Earth. The amendments made by clause 14 will extend the new Part IIIB to infrastructure licences when the infrastructure licence provisions come into operation.

The clause—

• inserts a new paragraph (ca) in the new section 151U. The new section 151U lists the areas whose position on
the Earth's surface is to be described with reference to the
new datum. The insertion of paragraph (ca) has the effect
of including in the list areas of infrastructure licences
granted after the changeover from the old datum to the
new datum

- inserts a new paragraph (ca) in the new section 151V(1).
Section 151V(1) lists the areas whose position on the
Earth's surface is to be described to with reference to the
old datum. The insertion of paragraph (ca) has the effect
of including in the list areas of infrastructure licences in
force immediately before the changeover from the old
datum

- inserts a new sub-section (3A) into the new
section 151W. The new section 151W enables
regulations to be made to authorise the Minister to vary
titles and other instruments. Sub-section (3A) enables the
making of regulations authorising the Minister to issue an
instrument varying an infrastructure licence in force
immediately before the change of datum in order to
relabel the infrastructure licence using co-ordinates of the
new datum

- amends the new section 151ZA which defines certain
terms for the purpose of the new Part IIIB—Datums.
Clause 14 inserts "infrastructure licence" into the
definition of "title". This has the effect of extending to
infrastructure licences all provisions in Part IIIB that
apply to titles.

PART 3—OTHER AMENDMENTS

Clause 15 amends the preamble to the Principal Act to remove the reference
to the Convention on the Continental Shelf signed at Geneva on
29 April 1958. This reference is no longer appropriate, as a new
United Nations Convention on the Law of the Sea was adopted
and signed by Australia in 1982.

Clause 16 substitutes a new section 2 to provide that the First Schedule has
effect. A note to this section explains that the First Schedule
contains transitional provisions as a result of amendments made
to the Principal Act. The existing section 2 contains spent
provisions relating to repeals and transitional arrangements when the Principal Act first came into operation.

Clause 17 amends section 4 to—

- insert definitions for new terms introduced in the Bill including "bank guarantee", "datum", "geographic co-ordinate", "interstate Minister", "the Commonwealth Minister" and "Victorian Minister"
- substitute the definition of "natural resources" to refer to the definition used in the United Nations Convention on the Law of the Sea
- amend the definition of "petroleum" to extend to petroleum recovered from any location (either within or outside State coastal waters)
- extend the definition of "pipeline" to include pipelines for conveying petroleum whether the petroleum is recovered from State coastal waters or elsewhere
- substitute paragraph (d) of the definition of "pipeline" to exclude all pipelines that convey petroleum from wells, wherever located, to a terminal station in State coastal waters without passing through another terminal station
- repeal the definition of "Convention". This definition referred to the Convention on the Continental Shelf signed at Geneva on 29 April 1958. This reference is no longer appropriate, as a new United Nations Convention on the Law of the Sea was adopted and signed by Australia in 1982. References to the old Convention elsewhere in the Principal Act are also proposed to be removed
- amend sub-section (4) to omit two occurrences of "pipeline licence" so that the sub-section no longer provides for the expiry of a pipeline licence. The term of a pipeline licence is to be an indefinite period (see clause 44)
- repeal sub-section (8), which relates to renewal of pipeline licences. This provision is no longer needed as the term of a pipeline licence is to be an indefinite period.
Clause 18 inserts a new section 6A providing that pipeline licences for conveying petroleum recovered from areas beyond Australian waters are to be subject to the obligations of Australia under international law.

Clause 19 repeals section 8 to discontinue the requirement that points on the surface of the Earth are to be determined according to the Australian Geodetic Datum. The new Part IIIB inserted by clause 67 provides for regulations to be made adopting a new datum for this purpose.

Clause 20 amends sections 10, 13, 14(2)(c) and 16(1) to adopt gender-neutral language by using "Minister" in place of "him".

Clause 21 inserts a note at the foot of section 17(3) referring the reader to the new section 151S for a description of the relevant datum.

Clause 22 amends sections 19, 20 and 21 relating to exploration for petroleum to—

- substitute the penalty at the foot of section 19(1) providing a penalty equivalent to the penalty for the corresponding Commonwealth offence
- replace gender-specific terms in sections 20 and 21 with gender-neutral terms
- repeal the requirement in section 21(1)(a) that applications for exploration permits need to be submitted in accordance with an approved form. Under current administrative procedures, this is considered unnecessary.

Clause 23 inserts a new section 21A which relates to the work program bidding process. The section ensures that the work program that results in the best exploration of the area is accepted. A work program might not be accepted if it is believed that the applicant is undeserving of the grant. It also allows for the seeking of further information without re-advertising.

Clause 24 amends section 22(3) and (4) to replace gender-specific terms with gender-neutral terms.

Clause 25 inserts new sections 22AA, 22AB and 22AC which provide that a joint venture application can proceed if one or more of the joint venturers withdraw. In a bid process where there is more than one bid, if an applicant withdraws before an offer of a permit, the
process can continue without re-advertising and actions taken in respect of the withdrawn application may be ignored.

Clause 26 amends sections 23, 24, 25, 26 and 27 to—

- repeal the requirement in section 23(4)(a) that an approved form be used for applications for exploration permits in respect of for blocks surrendered, cancelled or determined from a lease, licence or another permit. This is considered unnecessary
- replace gender-specific terms with gender-neutral terms in sections 23(4)(d), 23(5), 24(3), 25(1), 25(2) and 26(1)
- substitute section 24(1)(b) to allow a bank guarantee as an alternative to a deposit to accompany an application for a petroleum exploration permit under section 23
- substitute section 24(2) to allow for discharge of a bank guarantee as an alternative to the refund of a deposit
- amend section 24(3) to remove the provision for a discretionary refund of an application fee to a successful bidder who has rejected an offer of a grant of an exploration permit
- substitute sections 25(5)(b)(ii), 26(1)(b), 26(2)(b) and 27(b)—
  - to provide for the alternative of a full payment (rather than the balance) being required where a bank guarantee (rather than a deposit) has been given by an applicant for a petroleum exploration permit
  - to remove references to an agreement under section 109. Sections 109 and 110 provide for an instalment payment facility for cash bids for permits or licences in respect of surrendered blocks. The facility is no longer required and is to be repealed (see clause 56).

Clause 27 inserts a new sub-section (2) in section 29, which refers to location blocks (that is, blocks in which a petroleum pool or part of a pool has been discovered and declared). The new sub-section provides for an exploration permit to continue in force in relation to any location blocks at the end of the final renewal
term of the permit until an application for a retention lease or production licence is resolved. The resolution may take the form of the lease or licence being granted, the applicant withdrawing, the application lapsing or the application being refused. However, if a lease application is refused, under section 39A(6) the applicant has 12 months to apply for a licence. In that case, this section also extends the permit for that period.

Clause 28 amends sections 31 and 32 to limit the number of renewals of a permit. On each renewal, the area renewed is half the current area and permit areas that have been reduced to a size of 2, 3 or 4 blocks may not be further renewed. However, when a renewed permit would be less than 4 blocks (for the first time), 4 blocks may be renewed.

The clause also repeals the requirement in section 30(2)(a) to use an approved form for an application for renewal of an exploration permit. This is considered unnecessary.

The clause replaces gender-specific terms with gender-neutral terms in sections 30(3), 32(3) and 32(6).

Clause 29 amends section 34, and repeals section 35—

- the penalty that appears at the end of section 34(3) is repealed and replaced with a new penalty at the end of section 34(1). This penalty is equivalent to the penalty applying to the equivalent Commonwealth offence

- section 34 currently provides that, on discovery of petroleum, the permittee must notify the Minister of the discovery, and then, if directed, provide further information such as the chemical composition and physical properties of the petroleum and details about the nature of the subsoil. Section 35 provides that the Minister may direct the permittee to undertake further work to obtain this information. While it is considered appropriate to retain section 34(1) requiring the permittee to notify the Minister of any discovery and the penalty for failing to do so, the remaining provisions in these sections are technical in nature and more appropriately covered by regulations. Sections 34(2) and (3) and section 35 are therefore repealed.
Clause 30 inserts section 37(7) clarifying the Minister's power to form an opinion based on information from any source about whether blocks nominated by a permittee actually cover or extend into a petroleum pool.

Clause 31 repeals section 39A(2)(a), substitutes section 38B(1), amends section 38B(2) and inserts a new section 38B(2A)—

- the clause repeals the requirement in section 39A(2)(a) that an approved form be used for applications for retention leases. This is considered unnecessary
- section 38B deals with the procedure for the grant or refusal of a retention lease. Currently, if there is an application for a retention lease in respect of certain specified blocks constituting a location, then the Minister has to take an “all or nothing” decision on granting a lease over those blocks. The substituted section 38B(1)(c) will enable the Minister, where appropriate, to grant a lease over a subset of the blocks nominated in the application, leaving the remainder of the nominated blocks under the continued coverage of an exploration permit, if one is in force. The blocks selected for a lease will be those that the Minister is satisfied contain petroleum for which recovery is not commercially viable at the time of the application but is likely to become so within 15 years
- the amendment to section 38B(2) clarifies that it is only if the Minister is not satisfied about the status of every block referred to in the application for a lease that the Minister is obliged to refuse to grant a lease to the applicant
- the new section 38B(2A) provides that where a lease application is made for 2 or more blocks and the Minister is not satisfied in relation to one or more, but not all of the blocks, then the Minister must serve a written notice on the applicant refusing to grant a lease in respect of the block(s) as to which the Minister is not satisfied.

Clause 32 inserts new sections 38BB, 38BC and 38BD. Under the new section 53A, a production licence may be terminated if there are no operations in the licence area for 5 years. In that case, the new sections inserted by this clause allow the licensee to apply for a retention lease (that is, a holding right over a location in
which petroleum has been discovered, production of which is currently unviable but may become so within 15 years).
Without the provisions inserted by this clause, a retention lease may be granted only to the holder of an exploration permit. This amendment takes account of the variation in the life-spans of petroleum fields. A small field may only be productive for 5 years, whereas some fields are still productive after 25 years. This amendment provides security of tenure during production. More specifically—

- the new section 38BB provides that a retention lease may also be granted to the holder of a production licence who faces termination of the licence under the new section 53A (see clause 40). Section 38BB sets out administrative requirements relating to applications and the Minister's power to seek further information in identical terms to what already applies to exploration permit holders applying for retention leases. The section also limits the period during which a retention lease can be sought by a production licence holder to 5 years from the day the licence was granted or 5 years from the last day on which operations for the recovery of petroleum were carried out in the licence area.

- the new section 38BC sets out the administrative process that is to be followed by the Minister after the receipt of an application for a retention lease from the holder of a production licence. This is similar to the process already in place for dealing with applications for retention leases made by exploration permit holders.

- the new section 38BD provides for the situation where an application for a retention lease is lodged by a production licence holder and the licence is transferred before a decision on the application is made by the Minister. By this section, the duties and rights of the relinquishing party in the process are transferred to the party gaining the licence.

Clause 33 repeals section 38F(2)(a) which requires the use of an approved form for applications for the renewal of a retention lease. This is considered unnecessary.
Clause 34 amends the penalty in section 38J and repeals sections 38J(2) and (3) and section 38K.

- the clause replaces the penalty at the foot of section 38J(3) with a penalty at the foot of section 38J(1). The penalty is equivalent to the penalty for the corresponding Commonwealth offence.
- section 38J provides that, on discovery of petroleum in a lease area, the lessee must notify the Minister of the discovery, and thereafter, if directed, provide further information such as the chemical composition and physical properties of the petroleum and details about the nature of the subsoil. Section 38K provides that the Minister may direct the lessee to undertake further work to obtain this information. While it is considered appropriate to retain section 38J(1) requiring the lessee to notify the Minister of any discovery and the penalty for failing to do so, the remaining provisions in these sections are technical in nature and more appropriately covered by regulations. Sections 38J(2) and (3) and section 38K are therefore repealed.

Clause 35 reimposes the current imprisonment penalty for recovery of petroleum in contravention of the Principal Act and alters the pecuniary penalty. The penalties are equivalent to the penalties for the corresponding Commonwealth offence.

Clause 36 repeals the requirement that applications for production licences need to be submitted in accordance with an approved form. This is considered unnecessary. The clause also replaces gender-specific terms with gender-neutral terms in sections 40, 41 and 42.

Clause 37 substitutes a new section 43 to complement amendments to section 38B made by clause 31. The new section relates to applications for licences under section 40 (applications by holders of exploration permits) and section 40A (applications by holders of leases). The new section allows the grant of a production licence over a subset of the blocks nominated in the application, leaving the remainder of the nominated blocks under the continued coverage of an exploration permit, if one is in force. Currently, if there is an application for a production licence in respect of certain specified blocks constituting a
location, then the Minister has to take an "all or nothing" decision on granting a lease over those blocks. Section 43(3) will require the Minister to serve a notice of refusal on the applicant if the Minister decides not to grant the applicant a licence in respect of any of the blocks specified in the application. The notice will give reasons for the refusal and make the process more transparent.

Clause 38 amends sections 44 and 45. These sections relate to a variation of a production licence adding to the licence area blocks that the licence holder had previously chosen to forego. When amended these sections will require that the Minister must be satisfied that petroleum is contained in any blocks to be added to the licence area.

Clause 39 amends sections 47 to 52 to—

- replace gender-specific terms with gender-neutral terms
- allow for a bank guarantee to be provided as an alternative to payment of a deposit in relation to applications under section 47.

Clause 40 substitutes section 53 and inserts a new section 53A. The current section 53 provides that the term of a production licence is 21 years. The new section 53 provides that a production licence remains in force indefinitely. The new section 53A provides that the Minister may terminate a production licence if no operations for the recovery of petroleum have been carried on for a continuous period of at least 5 years. The termination will require a one-month period of notice by the Minister. Any period when production was halted because of circumstances beyond the licensee's control is not to be counted in the 5-year period. These amendments complement the amendments made by clauses 31 and 32 regarding retention leases.

Clause 41 repeals sections 54 and 55 which provide for renewal of production licences. These provisions are no longer required as the term of a production licence is to be indefinite (see clause 40).

Clause 42 amends sections 58 and 59 to replace gender-specific terms with gender-neutral terms.
Clause 43 amends sections 60, 61, 62, 64 and 65—

- gender-specific terms are replaced with gender-neutral terms
- in sections 60, 61 and 62, references to the regulation of water lines, secondary lines, pumping stations, tank stations and valve stations are removed. Owing to the technical nature of these provisions, it is appropriate that they be moved to regulations. Consequently, in section 60 sub-sections (2) and (3) are repealed and sub-section (4) is substituted
- the penalties for offences in section 60 are amended to be equivalent to the penalties for the corresponding Commonwealth offences
- section 64(1) is amended to clarify that a pipeline licence can be for the conveyance of petroleum that is recovered from outside of the area to which the Principal Act applies. Section 64(2) is intended to prevent a proponent of a pipeline from playing a spoiling role in constructing a pipeline which will pass through a production licence holder’s area where they may have intended to construct a facility. The word “licensee” has been replaced with “registered holder of a production licence” to clarify which party is referred to
- section 65 is amended for the same reasons as the amendments to section 64 described above

Clause 44 substitutes a new section 67(1). The current section provides that the term of a pipeline licence is 21 years. The new section provides that a pipeline licence remains in force indefinitely.

Clause 45 inserts a new section 67A which provides that the Minister may terminate a pipeline licence if the licensee has not carried out any construction work or used the pipeline under the licence for a continuous period of at least 5 years. The termination will require a one-month period of notice by the Minister. Any period when construction was not carried out or the pipeline was not used due to circumstances beyond the licensee’s control is not to be counted in the 5-year period.

Clause 46 repeals sections 68, 69, 70(3) and 71(2)(a) which relate to renewal of pipeline licences. These provisions are no longer
required as the term of a pipeline licence is to be indefinite (see clause 44). Clause 46 also—

- removes a reference to water lines, pumping station, tank station, valve station and secondary line, as these matters are to be dealt with by regulations (see clause 43)

- amends the penalties for offences under section 72 (failure to comply with a direction to make changes in the design, construction, route or position of a pipeline) and 74 (ceasing to operate a pipeline without the Minister’s consent). The new penalties are equivalent to the penalties for the corresponding Commonwealth offences

- replaces gender-specific terms with gender-neutral terms in section 71.

Clause 47 makes various amendments to Part III, Division 5—Registration of Instruments, including—

- repealing section 76(2)(c), which refers to section 109. Section 109 relates to an instalment payment facility for cash bids for permits or licences in respect of surrendered blocks. That facility is no longer required and section 109 is being repealed (see clause 56)

- amending the penalties applying to offences under sections 82(1) (false or misleading statements in instruments lodged with the Minister), 84(2) (false or misleading information knowingly furnished with an application for approval of a transfer or dealing), 85(2) (failure or refusal to comply with a requirement to produce or make available documents) and 90 (making a false entry in the Register, producing a false copy or extract from the Register). The new penalties are equivalent to the penalties for the corresponding Commonwealth offences

- gender-specific terms are replaced with gender-neutral terms in sections 75, 79, 83, 84, 85, 87 and 89.

Clause 48 replaces a reference in section 93 to the Stamps Act 1958 (repealed) with a reference to the Duties Act 2000. The effect of section 93 remains unchanged—that duty is not chargeable on titles, transfers and instruments made under the Principal Act.
Clause 49 amends section 94 to remove the requirements that the renewal or expiry of a licence be notified in the Government Gazette. These requirements are no longer necessary as the term of a licence is to be indefinite (see clauses 6, 40 and 44). Clause 49 also replaces gender-specific terms with gender-neutral terms in section 94.

Clause 50 amends the penalties for offences in sections 96, 97 and 98 to make them equivalent to the penalties for the corresponding Commonwealth offences. Clause 50 also replaces gender-specific terms with gender-neutral terms in sections 96, 97 and 98.

Clause 51 repeals section 100. Section 100 prevents drilling within 300 metres of a boundary, except with the consent of the Minister. Section 100 is repealed because its technical nature makes this matter more appropriately covered by directions issued by the Minister under section 101.

Clause 52 amends section 101, 102 and 103 to—

- amend the penalties applying to offences in section 101 to make them equivalent to the penalties for corresponding Commonwealth offences. The clause also corrects an erroneous reference to section 157(2A), to implement the intention to refer to section 152(2A)
- substitute section 103(1)(a) to remove references to licences. These references are no longer required as they relate to renewal of licences. The term of a licence is to be indefinite (see clauses 6, 40 and 44)
- replace gender-specific terms with gender-neutral terms in sections 102 and 103.

Clause 53 inserts a new section 103A. This provision allows for the suspension of rights and conditions of a permit where the Minister is satisfied that this is necessary in the interest of the State. The provision also allows the Minister to extend the permit term by a period not exceeding the period of the suspension.

Clause 54 amends sections 104 and 105 to—
• omit the words "at any time" from section 104(1). This is to make it clear to title-holders that the conditions of titles are expected to be met before an application for consent to surrender can be made

• insert a new sub-section (3A) in section 104. The new sub-section makes it clear that a permit holder has not complied with the conditions of the title if an application to surrender is made prior to completing the work required during a specified period

• replace gender-specific terms with gender-neutral terms.

Clause 55 substitutes a new sub-section (3) in section 107. Section 107 relates to the removal of property brought into the title area and the consequent conservation and protection of the natural resources and making good any damage to the sea floor. It refers to titles that are no longer in force or in force only in part. The new sub-section takes into account that the term of a licence is to be indefinite and the new provisions for termination of licences. The penalty provision is amended to make the penalty equivalent to the penalty for the corresponding Commonwealth offence. Section 107(2) has been amended to make it gender-neutral.

Clause 56 repeals sections 109 and 110. Section 109 (Payment by instalments) and section 110 (Penalty for late payments of instalments etc) provide for an instalment payment facility for cash bids for permits or licences in respect of surrendered blocks. These provisions are no longer required as there has been a lack of interest in using this facility.

Clause 57 amends sections 111, 112 and 113 to—

• repeal section 111(2)(a) to remove the requirement to use an approved form to make an application for a special prospecting authority

• provide a new penalty for the offence in section 111(9) so that the penalty is equivalent to the penalty for the corresponding Commonwealth offence

• make section 112(4) subject to the new section 112(4AA) that is inserted. These amendments allow the Minister to grant an access authority over an area that is subject to a permit, lease, licence or special prospecting authority without first serving a notice on the registered holder of
the relevant title, provided the holders of the title have given prior written consent to the proposed access authority. This recognises that the applicant generally negotiates access. The amendment will avoid unnecessary notification and delay

- substitute new penalties for the offences in sub-sections (10) and (11) of section 112 to make these equivalent to the penalties for the corresponding Commonwealth offences

- replace gender-specific terms with gender-neutral terms.

Clause 58 amends section 115, 116 and 117 to—

- omit words from section 115(2)(b) and insert a new section 115(3). The effect of these amendments is to provide increased protection against self-incrimination for affected persons

- substitute a new penalty for the offence in section 117 to make it equivalent to the penalty for the corresponding Commonwealth offence

- replace gender-specific terms with gender-neutral terms.

Clause 59 repeals section 118. This provision deals with release of information and is to be replaced by a new Part IIIA inserted by clause 67.

Clause 60 revises the penalty applying to the offence in section 119(3) (contravening a notice prohibiting entry to an area for the purpose of protecting a well, etc.) to make the penalty equivalent to that for the corresponding Commonwealth offence.

Clause 61 amends the penalties applying to the offences in sections 120 and 122 to make these equivalent to the penalties for the corresponding Commonwealth offences. Clause 61 also repeals section 121 which provides that the Minister may direct a survey of a well, etc. It is considered more appropriate for the Minister to order surveys by means of directions issued under section 101.

Clause 62 revises the penalty applying to the offence in section 124 (interfering with operations to be carried out in a manner that does not interfere with navigation, fishing, conservation of the
Clause 63 inserts a new section 124A which prohibits intentionally or recklessly damaging or interfering with petroleum-related structures and vessels offshore. The maximum penalty is 660 penalty units or imprisonment for 10 years or both, in the case of a natural person, and 3300 penalty units in the case of a body corporate. This is equivalent to the penalty for the corresponding Commonwealth offence.

Clause 64 amends sections 125 and 126 to—

- amend the penalties applying to offences in sections 125(3) and 126(3) to make these equivalent to the penalties for the corresponding Commonwealth offences
- extend the existing power of inspectors in section 126(1)(a) to provide them with access to facilities relating to operations for processing and storage of petroleum and for the preparation of petroleum for transport
- replace gender-specific terms with gender-neutral terms.

Clause 65 amends the penalty in section 131(3) to make it equivalent to the penalty for the corresponding Commonwealth offence. Clause 65 also amends sections 128, 131, 135 and 138 to replace gender-specific terms with gender-neutral terms.

Clause 66 revises the penalty provisions in sections 151D(1) and 151E(2) to make these equivalent to the penalties for the corresponding Commonwealth offences.

Clause 67 inserts a new Part IIIA (Release of Information) and a new Part IIIB (Datums).

**New Part IIIA—Release of Information**

The new Part IIIA replaces section 118 and gives persons who submit certain information a right to make a declaration which, unless challenged by the Minister, determines whether and when the information may be publicly released.

**Release of data from title areas**

In order to promote interest in exploration acreage and in order to improve the efficiency of exploration, the legislation requires
title-holders to submit their geological and geophysical data, and core and cutting samples, to government within specified periods of time. The legislation also provides for the public release of submitted information after various periods of confidentiality. This is to ensure that the greatest amount of data is publicly released consistent with the security of tenure associated with the title.

**Release of speculative survey data**

The legislation makes provision for special prospecting authorities, which are generally used by companies undertaking speculative seismic surveys. The surveyors can sell the results of their seismic research to other companies that have a potential or current interest in exploring the area.

Data collected in the surveys is required to be submitted to government. The general requirement for public release of data collected over vacant acreage is that confidentiality is protected for up to 5 years in the case of 2-dimensional surveys and for 8 years in the case of 3-dimensional surveys.

These provisions are intended to ensure that surveyors conducting speculative seismic surveys are afforded sufficient periods of confidentiality to recoup their investment from companies prepared to acquire the data for the purpose of refining bids for exploration acreage or for the purpose of undertaking exploration activity. The policy of limiting the period of confidentiality provides public access to this data in the longer run to the benefit of public knowledge of, and interest in, the petroleum potential of the offshore areas.

The new Part IIIA contains sections 151H to 151Q. In particular—

- the new section 151H defines terms that are fundamental to Part IIIA. These terms are not defined in the existing section 118. The provision in section 151H(2) for information to be classified by the submitter as derivative or confidential is a provision which does not exist in section 118. Section 151H also omits the procedure of gazetting proposed releases of derivative information in favour of a system that respects the submitter’s initial classification, qualified by the Minister’s right to disagree within 30 days. Section 151H(6) defines the date when
cores, cuttings, well data, logs, sample descriptions and other documents relating to the drilling of a well are taken to have been given to the Minister. It also defines the date when geophysical or geochemical data relating to a survey are taken to have been given to the Minister. A way of clearly determining these dates is required for purposes of calculating "the relevant day" under section 151M

- the new section 151I specifies that Part IIIA applies only to information given to the Minister after the commencement of the Part, but makes no distinction in relation to petroleum mining samples given to the Minister in the past or future. The reason for this is that Part IIIA introduces the concept of the submitter classifying information at the time of submission as to whether it should be protected from release for an extended period or indefinitely. However, the length of time for which a petroleum mining sample and particulars about it can be withheld from public access is not contingent on the submitter's opinion or open to dispute. Thus Part IIIA applies to petroleum mining samples already submitted as much as to those to be submitted after the commencement of the Part, but section 118 continues to apply to information given to the Minister before the commencement of the Part

- the new section 151J prohibits the Minister and other Victorian Ministers publishing or disclosing documentary information or publishing information about, or allowing the inspection of, a petroleum mining sample, except as specified. The specified provisions for release are as set out elsewhere in Part IIIA or for the administration of the Principal Act or regulations or release to another Victorian Minister, a Commonwealth Minister or a Minister of another State. This section in effect places a perpetual prohibition on the public release of confidential information, as there is no provision for its public release in Part IIIA

- the new section 151K enables the Minister to release information to another Victorian Minister, a Commonwealth Minister or a Minister of another State
The new section 151L deals with the disclosure of documentary information and making petroleum mining samples available for public inspection. It does not allow the release of excluded information, that is, derivative information, confidential information or particulars about an applicant's qualifications, technical advice or financial resources. Under this section, documentary information in an application is releasable immediately after the grant, renewal or refusal of the petroleum mining instrument that was sought. Other documentary information and samples are releasable after the "relevant day" provided for under section 151M. Section 151L also provides for a fee to apply to access to information or samples where such a fee is prescribed in the regulations.

The new section 151M identifies the "relevant day" for the release of various classes of information and samples. With the exception of section 151M(7), these provisions replicate section 118. Section 151M(7) creates a new class of information. It refers to information that is a 3-dimensional seismic survey, is collected for sale on a non-exclusive basis, may freely be reprocessed by the buyer and is accompanied by 2-dimensional information derived from the seismic survey that is presented in a seismic data grid scaled in time. In respect of such 3-dimensional information, the relevant day is a maximum of 8 years after the information was given to the Minister regardless of whether a permit, lease or licence is or was in force in respect of the block. The precise day is to be determined by the Minister. The seismic data grid scaled in time, as defined in section 151H(1), will consist of vertical cross-sections of seismic information from the 3-dimensional processed image of geological strata in a grid with 2 kilometre spacing in 2 directions. The significance of this 2-dimensional information is that members of the public will be able to obtain earlier access to it under the Principal Act than to the full 3-dimensional survey results. The relevant day for the release of this 2-dimensional information will be as provided by one of the other sub-sections of section 151M, as applicable. The 2-dimensional information will indicate what lies beneath the seabed without divulging the more valuable...
detailed information a party would gain by buying the full 3-dimensional survey results. To allow for the possibility that evolving technology may make the 2 kilometre by 2 kilometre spacing of the grid less appropriate in the future, section 151H(1) provides for the spacing to be varied by regulation

- the new section 151N refers to information or a sample that has been given to the Minister by the holder of a permit, lease, production licence, special prospecting authority or access authority where that party has, of his or her own volition, published the information, made the sample available for inspection or given written consent for this to occur. In these cases, section 151N provides that the Minister may release the information or sample at any time after the publication has occurred or the consent has been given, subject to the payment of a fee where prescribed in the regulations

- the new section 151O provides for the release, 5 years after receipt, of derivative information, that is, information which the submitter classifies as a conclusion or opinion wholly or partly drawn from other documentary information and the Minister does not disagree with the classification within 30 days of receipt.

- the new sections 151P and 151Q provide for a review process similar to that currently provided in section 118 with some new provisions. There is review in respect of contested information that is claimed by the submitter to be confidential. In addition, there is review in respect of contested information that is claimed by the submitter to be derivative, where the Minister believes the information to be documentary and therefore releasable earlier than derivative information.

**New Part IIIB—Datums**

The new Part IIIB authorises the making of regulations adopting a new datum as the reference surface for latitude and longitude coordinates to be used in surveying areas to which the Principal Act refers. Currently the Principal Act requires use of the old Australian Geodetic Datum (AGD). Australian Governments have agreed to adopt the new Geocentric Datum of Australia
(GDA) as it is more suitable for use in conjunction with the Global Positioning System for surveying, navigation and similar purposes.

- the new section 151R deals with the objects of the Part. The background to the objects is that, under the Principal Act, areas under petroleum exploration permits, production licences and certain other titles must consist of integral numbers of blocks. The boundaries of these blocks are defined by gridlines at 5 minute intervals of latitude and longitude starting respectively from the equator and from Greenwich. The current AGD is based on the Australian National Spheroid designed to be the best estimate of the Earth's shape in the Australian region, rather than from a global perspective. The centre of the Spheroid is approximately 200 metres from the centre of the Earth. The centre of the new GDA is equivalent to the centre of the Earth. This makes the GDA more suited to use with global positioning systems.

- because of the 200 metre difference in the centre of the AGD (old datum) compared with the GDA (new datum), if one surveyed for the position of a point that had a certain number of degrees of latitude and a certain number of degrees of longitude referenced to the AGD, one would not end up in the same place on the ground as one would if one surveyed for a point with the same numbers of degrees of latitude and longitude referenced to the GDA. Therefore, simply accepting existing AGD co-ordinates as GDA co-ordinates in the Principal Act would mean that holders of existing titles under the Principal Act would find that the area in which they may operate had shifted over the seabed. Following consultation with stakeholders, the Government has decided that adoption of the GDA must not lead to this result. Instead, the GDA is to be adopted in petroleum title administration so that the gridlines that delineate the 5 by 5 minute blocks are relabelled with the new datum but without moving the title areas from their present position on the seabed. To do this, the co-ordinates of corner points of title areas, which are currently expressed as whole multiples of 5 minutes, will be transformed to unwhole numbers of minutes under the GDA.
the new section 151S provides that the position of any section, block or area described in the Third or Sixth Schedules is to be determined by reference to the AGD. Section 151S(2) provides that, while the AGD will determine the position of the things mentioned in section 151S(1), in a title or other instrument under the Principal Act these positions will not need to be described under the AGD. Section 151S(3) provides a transitional provision until the regulations declare another datum for describing the position of a point, line or area in a title or other instrument under the Principal Act. Until then, the AGD remains the datum for this purpose and no labelling of titles or instruments in terms of the GDA may occur.

the new section 151T provides that regulations may declare a new datum (this is intended to be the GDA) for describing the position on the surface of the Earth of a point, line or area in a title or other instrument under the Principal Act. This new datum is here referred to as the current datum, as distinct from the previous datum. Another declaration, substituting some other datum again, could be made at some later time, for instance if the GDA was redefined because of small continuous movements occurring in the Earth’s crust. Section 151T(2) defines the previous datum for purposes of making a declaration of the kind referred to above. On the first occasion that such a declaration is made, the previous datum will be the AGD. Section 151T(3) provides for the time of effect of a declaration of the kind referred to above to be called the changeover time.

the new section 151U refers to all the different titles and other types of instruments that may be granted or issued under the Principal Act, but deals only with titles or other instruments granted or issued after the changeover time. These include titles granted for the first time and those granted as a renewal. A permit (ie, an exploration permit) or lease (ie, a retention lease) are titles that may be...
renewed, subject to various provisions of the Principal Act. Renewal does not apply to any other title or other instrument. An example of another instrument under the Principal Act would be a Gazette notice under section 20 inviting applications for an exploration permit in respect of blocks specified in the notice. Section 151U provides that, after the changeover time, any area, route (for pipelines), line or point that is referred to in any one of these titles or other instruments is to be described by reference to the current datum, that is, the new datum. The title or other instrument may be annotated accordingly

- the new section 151V refers to all the different titles and other types of instruments that may be granted or issued under the Principal Act and that are in force immediately before the changeover time. Any area, route (for pipelines), line or point that is referred to in any of these titles or other instruments is to be described by reference to the previous datum. Section 151V makes the point that this is the situation as long as no regulations have been made under section 151W. However, if regulations have been made only under some sub-sections of section 151W, the titles or other instruments that have not been dealt with will still be described by reference to the previous datum

- the new section 151W enables regulations to be made to authorise variations to be made by the Minister to titles and other instruments. The titles and other instruments that may be varied are all titles and other instruments that have been granted or issued under the Act before the changeover time. Under section 151W(1) to (6), the purpose of the variation would be for relabelling, using co-ordinates based on the current datum, any area or route (for pipelines) that is referred to in the title to which the regulations relate. If a regulation were made under section 151W(6), the purpose of the variation would be for relabelling, using coordinates based on the current datum, any point, line or area in some other instrument under the Principal Act. Section 151W(7) provides a regulation-making power so that the Minister may insert
an annotation in any title or other instrument stating what datum applies to that title or other instrument

- the new section 151X provides a regulation-making power so that the Minister may vary an application for a title if the area for which the title is sought is referenced to the previous datum. The coordinates of the area in the application would then be relabelled under the current datum and the title, if granted, would refer to that relabelled area

- the new section 151Y is an overarching provision that makes it clear that no change in the position on the surface of the Earth of any point, line, block, pipeline route or other title area is authorised, either as a result of describing any of them under section 151U or as a result of relabelling any of them under section 151W

- the new section 151Z provides a power to make regulations to cover matters of a transitional nature arising from the change from the previous datum to the current datum. This is to cover contingencies not identified or foreseen in the rest of Part IIIB

- the new section 151ZA provides definitions, for the purposes of Part IIIB, including a definition of "Australian Geodetic Datum".

Clause 68 amends section 152(4) to revise the penalty in respect of an offence against the regulations under the Principal Act to make it equivalent to the corresponding Commonwealth penalty.

Clause 69 substitutes a new First Schedule setting out transitional provisions in relation to applications for renewal of permits (new section 31(6)), indefinite terms for pipeline licences (new section 67(1)) and release of information (repeal of section 118).

Clause 70 repeals the Second Schedule which sets out the 1958 Geneva Convention on the Continental Shelf which is outdated since the United Nations Convention on the Law of the Sea was adopted and signed by Australia in 1982.

Clause 71 corrects a minor error in the Third Schedule.