EXTRAORDINARY GAZETTE



THE SOUTH AUSTRALIAN

GOVERNMENT GAZETTE

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ADELAIDE, THURSDAY, 30 JUNE 2005

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National Electricity (South Australia) (New National Electricity Law) Amendment Act (Commencement) Proclamation 2005

1—Short title

This proclamation may be cited as the *National Electricity (South Australia) (New National Electricity Law) Amendment Act (Commencement) Proclamation 2005.*

2—Commencement of Act and suspension of section 7

(1) The National Electricity (South Australia) (New National Electricity Law) Amendment Act 2005 (No 14 of 2005) will come into operation on 1 July 2005.

Note—

Part 1 came into operation on the date of assent (21 April 2005).

(2) The operation of section 7 of the Act is suspended until a day to be fixed by subsequent proclamation.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

MEN05/006CS

Natural Resources Management Act (Commencement) Proclamation 2005

1—Short title

This proclamation may be cited as the *Natural Resources Management Act* (Commencement) Proclamation 2005.

2—Commencement of suspended provisions

The following provisions of the *Natural Resources Management Act 2004* (No 34 of 2004) will come into operation on 1 July 2005 immediately before the commencement of clause 51 of Schedule 2 of the *Adelaide Dolphin Sanctuary Act 2005*:

- (a) Chapter 2 Part 2;
- (b) Chapter 3 Part 4;
- (c) Chapter 3 Part 6;
- (d) Chapter 4 Part 2;
- (e) Chapters 6 to 10 (inclusive);
- (f) sections 206 to 230 (inclusive);
- (g) section 234;
- (h) Schedule 2;
- (i) the remaining provisions of Schedule 4.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

EC04/0068CS

Railways (Operations and Access) (Regulator) Amendment Act (Commencement) Proclamation 2005

1—Short title

This proclamation may be cited as the *Railways (Operations and Access) (Regulator) Amendment Act (Commencement) Proclamation 2005.*

2—Commencement of Act

The *Railways (Operations and Access) (Regulator) Amendment Act 2005* (No 16 of 2005) will come into operation on 1 July 2005.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

MTR 05/038CS

South Australia

Administrative Arrangements (Administration of Australian Energy Market Commission Establishment Act) Proclamation 2005

under the Administrative Arrangements Act 1994

1—Short title

This proclamation may be cited as the *Administrative Arrangements (Administration of Australian Energy Market Commission Establishment Act) Proclamation 2005.*

2—Commencement

This proclamation comes into operation on the day on which it is made.

3—Administration of Act committed to Minister for Energy

The administration of the Australian Energy Market Commission Establishment Act 2004 is committed to the Minister for Energy.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

MEN05/011CS

Natural Resources Management Act (Relevant Day) Proclamation 2005

under clause 44 of Schedule 4 of the Natural Resources Management Act 2004

1—Short title

This proclamation may be cited as the *Natural Resources Management Act (Relevant Day) Proclamation 2005.*

2—Commencement

This proclamation will come into operation on 1 July 2005.

3—Appointment of relevant day

1 July 2005 is appointed as the relevant day for the purposes of any provision in which the term *relevant day* is used under Schedule 4 Part 18 of the *Natural Resources Management Act* 2004.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

EC04/0068CS

Natural Resources Management Act (Suspension of Repeal of Specified Provisions of Another Act) Proclamation 2005

under clause 43(2) of Schedule 4 of the Natural Resources Management Act 2004

Preamble

- 1 Clause 43 of Schedule 4 of the *Natural Resources Management Act 2004* is to come into operation on 1 July 2005.
- Subclause (2) of clause 43 of Schedule 4 of that Act provides that the Governor may, by proclamation, suspend the repeal of specified provisions of an Act that would otherwise be repealed by force of subclause (1) of that clause.
- It is expedient that the repeal of specified provisions of the *Water Resources Act 1997* be so suspended.

1—Short title

This proclamation may be cited as the *Natural Resources Management Act (Suspension of Repeal of Specified Provisions of Another Act) Proclamation 2005.*

2—Commencement

This proclamation will come into operation on 1 July 2005.

3—Suspension of specified provisions

The repeal of Parts 1 and 8 of the *Water Resources Act 1997* is suspended until a day to be fixed by subsequent proclamation.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

EC04/0068CS

Public Sector Management (Department for Transport, Energy and Infrastructure—Transfer of Employees) Proclamation 2005

under section 7 of the Public Sector Management Act 1995

1—Short title

This proclamation may be cited as the *Public Sector Management (Department for Transport, Energy and Infrastructure—Transfer of Employees) Proclamation 2005.*

2—Commencement

This proclamation will come into operation on 1 July 2005.

3—Transfer of employees

the Office of the North; or

The employees referred to in Column 1 of Schedule 1 are transferred to the administrative unit referred to in Column 2 of Schedule 1 opposite that reference.

Schedule 1—Employees being transferred

Column 1	Column 2
Employees of the Department of Primary Industries and Resources in the Office of the Technical Regulator	Department for Transport, Energy and Infrastructure
Employees of the Department of Primary Industries and Resources in <i>Energy SA</i>	Department for Transport, Energy and Infrastructure
Employees of the Department of Treasury and Finance in Microeconomic Reform and Infrastructure Branch	the Department for Transport, Energy and Infrastructure
Employees of the Department for Administrative and Informatives in the Office for Infrastructure Development	rmation Department for Transport, Energy and Infrastructure
The following employees of the Department for Administrand Information Services:	rative Department for Transport, Energy and Infrastructure
(a) Andrew Gehling;	
(b) David Ness;	
(c) Adrian Wood;	
(d) Ben Scholes	
Employees of the Department for Transport, Energy and Infrastructure in—	Department of Primary Industries and Resources
(a) Planning SA; or	
(b) the Office of Local Government; or	
()	

- (d) the Office for the Southern Suburbs; or
- (e) the Office of the North West; or
- (f) the Regional Ministerial Offices

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

DPC010/05CS

Public Sector Management (Transfer of Employees—Office of Public Employment) Proclamation 2005

under section 7 of the Public Sector Management Act 1995

1—Short title

This proclamation may be cited as the *Public Sector Management (Transfer of Employees—Office of Public Employment) Proclamation 2005.*

2—Commencement

This proclamation will come into operation on 1 July 2005.

3—Transfer of employees

The employees referred to in Schedule 1 are transferred to the Office of Public Employment.

4—Abolition of Unattached Unit

The Unattached Unit is abolished.

5—Interpretation

In this proclamation—

Unattached Unit is the administrative unit created by section 22 of the *Government Management and Employment Act 1985* and continued in existence under clause 3 of Schedule 4 of the *Public Sector Management Act 1995* (subject to the operation of that Act).

Schedule 1—Employees being transferred

1—Employees of the OPE Transition Division

All employees of the Department of the Premier and Cabinet who, immediately before the commencement of this proclamation, are working in the Office of Public Employment Transition Division in the Office for the Commissioner for Public Employment.

2—Employees of the Unattached Unit

All employees who, immediately before the commencement of this proclamation, are in the Unattached Unit.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

DPC011/05CS

Emergency Services Funding (Declaration of Levy and Area and Land Use Factors) Notice 2005

under section 10 of the Emergency Services Funding Act 1998

1—Short title

This notice may be cited as the *Emergency Services Funding (Declaration of Levy and Area and Land Use Factors) Notice 2005.*

2—Commencement

This notice comes into operation on the day on which it is made.

3—Interpretation

In this notice—

Act means the Emergency Services Funding Act 1998.

4—Declaration of levy

The levy under Part 3 Division 1 of the Act for the 2005/2006 financial year comprises—

- (a) an amount of 0.1160 cents in respect of each dollar of the value of land subject to assessment; and
- (b) a fixed charge of \$50 for each piece, section or aggregation of contiguous or non-contiguous land subject to separate assessment.

5—Declaration of area factors

The area factors for each of the emergency services areas for the 2005/2006 financial year are as follows:

- (a) Regional area 1—0.8;
- (b) Regional area 2—0.5;
- (c) Regional area 3—0.2;
- (d) Regional area 4—1.0.

6—Declaration of land use factors

The land use factors for each of the land uses referred to in section 8(1) of the Act for the 2005/2006 financial year are as follows:

- (a) commercial—1.0;
- (b) industrial—1.508;
- (c) residential—0.4;
- (d) rural—0.3:
- (e) all other uses—0.5.

7—Relevant day

The relevant day for the purposes of section 8 of the Act in respect of the 2005/2006 financial year is 30 June 2005.

8—Required statement of amount and description of method used to determine amount

The following information is provided in accordance with section 10(6) of the Act:

- (a) the Minister has determined under section 10(4)(a) of the Act that \$135.3 million needs to be raised by means of the levy under Part 3 Division 1 of the Act to fund emergency services in the 2005/2006 financial year, of which \$64.9 million (net of remissions) needs to be raised from private and local government property ownerships;
- (b) the method used for determining the amount referred to in paragraph (a) is as follows:
 - (i) a strategic and business planning process was undertaken to establish a strategic context for assessing amounts to be expended for the kinds of emergency services and other purposes referred to in section 28(4) of the Act;
 - (ii) the amounts to be expended for emergency services and the amount that needs to be raised by the levy under Part 3 Division 1 of the Act were derived from existing forward estimates and adjusted to reflect additional initiatives and requirements identified in the strategic and business planning process and, following an assessment of risk, amounts were also included for contingencies in accordance with sound financial management practices.

Made by the Governor's Deputy

on the recommendation of the Treasurer and with the advice and consent of the Executive Council on 30 June 2005

T&F05/049CS

Emergency Services Funding (Declaration of Levy for Vehicles and Vessels) Notice 2005

under section 24 of the Emergency Services Funding Act 1998

1—Short title

This notice may be cited as the *Emergency Services Funding (Declaration of Levy for Vehicles and Vessels) Notice* 2005.

2—Commencement

This notice comes into operation on the day on which it is made.

3—Application of notice

This notice applies in relation to the 2005/2006 financial year.

4—Declaration of levy in respect of vehicles and vessels

For the purposes of section 24 of the Emergency Services Funding Act 1998—

- (a) motor vehicles are divided into classes referred to in Schedule 1 (being the same classes as the Premium Class Code published by the Motor Accident Commission); and
- (b) the amount of the levy in respect of each such class of motor vehicle is as specified in Schedule 1; and
- (c) the amount of the levy in respect of vessels is \$12.

Schedule 1—Classes of motor vehicles

	Premium Class Code	Amount of levy
Tier One	PCC1—Metropolitan—Cars No ITC Entitlement	\$32
	PCC2—Metro—Light goods No ITC Entitlement	
	PCC3—Metro—Medium goods	
	PCC4—Metro—Primary production—goods	
	PCC5—Metro—Taxis	
	PCC6—Metro—Hire and drive	
	PCC7—Metro—Chauffeured vehicle	
	PCC8—Metro—Bus 13-35 passengers	
	PCC9—Metro—Bus 35+passengers	
	PCC10—Metro—Community transport No ITC Entitlement	
	PCC15—Metro—Motorcycle 51-250cc No ITC Entitlement	

PCC16—Metro—Motorcycle 251-600cc No ITC

Entitlement

PCC20—Metro—Motorcycle 601cc+No ITC

Entitlement

PCC21—Metro—Heavy goods

PCC22—Metro—Light car carrier

PCC23—Metro—Medium car carrier

PCC24—Metro—Heavy car carrier

PCC25—Metro—Trailer car carrier

PCC29—Metro—Miscellaneous

PCC32—Metro—Municipal Bus

PCC35—Metro—Motorcycle 51-250cc ITC

Entitled

PCC36—Metro—Motorcycle 251-600cc ITC

Entitled

PCC40—Metro—Motorcycle 601cc+ITC Entitled

PCC41—Metropolitan—Cars ITC Entitled

PCC42—Metro—Light goods ITC Entitled

PCC45—Metro—Community transport ITC

Entitled

PCC51—Country—Cars No ITC Entitlement

PCC52—Country—Light goods carrier No ITC

Entitlement

PCC53—Country—Medium goods carrier

PCC55—Country—Taxis

PCC56—Country—Hire and drive yourself

PCC57—Country—Chauffeured vehicle

PCC58—Country—Bus 13-35 passengers

PCC59—Country—Bus 35+ passengers

PCC66—Country—Motorcycle 251-600cc No ITC

Entitlement

PCC70—Country—Motorcycle 601cc+No ITC

Entitlement

PCC71—Country—Heavy goods

PCC72—Country—Light car carrier

PCC73—Country—Medium car carrier

PCC74—Country—Heavy car carrier

PCC86—Country—Motorcycle 251-600cc ITC

Entitled

PCC90—Country—Motorcycle 601cc+ITC

Entitled

PCC91—Country—Cars ITC Entitled

PCC92—Country—Light goods ITC Entitled

PCC14—Metro—Motorcycle—not exceeding 50cc \$12 Tier Two No ITC Entitlement PCC34—Metro—Motorcycle—not exceeding 50cc ITC Entitled PCC54—Country—Primary producer's goods carrying vehicles PCC60—Country—Public passenger vehicle No ITC Entitlement PCC64—Country—Motorcycle—not exceeding 50cc No ITC Entitlement PCC65—Country—Motorcycle—51-250cc No ITC Entitlement PCC75—Country—Car carrier's extension and trade plates PCC79—Country—Special purpose—fire and emergency purposes, hearses PCC84—Country—Motorcycle—not exceeding 50cc ITC Entitled PCC85—Country—Motorcycle 51-250cc ITC Entitled PCC95—Country—Public passenger vehicle ITC Entitled Tier Three PCC11—Metro—Trailers No ITC Entitlement \$8 PCC19—Metro—Historic vehicle scheme PCC31—Metro—Trailers ITC Entitled PCC61—Country—Trailers No ITC Entitlement PCC69—Country—Historic and left hand drive PCC81—Country—Trailers ITC Entitled \$0 PCC68—Country—Conditionally registered farm tractors No ITC Entitlement PCC18—Metro—Conditionally registered farm tractors, etc No ITC Entitlement PCC88—Country—Conditionally registered farm tractors ITC Entitled PCC38—Metro—Conditionally registered farm tractors, etc ITC Entitled PCC67—Country—Vehicles under permit No ITC Entitlement PCC17—Metro—Vehicles under permit No ITC Entitlement PCC87—Country—Vehicles under permit ITC Entitled PCC37—Metro—Vehicles under permit ITC Entitled

Made by the Governor's Deputy

on the recommendation of the Treasurer and with the advice and consent of the Executive Council on $30 \, \text{June} \, 2005$

T&F05/049CS

Development (Osborne Maritime Policy Area) Variation Regulations 2005

under the Development Act 1993

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- 2 Commencement
- 3 Variation provisions

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4 Variation of Schedule 10

6A City of Port Adelaide Enfield—Osborne Maritime Policy Area

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Development (Osborne Maritime Policy Area) Variation Regulations* 2005.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of Development Regulations 1993

4—Variation of Schedule 10

Schedule 10, after clause 6—insert:

6A—City of Port Adelaide Enfield—Osborne Maritime Policy Area

All classes of development in that part of the area of the City of Port Adelaide Enfield defined in the General Industry (2) Zone in the Port Adelaide Enfield (City) Development Plan as *Policy Area 49—Osborne Maritime*.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

No 149 of 2005

MUDP07/05CS

Petroleum (Submerged Lands) Regulations 2005

under the Petroleum (Submerged Lands) Act 1982

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1 Revocation of regulations

Part 1—Preliminary

1—Short title

These regulations may be cited as the Petroleum (Submerged Lands) Regulations 2005.

2—Commencement

These regulations will come into operation on 1 July 2005.

3—Definitions

In these regulations, unless the contrary intention appears—

Act means the Petroleum (Submerged Lands) Act 1982;

controlled substance means a substance mentioned in—

- (a) Schedule 8 to the *Customs (Prohibited Exports) Regulations 1958* of the Commonwealth; or
- (b) Schedule 4 to the *Customs (Prohibited Imports) Regulations 1956* of the Commonwealth;

intoxicant means a beverage or other substance for human consumption that contains alcohol (other than a substance for medical or pharmaceutical use);

member of the workforce, in relation to a facility, has the meaning given in clause 3 of Schedule 7 to the Act;

registered medical practitioner means a person who is registered on the general register or the specialist register (or both) under the *Medical Practice Act 2004*;

registered nurse means a person who is registered under the Nurses Act 1999;

registered pharmacist means a person who is registered as a pharmacist under the *Pharmacists Act 1991*;

therapeutic drug means a drug that—

- (a) may be prescribed by a registered medical practitioner; or
- (b) may be sold without a prescription prepared by a registered medical practitioner.

4—Forms, notices and reports

- (1) A form must be completed in accordance with a direction specified in, or at the foot of, the form.
- (2) A person who is required for the purposes of the Act or these regulations to—
 - (a) complete a form; or
 - (b) give notice or make a report,

must complete the form, give notice or make the report in sufficient detail to allow proper consideration of the form, notice or report.

(3) A form, notice or report must be produced clearly and legibly in handwriting or by means of a machine in such a manner as to enable clear and legible reproduction of the contents of the form, notice or report.

Part 2—Occupational health and safety

Division 1—Preliminary

5—Object

The object of this Part is to prescribe matters related to occupational health and safety on offshore petroleum facilities.

6—Relationship with other Parts

The requirements of this Part are in addition to the requirements imposed on a person by any Parts of these regulations.

7—Definitions

In this Part, unless the contrary intention appears—

designated work group has the meaning given in clause 3 of Schedule 7 to the Act;

election means an election for a health and safety representative or a deputy health and safety representative under clause 25 or 32 of Schedule 7 to the Act;

employer has the meaning given in clause 3 of Schedule 7 to the Act;

facility has the meaning given in clause 3 of Schedule 7 to the Act;

health and safety representative means a person selected as a health and safety representative for a designated work group under clause 24 of Schedule 7 to the Act;

identity card means an identity card issued, under section 150YM of the Commonwealth Act, to an OHS inspector;

operator has the meaning given in clause 3 of Schedule 7 to the Act;

returning officer means a person appointed as a returning officer under regulation 15;

voter means a person who is eligible to vote in an election;

work has the meaning given in clause 3 of Schedule 7 to the Act;

workplace has the meaning given in clause 3 of Schedule 7 to the Act.

Division 2—Regulations relating to health and safety

8—Avoiding fatigue

- (1) This regulation applies to—
 - (a) an operator; and
 - (b) an employer; and
 - (c) another person in control of—
 - (i) a facility; or
 - (ii) a part of a facility; or
 - (iii) particular work carried out at a facility.
- (2) The person must not allow, or require, a member of the workforce who is under the person's control, to work for—
 - (a) a continuous period; or
 - (b) successive continuous periods,

of a duration that could reasonably be expected to have an adverse effect on the health or safety of the member of the workforce or other persons at or near the facility.

Maximum penalty: \$1 100.

9—Possession or control of drugs or intoxicants

- (1) A person on a facility must not have possession or control of—
 - (a) a controlled substance; or
 - (b) an intoxicant.

Maximum penalty: \$1 100.

- (2) It is a defence to a prosecution under subregulation (1)—
 - (a) that the person had possession or control of a controlled substance that is a therapeutic drug; and
 - (b) that the person had the therapeutic drug under his or her possession or control—
 - (i) in the course of the person's employment; or

- (ii) in the course of the person's duties or practice as a registered medical practitioner, registered nurse or registered pharmacist; or
- (iii) in accordance with the law of this State; or
- (iv) if the person had lawfully acquired the therapeutic drug—for the person's bona fide personal use.

10—Person must leave the facility when instructed to do so

(1) A person on a facility must leave the facility if instructed to do so by a person in command of the facility.

Maximum penalty: \$1 100.

- (2) An instruction—
 - (a) in the case of an emergency—may be given orally; or
 - (b) in any other case, relevant to occupational health and safety on the facility—
 - (i) must be in writing; and
 - (ii) must include the reason for the instruction.

11—Prohibition on the use of certain hazardous substances

- (1) This regulation applies to—
 - (a) an operator; and
 - (b) an employer; and
 - (c) another person in control of—
 - (i) a facility; or
 - (ii) a part of a facility; or
 - (iii) particular work carried out at a facility.
- (2) The person must not allow a hazardous substance, referred to in column 2 of an item in Part 2 or 3 of Schedule 1, to be used in any circumstance other than a circumstance specified in column 3 of the item.

Maximum penalty: \$2 200.

- (3) It is a defence to a prosecution against subregulation (2) that the use is in accordance with an exemption granted by the Safety Authority under regulation 14.
- (4) Subregulation (2) does not apply to the use of chrysotile asbestos if the use is permitted under regulation 4D(5) of the *Petroleum (Submerged Lands) (Occupational Health and Safety) Regulations 1993* of the Commonwealth.

12—Limitations on exposure to certain hazardous substances

- (1) This regulation applies to—
 - (a) an operator; and
 - (b) an employer; and
 - (c) another person in control of—
 - (i) a facility; or

- (ii) a part of a facility; or
- (iii) particular work carried out at a facility.
- (2) The person must not allow a member of the workforce, under the person's control, to be exposed to an airborne concentration of a hazardous substance in the breathing zone of the member of the workforce at a level that exceeds the appropriate exposure standard for the relevant period of time.

Maximum penalty: \$2 200.

- (3) It is a defence to a prosecution against subregulation (2) that the airborne concentration of the hazardous substance in the breathing zone of the member of the workforce is in accordance with an exemption given by the Safety Authority under regulation 14.
- (4) In this regulation—

appropriate exposure standard means an airborne concentration for a substance as set out in the Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOHSC: 1003(1995)] published by the National Occupational Health and Safety Commission, as existing from time to time;

hazardous substance has the same meaning as in regulation 4E of the Petroleum (Submerged Lands) (Occupational Health and Safety) Regulations 1993 of the Commonwealth.

13—Exposure to noise

- (1) This regulation applies to—
 - (a) an operator; or
 - (b) an employer; or
 - (c) another person in control of—
 - (i) a facility; or
 - (ii) a part of a facility; or
 - (iii) particular work carried out at a facility.
- (2) The person must not allow a member of the workforce who is under the person's control to be exposed to a level of noise that is in excess of the noise exposure standard.

Maximum penalty: \$2 200.

- (3) It is a defence to a prosecution for an offence against subregulation (2) that the level of noise to which the member of the workforce is exposed, is in accordance with an exemption given by the Safety Authority under regulation 14.
- (4) In this regulation—

noise exposure standard means the noise exposure standard set out in the *National Standard* for *Occupational Noise* [NOHSC: 1007(2000)] published by the National Occupational Health and Safety Commission, as existing from time to time.

14—Exemptions from hazardous substances and noise requirements

- (1) This regulation applies to—
 - (a) an operator; or
 - (b) an employer; or
 - (c) another person in control of—
 - (i) a facility; or
 - (ii) a part of a facility; or
 - (iii) particular work carried out at a facility.
- (2) A person mentioned in subregulation (1) may apply to the Safety Authority for an exemption from compliance with regulation 11(2), 12(2) or 13(2).
- (3) The Safety Authority may grant an exemption if it considers that, in specified circumstances, compliance is not practicable.
- (4) The Safety Authority may specify conditions and limitations on an exemption.

Division 3—Elections of health and safety representatives

Subdivision 1—Returning officer

15—Appointment of returning officer

- (1) If, under clause 25(3) of Schedule 7 to the Act, an operator is required to conduct an election, or arrange for the conduct of an election, the operator must nominate a person to act as the returning officer for the election.
- (2) The operator must notify the Safety Authority of the nomination.
- (3) The Safety Authority may—
 - (a) approve the nomination and appoint the nominee as returning officer; or
 - (b) appoint another person as returning officer.

Subdivision 2—The poll

16—Number of votes

Each person eligible to vote in an election is entitled to one vote only in the election.

17—Right to secret ballot

A person eligible to vote in an election may request the returning officer for the election to conduct the poll for the election by secret ballot.

18—Conduct of poll by secret ballot

- (1) As soon as practicable after a request under regulation 17, the returning officer must issue ballot-papers for the poll to voters.
- (2) The returning officer must conduct the poll in accordance with Subdivision 3 and 4.

19—Conduct of poll if no request made for secret ballot

Subject to Subdivision 5, if no request is made for a secret ballot, the returning officer for an election may conduct a poll for the election in a manner determined by him or her to produce a fair result.

20—If no candidate is elected

If, in an election, no candidate is elected, the election is taken to have failed.

Subdivision 3—Polling by secret ballot

21—Ballot-papers

A ballot-paper must—

- (a) state the election to which it relates: and
- (b) set out the name of each candidate in alphabetical order; and
- (c) state the manner of voting.

22—Distribution of ballot papers

- (1) As soon as practicable before the close of a poll by secret ballot, the returning officer for an election must give to each voter—
 - (a) a ballot-paper that is initialled by the returning officer; and
 - (b) an envelope that—
 - (i) is addressed to the returning officer; and
 - (ii) shows on its face that it relates to the election.
- (2) The envelope given to a voter by a returning officer—
 - (a) may be pre-paid as to postage; and
 - (b) in that case—may include on its face a statement by the returning officer that the envelope may be posted to the returning officer without expense to the voter.
- (3) The returning officer must ensure that the ballot-paper and envelope are enclosed in a covering envelope that is sealed and addressed to the voter.

23—Manner of voting by secret ballot

- (1) A voter in a poll by secret ballot must mark the ballot-paper to indicate his or her preference by placing the number 1 in the box printed opposite the name of the candidate for whom that person wishes to vote.
- (2) After marking the ballot-paper, the voter must—
 - (a) fold the ballot-paper so as to conceal the marking; and
 - (b) put the ballot-paper in the envelope referred to in regulation 22(1)(b) and seal the envelope; and
 - (c) lodge the ballot by—

- (i) putting the envelope containing the ballot-paper in a locked and sealed ballot box, provided for the election by the returning officer, in a secure part of the workplace where the members of the workforce in the designated work group to which the election relates may place envelopes of that kind; or
- (ii) sending the envelope to the returning officer so as to reach him or her not later than the close of the poll.
- (3) If, before lodging his or her ballot, a voter—
 - (a) claims that he or she has spoilt his or her ballot-paper; and
 - (b) returns the ballot-paper to the returning officer; and
 - (c) requests a further ballot-paper,

the returning officer must—

- (d) give the voter a fresh ballot-paper; and
- (e) write the word "spoilt" across the returned ballot-paper and sign and date the writing; and
- (f) retain the spoilt ballot-paper until the end of 6 months after notification of the result of the poll is given under regulation 34.

Subdivision 4—The count

24—Envelopes given to returning officer

- (1) A returning officer for an election must—
 - (a) keep the ballots received by him or her before the close of the poll secure; and
 - (b) keep the envelopes containing the ballot-papers unopened until the count.
- (2) The returning officer must not admit to the count ballot-papers received by him or her after the close of the poll.

25—Scrutineers

Each candidate in a poll conducted by secret ballot may appoint one scrutineer to represent him or her at the count.

26—Returning officer to be advised of scrutineers

A candidate must tell the returning officer for the election the name of his or her scrutineer (if any) before the commencement of the count.

27—Persons present at the count

- (1) The returning officer for an election may direct a person to leave the place where the count is being conducted if the person—
 - (a) is not entitled to be present, or to remain present, at the count; or
 - (b) being entitled to be present, interrupts the count, except as provided by subregulation (2).

- (2) A candidate's scrutineer may interrupt the count and so inform the returning officer if the scrutineer—
 - (a) objects to a decision by the returning officer that a ballot paper is formal or informal, as the case may be; or
 - (b) considers that an error has been made in the conduct of the count.
- (3) A person who does not comply with a direction given to him or her under subregulation (1) is guilty of an offence.

Maximum penalty: \$550.

(4) However, it is a defence to a prosecution for an offence against subregulation (3) if the person has a reasonable excuse.

28—Conduct of the count

- (1) As soon as practicable after the close of the poll, the returning officer must count the votes for each candidate.
- (2) A scrutineer, appointed under regulation 25, may be present at the count.
- (3) A returning officer must, as soon as practicable before the count, notify each candidate, or a scrutineer of each candidate, of the place where, and the time when, the count is to occur.
- (4) The candidate who receives the most votes is the successful candidate.
- (5) If 2 or more candidates receive the same number of votes, the successful candidate is to be determined by lots drawn by the returning officer.

29—Informal ballot-papers

A ballot-paper is informal if—

- (a) it is not initialled by the returning officer; or
- (b) it has no vote marked on it; or
- (c) it is so imperfectly marked that the intention of the person who marked the ballotpaper is not clear; or
- (d) it has any mark or writing on it by which the person who marked the ballot-paper can be identified.

30—Completion of the count

After the count conducted in respect of a poll has been completed, the returning officer must prepare, date and sign a statement setting out—

- (a) the number of valid votes given to each candidate; and
- (b) the number of informal ballot-papers.

31—Destruction of election material

At the end of 6 months after notification of the result of the poll for an election is given under regulation 34 the returning officer may destroy—

- (a) the nominations for that election; and
- (b) the ballot-papers, including any spoilt ballot-papers, for the election.

Subdivision 5—Result of election

32—Request for recount

- (1) At any time before notification of the result of the poll for an election is given under regulation 34, the returning officer—
 - (a) on his or her own initiative—may conduct a recount of any ballot-papers received in the election; or
 - (b) if a candidate makes a request, either orally or in writing, for a recount of any ballot-papers received in the election and gives reasons for the request—must conduct a recount of the ballot-papers.
- (2) In conducting a recount, the returning officer—
 - (a) in the case of a poll by secret ballot—has the same powers for the purposes of the recount as he or she had in the count; and
 - (b) in any other case—may make any reasonable decision in respect of the allowance and admission, or disallowance and rejection, of a vote cast in the poll.

33—Irregularities at election

- (1) Subject to subregulation (2), if the returning officer has reasonable grounds to believe that there has been an irregularity in the conduct of an election, he or she may, at any time before notification of the result of the poll is given under regulation 34, declare the election to be void.
- (2) An election must not be declared to be void only because of—
 - (a) a defect or irregularity in the conduct of the election that did not affect the result of the election; or
 - (b) an error or defect in an instrument or other document made, or purporting to be made, for the purposes of this Division; or
 - (c) an illegal practice, other than bribery or corruption, or attempted bribery or corruption, having been engaged in by a person, unless—
 - (i) it is likely that the result of the election was affected by the practice; and
 - (ii) it is just that the election be declared void.
- (3) If an election is declared void, regulation 34 applies as if the election had failed.

34—Result of poll

- (1) As soon as practicable after the failure of an election, a returning officer must notify in writing—
 - (a) the operator of the facility to which the election relates; and
 - (b) the Safety Authority,

of the failure of the election.

(2) As soon as practicable after the close of the poll for an election that has not failed, the returning officer must notify in writing the candidate who is elected and enclose with the notification a copy of the statement prepared under regulation 30.

Division 4—Advice, investigations and inquiries

35—Taking samples for testing etc

- (1) If a sample of a substance or thing taken under clause 57(1) of Schedule 7 to the Act is safely and practicably divisible, the OHS inspector who has taken the sample must—
 - (a) divide the sample into 3 parts; and
 - (b) put each part into a container and seal and label the container appropriately; and
 - (c) give one part to the operator or the employer for whom the substance or thing was being used; and
 - (d) provide another part for inspection, examination, measuring or testing for the purposes of Schedule 7 to the Act; and
 - (e) retain the remaining part for any further inspection, examination, measuring or testing that is required.
- (2) If a sample of a substance or thing taken under clause 57(1) of Schedule 7 to the Act is not safely and practicably divisible, the OHS inspector who has taken the sample must provide the whole sample for inspection, examination, measuring or testing for the purposes of that Schedule.
- (3) An OHS inspector who, under clause 57(1) of Schedule 7 to the Act—
 - (a) has taken possession of any plant, substance or thing; or
 - (b) has taken a sample of a substance or thing,

and removed the plant, substance or thing or the sample from the workplace must take all reasonable steps to ensure that, while in his or her possession or control—

- (c) the plant, substance or thing is not damaged; or
- (d) the sample is not contaminated.

36—Form of certain notices

A notice issued by an elected health and safety representative or OHS inspector under a following provision of Schedule 7 to the Act must be in accordance with the form in Schedule 2 to these regulations specified in relation to the provision concerned:

- (a) clause 37(2)—Form 1;
- (b) clause 57(1)—Form 2;
- (c) clause 58(1)—Form 3;
- (d) clause 59(1)—Form 4;
- (e) clause 61(1)—Form 5.

Division 5—Exemptions from the requirements in Part 3 of Schedule 7 to the Act

37—Orders under clause 45 of Schedule 7 to the Act

- (1) For the purposes of clause 45(1) of Schedule 7 to the Act, a person may apply in writing to the Safety Authority for an order exempting the person from one or more of the provisions of Part 3 of that Schedule.
- (2) Within 28 days after the Safety Authority receives an application, the Safety Authority must decide whether or not to make the order.
- (3) In making the decision, the Safety Authority must—
 - (a) consult with persons who might be affected by the decision to grant or refuse an exemption; and
 - (b) take into account submissions made by those persons.

Examples—

- If an operator applies for an exemption, a health and safety representative might be an affected person.
- If a health and safety representative applies for an exemption, an operator might be an affected person.
- (4) In granting an exemption, the Safety Authority—
 - (a) may grant an exemption subject to conditions; and
 - (b) may specify a period of time in which an exemption applies.
- (5) The Safety Authority must give reasons for the decision.

Division 6—State Laws that do not apply

38—Prescribed occupational health and safety laws

The following laws of this State are prescribed for the purposes of section 14A of the Act:

- (a) Dangerous Substances Act 1979
- (b) Electrical Products Act 2000;
- (c) Electricity Act 1996, to the extent that it relates to occupational health and safety;
- (d) Occupational Health, Safety and Welfare Act 1986.

Division 7—Miscellaneous

39—Service of notices

(1) For the purposes of Schedule 7 to the Act and this Part, a notice that is to be given to a body corporate may be given to a director, principal executive officer or secretary of the body corporate.

- (2) For the purposes of Schedule 7 to the Act and this Part, a notice or report may be given to a person—
 - (a) by fax transmitted to a fax facility that is installed at the address of the person last known to the person transmitting the message; and
 - (b) by email transmitted to a computer system that is known to be in use by the person and installed at the address of the person last known to the person transmitting the message, being an email that is—
 - (i) in a form compatible with the computer system; and
 - (ii) capable of being recorded by the computer system.
- (3) A person who gives a notice or report to which subregulation (2) applies to another person—
 - (a) must inform the other person by telephone—
 - (i) before transmission of the fax or email; or
 - (ii) as soon as practicable after transmission of the fax or email,

of the fact that the fax or email will be, or has been, transmitted; and

(b) must send a copy of the notice or report by pre-paid post to the address of the other person last known to the first-mentioned person.

Part 3—Management of safety on offshore facilities

Division 1—Preliminary

40—Object

The object of this Part is to ensure that—

- offshore petroleum facilities are constructed, installed, operated, modified and decommissioned in the adjacent area only in accordance with safety cases that have been accepted by the Safety Authority; and
- (b) safety cases for offshore petroleum facilities or proposed offshore petroleum facilities make provision for the following matters in relation to the health and safety of persons at or near the facilities:
 - (i) the identification of hazards, and assessment of risks;
 - (ii) the implementation of measures to eliminate the hazards, or otherwise control the risks;
 - (iii) a comprehensive and integrated system for management of the hazards and risks;
 - (iv) monitoring, audit, review and continuous improvement; and
- (c) the risks to the health and safety of persons at the facilities are reduced to a level that is as low as reasonably practicable.

41—Relationship with other Parts

The requirements of this Part are in addition to the requirements imposed on a person by any other Part.

42—Definitions

In this Part, unless the contrary intention appears—

confined space means an enclosed, or partially enclosed, space that—

- (a) is not used or intended for use as a regular workplace; and
- (b) has restricted means of entry and exit; and
- (c) has, or may have, inadequate ventilation, contaminated atmosphere or oxygen deficiency; and
- (d) is at atmospheric pressure when occupied;

contractor has the meaning given by clause 3 of Schedule 7 to the Act;

dangerous occurrence has the meaning given by regulation 83;

emergency, in relation to a facility, means an urgent situation that presents, or may present, a risk of death or serious injury to persons at the facility;

facility means a facility described in clause 3 of Schedule 7 to the Act, other than a facility mentioned in clause 4(8) of Schedule 7 to the Act;

Note 1—

Clause 3 of Schedule 7 to the Act includes, in the definition of *facility*, a facility that is being constructed or installed and, in some circumstances, an associated offshore place in relation to a facility.

Note 2—

A facility mentioned in clause 4(8) of Schedule 7 to the Act is a pipeline. Pipelines are regulated under Part 4 of these regulations.

facility owner includes an owner, a charterer or a lessee of a facility or a proposed facility; *in force*, in relation to a safety case, including a revised safety case, means that—

- (a) the safety case has been accepted by the Safety Authority in relation to a facility; and
- (b) the acceptance of the safety case has not been withdrawn;

major accident event means an event connected with a facility, including a natural event, having the potential to cause multiple fatalities of persons at or near the facility;

operator, for a facility, or proposed facility, means a person registered under regulation 44 as the operator for the facility or proposed facility by the Safety Authority;

performance standard means a standard, established by the operator, of the performance required of a system, item of equipment, person or procedure which is used as a basis for managing the risk of a major accident event;

revise, in relation to a safety case, includes extend or modify;

safety management system, for a facility, means a system for managing occupational health and safety at the facility;

stage in the life of the facility means any of the following:

- (a) construction of the facility;
- (b) installation of the facility;
- (c) operation of the facility;
- (d) modification of the facility;
- (e) decommissioning of the facility;

titleholder, in relation to a facility means a permittee, lessee, licensee or pipeline licensee under Part 3 of the Act;

validation has the meaning given by regulation 81.

Division 2—Operators

43—Nomination of operator

- (1) A facility owner or a titleholder may send to the Safety Authority a written notice nominating a person to be the operator for a facility or a proposed facility.
- (2) A notice under subregulation (1) must include—
 - (a) the person's name; and
 - (b) the person's contact details, including—
 - (i) a business address; and
 - (ii) telephone and facsimile numbers for the operator during business hours; and
 - (iii) telephone and facsimile numbers for the operator outside business hours; and
 - (c) the person's ACN, if applicable; and
 - (d) the person's written consent to the nomination.

44—Acceptance or rejection of nomination of operator

- (1) The Safety Authority must accept the nomination of a person as an operator if it is satisfied that the person has, or will have, the day-to-day management and control of—
 - (a) the facility or proposed facility; and
 - (b) operations at the facility or proposed facility.
- (2) If the Safety Authority is not satisfied of the matters in subregulation (1)(a) and (b), it must reject the nomination.
- (3) If the Safety Authority accepts the nomination, it must register the nominee as the operator of the facility or proposed facility.

- (4) The Safety Authority must notify the owner or titleholder who made the nomination, and the nominee—
 - (a) of the decision to accept or reject the nomination; and
 - (b) if the Safety Authority has decided to reject the nomination—of the reasons for the rejection.

45—Register of operators

- (1) The Safety Authority must maintain the register of operators.
- (2) An owner or titleholder who has nominated a person to be the operator of a facility, or the operator of the facility, may notify the Safety Authority, in writing, that the registered operator has ceased to be the person who has, or will have, the day-to-day management and control of—
 - (a) the facility or proposed facility; and
 - (b) operations at the facility or proposed facility.
- (3) On receipt of a notice under subregulation (2), the Safety Authority must remove the operator's name from the register.
- (4) The Safety Authority may remove an operator's name from the register if—
 - (a) the Safety Authority believes, on reasonable grounds, that the operator does not or will not have day-to-day control of the facility and operations at the facility; and
 - (b) the Safety Authority has given notice of intention to remove the operator from the register to—
 - (i) the person who nominated the operator; and
 - (ii) the operator; and
 - (c) the Safety Authority has allowed a period of 30 days for the nominator and the operator to make representations; and
 - (d) the Safety Authority has considered those representations and continues to believe on reasonable grounds that the operator does not, or will not, have day-to-day management and control of the facility and operations at the facility.

Division 3—Safety cases

Subdivision 1—Contents of safety case

46—Facility description, formal safety assessment and safety management system

- (1) The safety case for a facility must contain—
 - (a) a description of the facility that complies with subregulation (2); and
 - (b) a detailed description of the formal safety assessment for the facility that provides evidence that the formal safety assessment complies with subregulation (3); and

- (c) a detailed description of the safety management system that provides evidence that the system complies with subregulation (4).
- (2) The description of the facility must give details of—
 - (a) the layout of the facility; and
 - (b) the technical and other control measures identified as a result of the formal safety assessment: and
 - (c) the activities that will, or are likely to, take place at, or in connection with, the facility; and
 - (d) any other relevant matters.
- (3) The formal safety assessment is an assessment, or series of assessments, conducted by the operator that—
 - (a) identifies all hazards having the potential to cause a major accident event; and
 - (b) is a detailed and systematic assessment of the risk associated with each of those hazards, including the likelihood and consequences of each potential major accident event; and
 - (c) identifies the technical and other control measures that are necessary to reduce that risk to a level that is as low as reasonably practicable.

A formal safety assessment relates only to major accident events.

- (4) The safety management system for a facility must—
 - (a) be comprehensive and integrated; and
 - (b) provide for all activities that will, or are likely to, take place at, or in connection with, the facility; and
 - (c) provide for the continual and systematic identification of hazards to health and safety of persons at or near the facility; and
 - (d) provide for the continual and systematic assessment of—
 - (i) the likelihood of the occurrence, during normal or emergency situations, of injury or occupational illness associated with those hazards; and
 - (ii) the likely nature of such injury or occupational illness; and
 - (e) provide for the reduction to a level that is as low as reasonably practicable of risks to health and safety of persons at or near the facility including, but not limited to—
 - (i) risks arising during evacuation, escape and rescue in case of emergency; and
 - (ii) risks arising from equipment and hardware; and
 - (f) provide for inspection, testing and maintenance of the equipment and hardware that are the physical control measures for those risks; and
 - (g) provide for adequate communications between the facility and any relevant—

- (i) facility; or
- (ii) vessel; or
- (iii) aircraft; or
- (iv) on-shore installation; and
- (h) provide for any other matter that is necessary to ensure that the safety management system meets the requirements and objects of this Part; and
- (i) specify the performance standards that apply.

The safety management system must provide for all hazards and risks to persons at the facility, not just risks of major accident events.

- (5) If an operator of a facility submits to the Safety Authority a safety case for the construction or installation stage in the life of the facility, the safety case must contain the matters mentioned in subregulation (1) in relation to—
 - (a) the facility at that stage in the life of the facility; and
 - (b) the activities that will, or are likely to, take place at, or in connection with, the facility during that stage in the life of the facility; and
 - (c) to the extent that it is practicable—the facility and the activities that will, or are likely to, take place when the facility is in operation.

47—Implementation and improvement of the safety management system

The safety case for a facility must demonstrate that there are effective means of ensuring—

- (a) the implementation of the safety management system; and
- (b) continual and systematic identification of deficiencies in the safety management system; and
- (c) continual and systematic improvement of the safety management system.

48—Standards to be applied

The safety case for a facility must specify all Australian and international standards that have been applied, or will be applied, in relation to the facility or plant used on or in connection with the facility for the relevant stage or stages in the life of the facility for which the safety case is submitted.

49—Command structure

- (1) The safety case for a facility must specify—
 - (a) an office or position at the facility, the occupant of which is in command of the facility and responsible for its safe operation when on duty; and
 - (b) an office or position at the facility, the occupant of which is responsible for implementing and supervising procedures in the event of an emergency at the facility; and
 - (c) the command structure that applies in the event of an emergency at the facility.

The same person may occupy both of the offices or positions mentioned in subregulation (1)(a) and (b).

- (2) The safety case must describe, in detail, the means by which the operator will ensure that, as far as reasonably practicable—
 - (a) the offices or positions mentioned in subregulation (1) are continuously occupied while the facility is in operation; and
 - (b) the person who occupies each office or position mentioned in subregulation (1) has the necessary skills, training and ability to perform the functions of the office or position; and
 - (c) the identity of the persons who occupy each office or position, and the command structure can, at all times, be readily ascertained by any person at the facility.

50—Members of the workforce must be competent

The safety case for a facility must describe the means by which the operator will ensure that each member of the workforce at the facility has the necessary skills, training and ability—

- (a) to undertake routine and non-routine tasks that might reasonably be given to him or her—
 - (i) in normal operating conditions; and
 - (ii) in abnormal or emergency conditions; and
 - (iii) during any changes to the facility; and
- (b) to respond and react appropriately, and at the level that might be reasonably required of him or her, during an emergency.

51—"Permit to work" system for safe performance of various activities

- (1) The safety case in respect of a facility must provide for the operator of the facility to establish and maintain, in accordance with subregulation (2), a documented system of coordinating and controlling the safe performance of all work activities of members of the workforce at the facility, including in particular—
 - (a) welding and other hot work; and
 - (b) cold work (including physical isolation); and
 - (c) electrical work (including electrical isolation); and
 - (d) entry into, and working in a confined space; and
 - (e) procedures for working over water; and
 - (f) diving operations.

Note—

The expression *confined space* is defined in regulation 42.

- (2) The system must—
 - (a) form part of the safety management system described in the safety case in force for the facility; and
 - (b) identify the persons having responsibility to authorise and supervise work; and
 - (c) ensure that members of the workforce are competent in the application of the permit to work system.

52—Involvement of members of the workforce

- (1) The operator of a facility must demonstrate to the Safety Authority, to the reasonable satisfaction of the Safety Authority, that—
 - (a) in the development or revision of the safety case in relation to the facility, there has been effective consultation with, and participation of, members of the workforce; and
 - (b) the safety case provides adequately for effective consultation with, and the effective participation of, the members of the workforce, so that they are able to arrive at informed opinions about the risks and hazards to which they may be exposed on the facility.
- (2) A demonstration for the purposes of subregulation (1) must be supported by adequate documentation.
- (3) In this regulation—

members of the workforce includes members of the workforce who are—

- (a) identifiable before the safety case is developed; and
- (b) working, or likely to be working, on the relevant facility.

Note—

Part 3 of Schedule 7 to the Act sets out consultative provisions that apply, including provisions for the establishment of designated workgroups, the election of health and safety representatives and the establishment of OHS committees. The arrangements under these consultative provisions should be used for consultation with members of the workforce about the development, preparation and revision of the safety case.

53—Design, construction, installation, maintenance and modification

- (1) The safety case for a facility must describe the means by which the operator will ensure the adequacy of the design, construction, installation, maintenance or modification of the facility, for the relevant stage or stages in the life of the facility for which the safety case has been submitted.
- (2) In particular, the design, construction, installation, maintenance and modification of the facility must provide for—
 - (a) adequate means of inventory isolation and pressure relief in the event of an emergency; and
 - (b) adequate means of gaining access for servicing and maintenance of the facility and machinery and other equipment on board the facility; and

- (c) adequate means of maintaining the structural integrity of a facility; and
- (d) implementation of the technical and other control measures identified as a result of the formal safety assessment.

54—Medical and pharmaceutical supplies and services

The safety case in respect of a facility must specify the medical and pharmaceutical supplies and services, sufficient for an emergency situation, that must be maintained on, or in respect of, the facility.

55—Machinery and equipment

- (1) The safety case in respect of a facility must specify the equipment required on the facility (including process equipment, machinery and electrical and instrumentation systems) that relates to, or may affect, the safety of the facility.
- (2) The equipment must be fit for its function or use—
 - (a) in normal operating conditions; and
 - (b) to the extent that it is intended to function, or be used, in an emergency—in case of emergency.

56—Drugs and intoxicants

The safety case for a facility must describe the means by which the operator will ensure that there is in place, or will be put in place, a method of—

- (a) securing, supplying, and monitoring the use of, therapeutic drugs on the facility; and
- (b) preventing the use on the facility of—
 - (i) controlled substances (other than therapeutic drugs); and
 - (ii) intoxicants.

57—Evacuation, escape and rescue analysis

- (1) The safety case for a facility must contain a detailed description of an evacuation, escape and rescue analysis.
- (2) The evacuation, escape and rescue analysis must—
 - (a) identify the types of emergency that could arise at the facility; and
 - (b) consider a range of routes for evacuation and escape of persons at the facility in the event of an emergency; and
 - (c) consider alternative routes for evacuation and escape if a primary route is not freely passable; and
 - (d) consider different possible procedures for managing evacuation, escape and rescue in the event of an emergency; and
 - (e) consider a range of means of, and equipment for, evacuation, escape and rescue; and
 - (f) consider a range of amenities and means of emergency communication to be provided in a temporary refuge; and

- (g) consider a range of life saving equipment, including—
 - (i) life rafts to accommodate safely the maximum number of persons that are likely to be at the facility at any time; and
 - (ii) equipment to enable that number of persons to obtain access to the life rafts after launching and deployment; and
 - (iii) in the case of a floating facility—suitable equipment to provide a float-free capability and a means of launching; and
- (h) identify, as a result of the above considerations, the technical and other control measures necessary to reduce the risks associated with emergencies to a level that is as low as reasonably practicable.

In so far as it addresses major accident events, the evacuation, escape and rescue analysis forms part of the formal safety assessment.

58—Fire and explosion risk analysis

- (1) The safety case for a facility must contain a detailed description of a fire and explosion risk analysis.
- (2) The fire and explosion risk analysis must—
 - (a) identify the types of fires and explosions that could occur at the facility; and
 - (b) consider a range of measures for detecting those fires and explosions in the event that they do occur; and
 - (c) consider a range of measures for eliminating those potential fires and explosions, or for otherwise reducing the risk arising from fires and explosions; and
 - (d) consider the incorporation into the facility of both automatic and manual systems for the detection, control and extinguishment of—
 - (i) outbreaks of fire; and
 - (ii) leaks or escapes of petroleum; and
 - (e) consider a range of means of isolating and safely storing hazardous substances, such as fuel, explosives and chemicals, that are used or stored at the facility; and
 - (f) consider the evacuation, escape and rescue analysis, in so far as it relates to fires and explosions; and
 - (g) identify, as a result of the above considerations, the technical and other control measures necessary to reduce the risks associated with fires and explosions to a level that is as low as reasonably practicable.

Note—

In so far as it addresses major accident events, the fire and explosion risk analysis forms part of the formal safety assessment.

59—Emergency communications systems

- (1) The safety case in respect of a facility must provide for communications systems—
 - (a) within the facility; and
 - (b) between the facility and—
 - (i) appropriate on-shore installations; and
 - (ii) appropriate vessels and aircraft; and
 - (iii) other appropriate facilities,

that, in the event of an emergency in connection with the facility, is adequate for those kinds of communication.

- (2) In particular, the safety case must provide for the communications systems of the facility to be—
 - (a) adequate to handle—
 - (i) a likely emergency on or relating to the facility; and
 - (ii) the operation requirements of the facility; and
 - (b) protected so as to be capable of operation in an emergency to the extent specified by the formal safety assessment relating to the facility.

60—Control systems

The safety case in respect of a facility must make adequate provision for the facility, in the event of an emergency, in respect of—

- (a) back-up power supply; and
- (b) lighting; and
- (c) alarm systems; and
- (d) ballast control; and
- (e) emergency shut-down systems.

61—Emergency preparedness

- (1) The safety case for a facility must—
 - (a) describe a response plan designed to address possible emergencies, the risk of which has been identified in the formal safety assessment for the facility; and
 - (b) provide for the implementation of that plan.
- (2) The plan must—
 - (a) ensure, as far as reasonably practicable, the safety of persons likely to be on the facility at the time of the emergency; and
 - (b) specify the performance standards that it applies.
- (3) The safety case must make adequate provision for escape drill exercises and fire drill exercises by persons on the facility.

- (4) In particular, those exercises must ensure that those persons will be trained to function in the event of emergency with an adequate degree of knowledge, preparedness and confidence concerning the relevant emergency procedures.
- (5) The safety case must provide for the operator of the facility to ensure, as far as reasonably practicable, that escape drill exercises and fire drill exercises are held in accordance with the safety case relating to the facility.
- (6) The safety case in respect of a mobile facility must also specify systems that are adequate to—
 - (a) shut down or disconnect, in the event of emergency, all operations on the facility that could adversely affect the safety of the facility; and
 - (b) give appropriate audible and visible warnings of the shutting down or disconnecting of those operations.

62—Pipelines

- (1) The safety case in respect of a facility must specify adequate procedures for shutting down or isolating, in the event of emergency, each pipeline connected to the facility, so as to stop the flow of hazardous substances through the pipeline.
- (2) In particular, the procedures must include—
 - (a) effective means of controlling and operating all relevant emergency shut-down valves for a pipeline; and
 - (b) a fail-safe system of isolating a pipeline in the event of failure of other safety devices for the pipeline.
- (3) The safety case in respect of a facility must also specify—
 - (a) adequate means of mitigating, in the event of emergency, the risks associated with each pipeline connected to the facility; and
 - (b) a frequency of periodic inspection and testing of pipeline emergency shut-down valves that can reasonably be expected to ensure that they will operate correctly in an emergency.

63—Vessel and aircraft control

- (1) The safety case for a facility must describe a system, that is implemented or will be implemented, as part of the operation of the facility that ensures, as far as reasonably practicable, the safe performance of operations that involve vessels or aircraft.
- (2) The system must be able to meet the emergency response requirements identified in the formal safety assessment in relation to the facility and be described in the facility's safety management system.
- (3) The equipment and procedures for ensuring safe vessel and aircraft operations must be fit for purpose.

64—Arrangements for records

- (1) This regulation applies to the following documents:
 - (a) the safety case in force for the facility;
 - (b) a revision to the safety case for the facility;

- (c) a written audit report for the safety case;
- (d) a copy of each report given to the Safety Authority in accordance with regulation 84(2).
- (2) The safety case for a facility must include arrangements for—
 - (a) making a record of the documents; and
 - (b) securely storing the documents and records—
 - (i) at an address nominated for the facility; and
 - (ii) in a manner that facilitates their retrieval as soon as practicable.
- (3) A document mentioned in subregulation (1)(a) or (b) must be kept for 5 years after the date of acceptance of the document by the Safety Authority.
- (4) A report mentioned in subregulation (1)(c) must be kept for a period of 5 years after the date of receipt by the operator.
- (5) A copy mentioned in subregulation (1)(d) must be kept for a period of 5 years after the date the report was given to the Safety Authority.

Subdivision 2—Submission and acceptance of safety cases

65—Safety case to be submitted to Safety Authority

- (1) If an operator for a facility wants to have a safety case accepted for the facility, he or she must submit the safety case to the Safety Authority.
- (2) The safety case may relate to one or more stages in the life of the facility.
- (3) The safety case may relate to more than one facility.
- (4) The operator must not submit the safety case before the operator and the Safety Authority have agreed on the scope of the validation for the facility.

66—Safety Authority may request more information

- (1) If an operator submits a safety case to the Safety Authority, the Safety Authority may request the operator to provide further written information about any matter required by this Part to be included in a safety case.
- (2) A request under subregulation (1) must—
 - (a) be in writing; and
 - (b) set out each matter for which information is requested; and
 - (c) specify a period of at least 30 days within which the information is to be provided.
- (3) If an operator receives a request, and provides all information requested by the Safety Authority within the period specified—
 - (a) the information becomes part of the safety case as if it had been included with the safety case as it was submitted to the Safety Authority; and
 - (b) the Safety Authority must have regard to the information as if it had been so included.

67—Acceptance or rejection of a safety case

- (1) The Safety Authority must accept a safety case if—
 - (a) the safety case is appropriate to the facility and to the activities conducted at the facility; and
 - (b) the safety case complies with regulations 46 to 63 (as applicable) for each stage in the life of the facility in respect of which the safety case is submitted; and
 - (c) the safety case complies with regulation 64; and
 - (d) in a case in which the Safety Authority has requested a validation of the facility—
 - (i) the person, or each person, undertaking the validation meets the criteria specified in regulation 81(5); and
 - (ii) the validation complies with regulation 81.
- (2) If a safety case is submitted for more than one stage in the life of the facility, the Safety Authority may accept the safety case for one or more stages in the life of the facility and reject the safety case for one or more stages in the life of the facility.
- (3) If the Safety Authority rejects a safety case because the Safety Authority is not satisfied with any of the matters mentioned in subregulation (1), the Safety Authority must give the operator a reasonable opportunity to change the safety case and resubmit it.
- (4) The Safety Authority must reject the safety case if—
 - (a) the Safety Authority has given an operator a reasonable opportunity to change and resubmit a safety case; and
 - (b) the operator resubmits the safety case; and
 - (c) the Safety Authority is not satisfied with any of the matters mentioned in subregulation (1).
- (5) When accepting a safety case for a facility, the Safety Authority may impose limitations or conditions on the acceptance in respect of the facility or activities at the facility.

68—Notice of decision on safety case

- (1) Within 90 days after receiving a safety case given under regulation 65, or resubmitted under regulation 67(3), the Safety Authority must—
 - (a) notify the operator, in writing, that the Safety Authority has decided to—
 - (i) accept the safety case; or
 - (ii) reject the safety case; or
 - (iii) do both of the following:
 - (A) accept the safety case for one or more specified stages in the life of the facility, but not for every stage in the life of the facility, in respect of which the safety case was submitted; and

- (B) reject the rest of the safety case; or
- (iv) accept the safety case subject to conditions or limitations; or
- (b) notify the operator, in writing, that the Safety Authority is unable to make a decision about the safety case within the period of 90 days, and set out a proposed timetable for its consideration of the safety case.
- (2) A failure by the Safety Authority to comply with subregulation (1) in relation to a safety case does not affect the validity of a decision by the Safety Authority to accept or reject the safety case.
- (3) A notice of a decision under subregulation (1)(a) must include the terms of the decision (including any limitations or conditions) and the reasons for it.

69—Consent to undertake work outside of the requirements of the safety case

- (1) The Safety Authority may, by notice in writing, given to the operator of a facility, consent to—
 - (a) the construction of the facility; or
 - (b) the installation of the facility; or
 - (c) the operation of the facility; or
 - (d) the modification of the facility; or
 - (e) the decommissioning of the facility,

in a manner that is different from the safety case in force in relation to the facility.

(2) The Safety Authority must not give a consent under subregulation (1) unless it is satisfied that there will not be an occurrence of a significant new risk to health and safety or a significant increase in an existing risk to health and safety arising from the construction, installation, operation, modification or decommissioning of the facility in the relevant manner.

70—Duties under Part 2 of Schedule 7 to the Act

The acceptance of a safety case by the Safety Authority, or compliance by an operator or another person with a safety case that has been accepted by the Safety Authority, does not derogate from the duties of the operator or person under Part 2 of Schedule 7 of the Act.

Subdivision 3—Revised safety cases

71—Revision of a safety case because of a change of circumstances or operations

- (1) Subject to subregulation (2), an operator of a facility for which a safety case is in force must submit a revised safety case to the Safety Authority as soon as practicable after the occurrence of any of the following circumstances:
 - (a) the technical knowledge relied upon to formulate the safety case, including the knowledge of systems for identifying hazards and evaluating risks of major accident events, is outdated so that the safety case no longer adequately provides for the matters mentioned in regulations 46 to 63;
 - (b) the operator proposes to modify or decommission the facility and—

- (i) the safety case has not been accepted by the Safety Authority for the modification or decommissioning stage in the life of the facility; or
- (ii) the proposed modification or decommissioning is not adequately addressed in the safety case;
- (c) there are reasonable grounds for believing that a series of proposed modifications to the facility would result in a significant cumulative change in the overall level of risk of major accident events;
- (d) the operator proposes to significantly change the safety management system that is in force at the facility;
- (e) the activities to be carried out at the facility are different from the activities contemplated in the safety case.
- (2) If a circumstance mentioned in subregulation (1) is satisfied because the operator proposes to modify or decommission the facility the operator must not submit the revised safety case before the operator and the Safety Authority have agreed on the scope of the validation of the proposal.
- (3) If the Safety Authority agrees, the operator of a facility may submit a revised safety case under subregulation (1) in the form of a revision to part of the safety case in force for the facility.

72—Revision on request by the Safety Authority

- (1) The Safety Authority may request the operator of a facility for which a safety case is in force to submit a revised safety case to the Safety Authority.
- (2) If the Safety Authority agrees, the operator of a facility may submit a revised safety case under subregulation (1) in the form of a revision to part of the safety case in force for the facility.
- (3) A request by the Safety Authority must be in writing and include the following information:
 - (a) the matters to be addressed by the revision;
 - (b) the proposed date of effect of the revision;
 - (c) the grounds for the request.
- (4) The operator may make a submission in writing to the Safety Authority requesting the variation or withdrawal of the request and stating the reasons why—
 - (a) the revision should not occur; or
 - (b) the revision should be in different terms from the terms proposed; or
 - (c) the revision should take effect on a date after the date proposed.
- (5) The operator must make the submission—
 - (a) within 21 days after receiving the request; or
 - (b) within a longer period specified in writing by the Safety Authority.
- (6) If the Safety Authority receives a submission that complies with subregulations (4) and (5), the Safety Authority must—
 - (a) decide whether to accept the submission or part of the submission; and

- (b) give the operator written notice of the decision; and
- (c) to the extent that the submission is accepted—give the operator written notice that varies or withdraws the request in accordance with the decision; and
- (d) to the extent that the submission is rejected—give the operator written notice of the grounds for rejecting the submission or part of the submission.
- (7) Unless the request is withdrawn, the operator must comply with a request, or a varied request.

73—Revision after 5 years

- (1) The operator of a facility for which a safety case is in force must submit a revised safety case to the Safety Authority—
 - (a) 5 years after the date that the safety case was first accepted under regulation 67; and
 - (b) 5 years after the date of each acceptance of a revised safety case under regulation 75,

whether or not a revision under regulation 71 or 72 has been accepted within the 5 year period.

(2) A revised safety case submitted under this regulation must describe the means by which the operator will ensure the ongoing integrity of the technical and other control measures identified by the formal safety assessment for the facility.

74—Safety Authority may request more information

- (1) If an operator submits a revised safety case to the Safety Authority, the Safety Authority may request the operator to provide further written information about any matter required by these regulations to be included in a safety case.
- (2) A request under subregulation (1) must—
 - (a) be in writing; and
 - (b) set out each matter for which information is requested; and
 - (c) specify a period of not less than 10 days within which the information is to be provided.
- (3) If an operator receives a request and provides all information requested by the Safety Authority within the period specified—
 - (a) the information becomes part of the revised safety case as if it had been included with the revised safety case as it was submitted to the Safety Authority; and
 - (b) the Safety Authority must have regard to the information as if it had been so included.

75—Acceptance or rejection of a revised safety case

- (1) The Safety Authority must accept a revised safety case if—
 - (a) the revised safety case is appropriate to the facility and to the activities conducted at the facility; and

- (b) the revised safety case complies with regulations 46 to 63 for each stage in the life of the facility in respect of which the revision is submitted; and
- (c) the revised safety case complies with regulation 64; and
- (d) in a case on which the Safety Authority has required a validation relating to a proposed modification—
 - (i) the person, or each person, undertaking the validation meets the criteria specified in regulation 81(5); and
 - (ii) the validation complies with regulation 81.
- (2) If a safety case is revised in relation to more than one stage in the life of the facility, the Safety Authority may accept the revised safety case for one or more stages in the life of the facility and reject the revised safety case for one or more stages in the life of the facility.
- (3) If the Safety Authority rejects a safety case because the Safety Authority is not satisfied with any of the matters mentioned subregulation (1), the Safety Authority must give the operator a reasonable opportunity to change the safety case and resubmit it.
- (4) If—
 - (a) the Safety Authority has given an operator a reasonable opportunity to change and resubmit a revised safety case or a revised part of a safety case; and
 - (b) the operator resubmits the revised safety case or revised part of the safety case; and
 - (c) the Safety Authority is not satisfied with any of the matters mentioned in subregulation (1),

the Safety Authority must reject the revised safety case.

(5) When accepting a revised safety case for a facility, the Safety Authority may impose limitations or conditions on the acceptance in respect of the facility or activities at the facility.

76—Notice of decision on revised safety case

- (1) Within 30 days after receiving a revised safety case, or a revised part of a safety case, the Safety Authority must—
 - (a) notify the operator, in writing, that the Safety Authority has decided to—
 - (i) accept the revised safety case; or
 - (ii) reject the revised safety case; or
 - (iii) accept the revised safety case for one or more stages in the life of the facility, in respect of which the revised safety case was submitted, but not for every stage in the life of the facility; or
 - (iv) accept the revised safety case subject to conditions or limitations; or
 - (b) notify the operator, in writing, that the Safety Authority is unable to make a decision about the revised safety case within the period of 30 days, and set out a proposed timetable for its consideration of the revised safety case.

(2) A failure by the Safety Authority to comply with subregulation (1) in relation to a revised safety case does not affect the validity of a decision by the Safety Authority to accept or reject the revision.

77—Effect of rejection of revised safety case

If a revised safety case is not accepted, the safety case in force in relation to the facility immediately before the revised safety case was submitted remains in force subject to the Act and this Part, as if the revised safety case had not been submitted.

Subdivision 4—Withdrawal of acceptance of a safety case

78—Grounds for withdrawal of acceptance

- (1) The Safety Authority may, by written notice to the operator of a facility, withdraw the acceptance of the safety case for the facility on any of the following grounds:
 - (a) the operator has not complied with—
 - (i) Schedule 7 to the Act; or
 - (ii) a notice issued by an OHS inspector under Schedule 7 to the Act; or
 - (iii) regulation 71, 72 or 73; or
 - (b) the Safety Authority has rejected a revised safety case.
- (2) A notice under subregulation (1) must contain a statement of the reasons for the decision.

79—Notice before withdrawal of acceptance

- (1) Before withdrawing the acceptance of a safety case for a facility, the Safety Authority must give the operator at least 30 days notice, in writing, of its intention to withdraw the acceptance.
- (2) The Safety Authority may give a copy of the notice to such other persons as it thinks fit.
- (3) The Safety Authority must specify, in the notice, a date (the *cut-off date*) on or before which the operator (or other person to whom a copy of the notice has been given) may submit to the Safety Authority in writing, matters that the Safety Authority should take into account when deciding to withdraw the acceptance.
- (4) The Safety Authority must take into account—
 - (a) any action taken by the operator—
 - (i) to remove a ground for withdrawal of acceptance; or
 - (ii) to prevent the recurrence of a ground for removal of acceptance; and
 - (b) any matter submitted under subregulation (3) before the cut-off date.

Subdivision 5—Exemptions

80—Safety Authority may give an exemption

The Safety Authority may, by notice in writing, exempt the operator from the operation of one or more provisions of this Division.

Division 4—Validation

81—Validation of design, construction and installation, significant modification or decommissioning of a facility

- (1) The Safety Authority may, by notice in writing, require the operator of a proposed facility, or an existing facility, to provide a validation—
 - (a) in respect of the proposed facility; or
 - (b) in respect of a proposed significant change to an existing facility.
- (2) A validation of a proposed facility is a statement in writing by an independent validator in respect of the design, construction and installation (including instrumentation, process layout and process control systems) of the facility, to the extent that these matters are covered by the scope of the validation agreed between the Safety Authority and the operator.
- (3) A validation of a proposed significant change to an existing facility is a statement in writing by an independent validator in respect of the proposed change, to the extent required by the scope of the validation agreed between the Safety Authority and the operator.
- (4) The validation must establish, to the level of assurance reasonably required by the Safety Authority—
 - (a) in the case of a proposed facility—that the design, construction and installation (including instrumentation, process layout and process control systems) of the facility incorporate measures that—
 - (i) will protect the health and safety of persons at the facility; and
 - (ii) are consistent with the formal safety assessment for the facility; and
 - (b) in the case of an existing facility—that, after any proposed change or changes, the facility incorporate measures that will protect the health and safety of persons at the proposed facility.
- (5) An operator who has provided material for a validation must satisfy the Safety Authority that each person who undertook the validation had the necessary competence, ability and access to data, in respect of each matter being validated, to arrive at an independent opinion on the matter.
- (6) In this regulation—

existing facility means a facility at a location in the adjacent area, if the facility is or has been in use, or is available for use, in that location.

Division 5—Notifying and reporting accidents and dangerous occurrences

82—Prescribed period of incapacity

For the purposes of clause 67(1)(b) of Schedule 7 to the Act, the prescribed period in relation to a facility to which this Part applies is 3 days.

83—Meaning of dangerous occurrence

For the purposes of the definition of *dangerous occurrence* in clause 3 of Schedule 7 to the Act, a dangerous occurrence is an occurrence, at a facility, that—

- (a) did not cause, but could reasonably have caused—
 - (i) the death of, or serious personal injury to, a person; or
 - (ii) a member of the workforce to be incapacitated from performing work for the period mentioned in regulation 82; or
- (b) was any of the following:
 - (i) a fire or explosion;
 - (ii) a collision of a marine vessel with the facility;
 - (iii) an uncontrolled release of hydrocarbon vapour exceeding 1 kg;
 - (iv) an uncontrolled release of petroleum liquids exceeding 80 litres;
 - (v) a well kick exceeding 50 barrels;
 - (vi) an unplanned event that required the emergency response plan to be implemented;
 - (vii) damage to safety-critical equipment; or
- (c) was of another kind that a reasonable operator would consider to require an immediate investigation.

Note—

The meaning of *facility* in this regulation is explained in regulation 42.

84—Reporting accidents and dangerous occurrences

- (1) For the purposes of clause 67(1) of Schedule 7 to the Act, the notice in relation to a facility to which this Part applies—
 - (a) may be oral or written; and
 - (b) must be provided as soon as practicable after—
 - (i) the first occurrence of the accident or dangerous occurrence; or
 - (ii) if the accident or dangerous occurrence is not detected by the operator at the time of its first occurrence—the detection of the accident or dangerous occurrence by the operator; and
 - (c) must contain all material details concerning the accident or dangerous occurrence that are reasonably available to the operator at the time of the notification.
- (2) For the purposes of clause 67(1) of Schedule 7 to the Act, the report—
 - (a) must be written; and
 - (b) unless otherwise agreed by the Safety Authority—must be provided within 3 days after—
 - (i) the first occurrence of the accident or dangerous occurrence; or

- (ii) if the accident or dangerous occurrence is not detected by the operator at the time of its first occurrence—the detection of the accident or dangerous occurrence by the operator; and
- (c) must contain material details concerning the accident or dangerous occurrence of the types determined by the Safety Authority.
- (3) A determination mentioned in subregulation (2) must be—
 - (a) in writing; and
 - (b) published in the Gazette.
- (4) As soon as practicable, but not later than 15 days after the end of each month, the operator of a facility must submit, to the Safety Authority, a written report, for that month, summarising—
 - (a) the number of deaths of persons at the facility; and
 - (b) the number and types of injuries to persons at the facility, other than minor injuries not requiring treatment or requiring treatment only in the nature of first aid.

Division 6—Penalty provisions

85—Facility must have registered operator

A person must not—

- (a) construct a facility; or
- (b) install a facility; or
- (c) operate a facility; or
- (d) modify a facility; or
- (e) decommission a facility,

in the adjacent area if there is not an operator in respect of the facility.

Maximum penalty: \$8 800.

86—Safety case required for the relevant stage in the life of a facility

- (1) A person must not—
 - (a) construct a facility; or
 - (b) install a facility; or
 - (c) operate a facility; or
 - (d) modify a facility; or
 - (e) decommission a facility,

in the adjacent area if there is not a safety case in force for the relevant stage in the life of the facility that corresponds with the conduct.

Maximum penalty: \$8 800.

(2) Subregulation (1) does not apply to a person who is exempt from the requirement to have a safety case in force for the relevant stage in the life of the facility under regulation 80.

87—Work on a facility must comply with the safety case

- (1) This regulation applies to the following conduct:
 - (a) constructing a facility;
 - (b) installing a facility;
 - (c) operating a facility;
 - (d) modifying a facility;
 - (e) decommissioning a facility.
- (2) A person must not engage in conduct mentioned in subregulation (1) in a manner that is contrary to—
 - (a) the safety case in force for the relevant stage in the life of the facility; or
 - (b) a limitation or condition imposed by regulation 67(5) or regulation 75(5).

Maximum penalty: \$8 800.

(3) Subregulation (2) does not apply to particular conduct if the Safety Authority has given the person a written consent under regulation 69 to engage in that conduct in a manner contrary to the safety case or a limitation or condition on the safety case.

88—New health and safety risk

- (1) This regulation applies to the following conduct:
 - (a) constructing a facility;
 - (b) installing a facility;
 - (c) operating a facility;
 - (d) modifying a facility;
 - (e) decommissioning a facility.
- (2) A person must not engage in conduct mentioned in a paragraph of subregulation (1) in the adjacent area if—
 - (a) there has been an occurrence of a significant new risk to health and safety or a significant increase in an existing risk to health and safety arising from the construction, installation, operation, modification or decommissioning of the facility; and
 - (b) the new risk or increased risk is not provided for—
 - (i) in the safety case in force for the facility; or
 - (ii) in a revised safety case—
 - (A) submitted to the Safety Authority; and
 - (B) not refused acceptance by the Safety Authority.

Maximum penalty: \$8 800.

(3) Subregulation (2) does not apply if the person is a person who is exempt from the requirement to have a safety case in force for the relevant stage in the life of the facility under regulation 80.

89—Maintaining records

The operator of a facility must keep all documents required by the safety case in force for the facility in the manner set out in the safety case.

Maximum penalty: \$3 300.

Note—

Regulation 64 sets out the record keeping requirements in relation to documents.

90—Person on a facility must comply with safety case

A person on a facility must comply with a safety requirement of the safety case in force for the facility that applies to the person.

Maximum penalty: \$1 100.

91—Interference with accident sites

- (1) A person must not interfere with a site, on a facility, where there is—
 - (a) an accident that causes the death of, or serious personal injury to, any person; or
 - (b) an accident that causes a member of the workforce to be incapacitated from performing work for a period of 3 days; or
 - (c) a dangerous occurrence,

before the completion of the inspection of the site by an OHS inspector.

Maximum penalty: \$2 200.

- (2) It is a defence to a prosecution for an offence against subregulation (1) that—
 - (a) the person was acting with the written or oral authority of an OHS inspector; or
 - (b) the person was acting, in a reasonable manner, for any of the following purposes:
 - (i) helping or rescuing a sick, injured or endangered person; or
 - (ii) maintaining the safety of the facility or of persons at the facility; or
 - (iii) reducing danger to the facility or to persons at the facility; or
 - (iv) retrieving, or attempting to retrieve, the body of a dead person; or
 - (c) the operator has given the Safety Authority notice of, and a report about, the accident or dangerous occurrence under clause 67 of Schedule 7 to the Act, and an OHS inspector has not entered the facility where the accident or dangerous occurrence occurred in response to the notice within 3 working days of the operator giving notice to the Safety Authority.

Division 7—Miscellaneous

92—Details in applications or submissions

- (1) An application or submission (however described) that a person is required or permitted to make or give to the Safety Authority under this Part must include—
 - (a) the person's name; and
 - (b) if applicable, the name of the person's agent; and
 - (c) the person's or agent's address in Australia; and
 - (d) the person's or agent's telephone number and fax number.
- (2) If there is a change to any of the details mentioned in subregulation (1), the person or agent must notify the Safety Authority in writing as soon as practicable.
- (3) Despite any provision of this Part, the Safety Authority may delay proceeding with an application or submission until the person or agent has complied with this regulation.

Part 4—Pipelines

Division 1—Preliminary

93—Object

The object of this Part is to ensure, over the operating life of offshore pipelines that are for use in conveying petroleum, that licensees for the pipelines use systems, work practices and procedures that will ensure that—

- (a) the pipelines are designed, constructed, operated and modified in ways that are suitable for the purposes for which the pipelines are to be used; and
- (b) proposals for decommissioning pipelines are suitable for the purposes for which they are made; and
- (c) the risks of significant pipeline accident events, and the risks to the integrity of the pipelines, are reduced to levels as low as reasonably practicable.

94—Definitions

(1) In this Part, unless the contrary intention appears—

composition of petroleum means a mixture of petroleum with one or more other substances;

independent validator, for a validation, means a person who, to the reasonable satisfaction of the Minister, has the necessary competence and ability, and access to data, in relation to the matters being validated, to arrive at an independent opinion on the matters;

operator, for a pipeline, means a person registered under regulation 99 as the operator for the pipeline by the Safety Authority;

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(a) in Division 4—

- (i) means a pipeline to which clause 4(8) of Schedule 7 to the Act applies; and
- (ii) includes a pipeline, that would be a pipeline of that kind, that is—
 - (A) proposed to be constructed; or
 - (B) proposed to be operated; or
 - (C) being constructed; and
- (b) in this Part, other than Division 4—
 - (i) means a pipeline licensed under Division 4 of Part 3 of the Act; and
 - (ii) includes a pipeline, that would be a pipeline of that kind, that is—
 - (A) proposed to be constructed; or
 - (B) proposed to be operated; or
 - (C) being constructed;

pipeline management plan in force for a pipeline means a pipeline management plan for a pipeline—

- (a) submitted by or for the pipeline licensee; and
- (b) accepted under this Part (or, if the pipeline management plan is accepted in part, that part of the pipeline management plan that is accepted); and
- (c) as revised from time to time under this Part; and
- (d) for which the acceptance has not been withdrawn;

pipeline safety management plan means the components of a pipeline management plan that provide for the health and safety of persons at or near the pipeline;

Note—

The components of a pipeline management plan are set out in Division 3 Subdivision 2.

pipeline management system description, for a pipeline, means a description of the matters mentioned in regulation 114 in relation to the pipeline;

reportable incident means an incident that—

- (a) results in significant damage to a pipeline (for example, reducing the capacity of the pipeline to contain petroleum flowing through it); or
- (b) is likely to have a result of a kind mentioned in paragraph (a); or
- (c) is of a kind that a reasonable pipeline licensee would consider to require immediate investigation;

significant pipeline accident event means an event that—

- (a) is connected (whether immediately or after delay) with work carried out on, or in relation to, a pipeline; and
- (b) causes, or creates a significant risk of causing, human death (for example, because of hydrocarbon releases);

validation has the meaning given by regulation 95, and *validate* has a corresponding meaning.

- (2) For the purposes of this Part, a pipeline is taken to be decommissioned if—
 - (a) the pipeline ceases operation, other than—
 - (i) temporarily for maintenance; or
 - (ii) for a period agreed between the Minister and pipeline licensee for the pipeline; or
 - (b) the pipeline is removed.

95—Meaning of "validation"

- (1) A *validation* of a proposal for a pipeline under this Part is a statement in writing by an independent validator that—
 - (a) the proposal is suitable for the purposes for which it is made; and
 - (b) if the proposal includes a modification of the pipeline that may affect the integrity of the pipeline—there are reasonable grounds to believe that the modification will result in the pipeline being suitable for the purposes for which it is to be used; and
 - (c) the proposal is consistent with the pipeline management system description in the pipeline management plan in force for the pipeline; and
 - (d) the proposal complies with any Australian or international standards that are mentioned in the pipeline management plan as applying to that kind of proposal.

Note 1—

The following proposals are subject to validation under this Part:

- proposals to carry out activities for the design and construction of a pipeline—see regulations 103(4)(b) and 104(3)(b);
- proposals for the operation of a pipeline—see regulations 109(3)(b) and 110(3)(b);
- proposals for the revision of a pipeline management plan that relates to modification or decommissioning of a pipeline—see regulation 130(1)(a)(iv).

Note 2—

A pipeline management system description describes the risk of significant pipeline accident events and other risks to the integrity of the pipeline. The description also describes measures to reduce those risks to levels that are as low as reasonably practicable—see regulation 121.

(2) A validation must cover the scope of the validation agreed under these regulations.

Note—

The scope of a validation must be agreed between a pipeline licensee and Minister at the following stages:

- for a validation about the design and construction of the pipeline—before the licensee applies for a consent to construct the pipeline—see regulation 102(b);
- for a validation about the operation of the pipeline—before the licensee applies for a consent to operate the pipeline—see regulation 108(b);
- for a validation about a revision of a pipeline management plan for the pipeline—before the licensee submits the revision of the plan—see regulation 125(2).

96—Relationship with other Parts

The requirements of this Part are in addition to the requirements imposed on a person by any other Part.

Division 2—Operators

97—Nomination of operator

(1) A pipeline licensee may send to the Safety Authority a written notice nominating a person to be the operator for a pipeline.

Note—

Under the definition of *pipeline* in regulation 94(1), a pipeline includes a proposed pipeline.

- (2) A notice under subregulation (1) must include—
 - (a) the person's name; and
 - (b) the person's contact details, including—
 - (i) a business address; and
 - (ii) telephone and facsimile numbers for the operator during business hours; and
 - (iii) telephone and facsimile numbers for the operator outside business hours; and
 - (c) the person's Australian Company Number (ACN), if applicable; and
 - (d) the person's written consent to the nomination.

98—Acceptance or rejection of nomination of operator

- (1) The Safety Authority must accept the nomination of a person as an operator if it is satisfied that the person has, or will have, the day-to-day management and control of—
 - (a) the pipeline; and

(b) each of the activities mentioned in regulation 100(1).

Note—

Under the definition of *pipeline* in regulation 94(1), a pipeline includes a proposed pipeline.

- (2) If the Safety Authority is not satisfied of the matters in subregulation (1)(a) and (b), it must reject the nomination.
- (3) If the Safety Authority accepts the nomination, it must register the nominee as the operator of the pipeline, in accordance with regulation 99.
- (4) The Safety Authority must notify the pipeline licensee who made the nomination, and the nominee—
 - (a) of the decision to accept or reject the nomination; and
 - (b) if the Safety Authority has decided to reject the nomination—of the reasons for the rejection.

99—Register of operators

- (1) The Safety Authority must maintain the register of operators.
- (2) A pipeline licensee who has nominated a person to be the operator of the pipeline, or the operator of the pipeline, may notify the Safety Authority, in writing, that the registered operator has ceased to be the person who has, or will have, the day-to-day management and control of—
 - (a) the pipeline; and
 - (b) each of the activities mentioned in regulation 100(1).

Note—

Under the definition of *pipeline* in regulation 94(1), a pipeline includes a proposed pipeline.

- (3) On receipt of a notice under subregulation (2), the Safety Authority must remove the operator's name from the register.
- (4) The Safety Authority may remove an operator's name from the register if—
 - (a) the Safety Authority believes, on reasonable grounds, that the operator does not or will not have day-to-day management and control of the pipeline and each of the activities mentioned in regulation 100(1); and
 - (b) the Safety Authority has given notice of intention to remove the operator from the register to—
 - (i) the person who nominated the operator; and
 - (ii) the operator; and
 - (c) the Safety Authority has allowed a period of 30 days for the nominator and the operator to make representations; and
 - (d) the Safety Authority has considered those representations and continues to believe on reasonable grounds that the operator does not, or will not, have day-to-day management and control of the pipeline and each of the activities mentioned in regulation 100(1).

100—Pipeline must have registered operator

- A person must not—
 - (a) construct a pipeline; or
 - (b) operate a pipeline (whether or not the pipeline is in use at a particular time); or
 - (c) modify a pipeline; or
 - (d) decommission a pipeline,

in the adjacent area if there is not an operator in respect of the pipeline.

Maximum penalty: \$8 800.

(2) However, subregulation (1) does not apply to construction, operation, modification or decommissioning that occurs within 3 months after the commencement of this regulation.

Division 3—Consents to construct and operate a pipeline

Subdivision 1—Consent to construct

101—Consent to construct required to construct a pipeline

A person must not carry out activities to construct a pipeline unless the Minister has granted a consent to construct for those activities.

Maximum penalty: \$5 500.

102—Matters to be agreed before pipeline licensee applies for consent to construct

A pipeline licensee may apply for a consent to construct a pipeline only if the licensee and Minister have agreed on—

- (a) the matters concerning the activities to which the application relates that are to be dealt with in the pipeline management plan for the pipeline; and
- (b) the scope of the validation of the proposal to carry out those activities.

Note—

An application may relate to all or some of the activities for designing and constructing a pipeline—see regulation 103(2).

103—Application for consent to construct

- (1) An application for a consent to construct a pipeline must be lodged in writing with the Minister.
- (2) An application may relate to all or some of the activities for designing and constructing the pipeline.
- (3) The application must include the following information:
 - (a) the name of the applicant;
 - (b) an address of the applicant, for communications on matters relating to the pipeline;

- (c) a fax number, or e-mail address, within Australia for the applicant.
- (4) The application must be accompanied by—
 - (a) those parts of the pipeline management plan in force for the pipeline that provide for the activities to which the application relates; and
 - (b) a validation of the proposal to carry out those activities; and
 - (c) other relevant information that the Minister may require on reasonable grounds.

104—Deciding an application for a consent to construct

(1) Within 28 days after an application for a consent to construct a pipeline is lodged, the Minister must decide whether to grant the consent.

Note—

The Minister may decline to consider an application unless certain information is provided—see regulation 155.

- (2) A failure by the Minister to comply with subregulation (1) in relation to an application does not of itself invalidate a decision by the Minister to grant or to refuse to grant the consent.
- (3) The Minister must grant the consent if there are reasonable grounds for believing that—
 - (a) a pipeline management plan in force for the pipeline provides for the activities to which the application relates; and
 - (b) a validation of the proposal to carry out those activities is in force.
- (4) The Minister may grant a consent to construct in relation to all or some of the activities to design and construct the pipeline.
- (5) If the Minister decides to grant the consent, the Authority must, as soon as practicable, give to the applicant the consent in writing.
- (6) If the Minister decides not to grant the consent in relation to all or some of the activities to design and construct the pipeline, the Authority must, as soon as practicable, give to the applicant, in writing—
 - (a) advice that the consent has not been granted for those activities; and
 - (b) a statement of the reasons for the decision.

105—Construction must comply with pipeline management plan

A pipeline licensee must not construct a pipeline under the licence unless—

- (a) a pipeline management plan, or a part of a pipeline management plan, in force for the pipeline provides for the construction; and
- (b) the pipeline is constructed in a way that complies with that plan or part of that plan. Maximum penalty: \$5 500.

106—Notice of route followed by pipeline

As soon as practicable after construction of a pipeline has been completed, but within 3 months after a consent to operate is granted for the pipeline, the pipeline licensee must—

- (a) inform the Minister, in writing, of the exact route followed by the pipeline; and
- (b) inform the Australian Hydrographic Office, in writing, of the exact route followed by the pipeline.

Maximum penalty: \$4 400.

Subdivision 2—Consent to operate

107—Consent to operate required before a pipeline is operated

A pipeline licensee must not operate a pipeline under the licence unless the Minister has granted a consent to operate the pipeline.

Maximum penalty: \$5 500.

108—Matters to be agreed before pipeline licensee applies for consent to operate

A pipeline licensee may apply for a consent to operate a pipeline only if the licensee and Minister have agreed on—

- (a) the matters concerning the operation of the pipeline that are to be dealt with in the pipeline management plan for the pipeline; and
- (b) the scope of the validation of the proposal to operate the pipeline.

109—Application for consent to operate

- (1) An application for a consent to operate a pipeline must be lodged in writing with the Minister.
- (2) The application must include the following information:
 - (a) the name of the applicant;
 - (b) an address of the applicant, for communications on matters relating to the pipeline;
 - (c) a fax number, or e-mail address, within Australia for the applicant.
- (3) The application must be accompanied by—
 - (a) those parts of the pipeline management plan in force for the pipeline that provide for the operation of the pipeline; and
 - (b) a validation of the proposal to operate the pipeline; and
 - (c) information showing that the pipeline licensee is maintaining insurance in compliance with section 96A of the Act; and
 - (d) other relevant information that the Minister may require on reasonable grounds.

110—Deciding an application for a consent to operate

(1) Within 7 days after an application for a consent to operate a pipeline is lodged, the Minister must decide whether to grant the consent.

Note—

The Minister may decline to consider an application unless certain information is provided—see regulation 155.

- (2) A failure by the Minister to comply with subregulation (1) in relation to an application does not of itself invalidate a decision to grant or to refuse to grant the consent.
- (3) The Minister must grant the consent if there are reasonable grounds for believing that—
 - (a) a pipeline management plan in force for the pipeline provides for the operation of the pipeline; and
 - (b) a validation of the proposal to operate the pipeline is in force; and
 - (c) the pipeline licensee is maintaining insurance according to section 96A of the Act.
- (4) If the Minister decides to grant the consent, the Authority must, as soon as practicable, give the applicant the consent in writing.
- (5) If the Minister decides not to grant the consent, the Authority must, as soon as practicable, give the applicant, in writing—
 - (a) advice that the consent has not been granted; and
 - (b) a statement of the reasons for the decision.

111—Operation must comply with pipeline management plan

- (1) A pipeline licensee must not operate a pipeline under the licence unless—
 - (a) a pipeline management plan in force for the pipeline provides for the operation; and
 - (b) the pipeline is operated in a way that—
 - (i) is consistent with the purposes for which the pipeline was designed to be used; and
 - (ii) is not contrary to that plan.

Maximum penalty: \$5 500.

- (2) However, an offence under subregulation (1) does not arise if—
 - (a) the licensee performs an act in compliance with a direction given under—
 - (i) the Act; or
 - (ii) regulations made under the Act; or
 - (b) in an emergency in which there is a likelihood of loss or injury, or for the purpose of maintaining the pipeline in good order or repair, the licensee—
 - (i) performs an act to avoid the loss or injury, or to maintain the pipeline in good order and repair; and

(ii) as soon as practicable, but within 3 days, gives written notice to the Minister about the act performed.

112—Using pipeline to convey compositions of petroleum

A pipeline licensee must ensure that a composition of petroleum is not conveyed through a pipeline under the licence unless—

- (a) a pipeline management plan in force for the pipeline mentions—
 - (i) that the composition is to be conveyed through the pipeline; and
 - (ii) the safe operating limits for conveying that composition; and
- (b) the pipeline is operated within those safe operating limits.

Maximum penalty: \$5 500.

Subdivision 3—Modifying or decommissioning a pipeline

113—Modifying or decommissioning a pipeline

- (1) A pipeline licensee must not modify a pipeline under the licence unless—
 - (a) a pipeline management plan in force for the pipeline provides for the modification; and
 - (b) the modification is carried out in a way that—
 - (i) is consistent with the purposes for which the pipeline was designed to be used; and
 - (ii) is not contrary to that plan.

Maximum penalty: \$5 500.

- (2) A pipeline licensee must not decommission a pipeline under the licence unless—
 - (a) a pipeline management plan in force for the pipeline provides for the decommission; and
 - (b) the decommission is carried out in a way that is not contrary to that plan.

Maximum penalty: \$5 500.

- (3) However, an offence under subregulation (1) or (2) does not arise if—
 - (a) the pipeline is modified or decommissioned in accordance with a direction given under—
 - (i) the Act; or
 - (ii) regulations made under the Act; or
 - (b) in an emergency in which there is a likelihood of loss or injury, the licensee performs an act to avoid the loss or injury and as soon as practicable, but within 3 days, gives written notice to the Minister about the act performed.

Division 4—Pipeline management plans

Subdivision 1—Acceptance of a pipeline management plan

114—Submission of a pipeline management plan

- (1) For a pipeline management plan to be accepted for a pipeline, the pipeline licensee must submit the plan to the Minister.
- (2) A pipeline management plan may be submitted for one or more of the following stages connected with the life of the pipeline:
 - (a) design and construction;
 - (b) operation;
 - (c) modification;
 - (d) decommissioning.
- (3) A pipeline management plan may be submitted that provides for one or more pipelines.

Note—

In making decisions about a pipeline management plan, the Minister is subject to Division 5.

115—Handling pipeline management plan

The Minister—

- (a) must give a copy of a pipeline management plan to the Safety Authority as soon as practicable after the pipeline licensee gives the plan to the Minister (but not later than 7 days after the pipeline licensee gives the plan); and
- (b) must not act under regulation 116 or 117 unless the Safety Authority has notified the Minister under regulation 136.

Note—

The Safety Authority is required to consider the pipeline safety management plan in accordance with Division 5. The Safety Authority is subject to an initial 21 day timetable for considering the plan—see regulation 136.

116—Time limit for accepting or not accepting a pipeline management plan

- (1) Within 28 days after a pipeline licensee submits a pipeline management plan, the Minister must—
 - (a) accept the plan under regulation 117; or
 - (b) refuse to accept the plan; or
 - (c) give written notice to the pipeline licensee stating that the Minister is unable to make a decision about the plan within the period of 28 days, and setting out a proposed timetable for consideration of the plan.

- (2) A failure by the Minister to comply with subregulation (1) in relation to a pipeline management plan does not of itself invalidate a decision to accept or to refuse to accept the plan.
- (3) This regulation applies to a pipeline management plan resubmitted under regulation 117(3) in the same way as it applies to the plan when first submitted.

117—Acceptance of a pipeline management plan

- (1) The Minister must accept the pipeline management plan only if—
 - (a) there are reasonable grounds for believing that—
 - (i) the plan is appropriate for the nature and proposed use of the pipeline; and
 - (ii) the plan complies with regulations 119, 120, 121, 122 and 124 for the stages connected with the life of the pipeline mentioned in regulation 114 for which the plan is submitted; and
 - (iii) the plan, or a part of a pipeline management plan in force for the pipeline, complies with regulation 123; and
 - (b) the Safety Authority has notified the Minister under regulation 136 that the Safety Authority has accepted the pipeline safety management plan.
- (2) If—
 - (a) the Safety Authority has accepted the pipeline safety management plan only for one or more specified stages connected with the life of the pipeline, but not for all of the stages to which the pipeline management plan relates; and
 - (b) there are reasonable grounds for believing the matters in subregulation (1)(a) for each of those stages,

the Minister must accept the pipeline management plan only for those stages.

- (3) If the Minister is not reasonably satisfied that the pipeline management plan when first submitted meets the criteria mentioned in subregulation (1), the Minister must give the pipeline licensee a reasonable opportunity to change and resubmit the plan.
- (4) If, after the pipeline licensee has had a reasonable opportunity to change and resubmit the pipeline management plan, the Minister is still not reasonably satisfied that the plan meets the criteria mentioned in subregulation (1), the Minister must refuse to accept the plan.
- (5) Despite subregulation (4), the Minister may do either or both of the following:
 - (a) accept the plan in part for a particular stage connected with the life of the pipeline mentioned in regulation 114;
 - (b) impose limitations or conditions applying to the pipeline in respect of any of those stages.
- (6) The Minister must give the pipeline licensee written notice of a decision by the Minister—
 - (a) to accept the pipeline management plan; or
 - (b) not to accept the plan; or

- (c) to accept the plan in part for a particular stage connected with the life of the pipeline, or subject to the imposition of limitations or conditions.
- (7) A notice of a decision under subregulation (6)(b) or (c) must include—
 - (a) advice of the decision and the reasons for it; and
 - (b) if limitations or conditions are to apply to a stage connected with the life of the pipeline—a statement of those limitations or conditions.

Subdivision 2—Contents of a pipeline management plan

118—Contents of a pipeline management plan

A pipeline management plan must include information about, or cover—

- (a) the matters mentioned in regulations 119, 120, 121, 122 and 124 for the stages connected with the life of the pipeline mentioned in regulation 114 for which the plan is proposed; and
- (b) the matters mentioned in regulation 123.

119—Description of safety policy

The pipeline management plan must include a statement of the pipeline licensee's strategic health and safety objectives for the design, construction, operation, modification and decommission of the pipeline.

120—Description of pipeline

The pipeline management plan must include a comprehensive description of—

- (a) the design for the pipeline, the route corridor in which the pipeline is to be constructed, the pipeline's interface start and end positions, and the way in which the pipeline is to be constructed; and
- (b) the matters agreed under regulation 102(a) relating to the design and construction of the pipeline; and
- (c) the matters agreed under regulation 108(a) relating to the operation of the pipeline; and
- (d) the compositions of petroleum that are to be conveyed through the pipeline when it is operating; and
- (e) the safe operating limits for conveying those compositions through the pipeline.

Note—

An offence under regulation 106 is committed if a pipeline licensee fails to inform the Minister of the exact route followed by the pipeline. This information is to be given as soon as practicable after construction of the pipeline is completed, but in any case, within 3 months after a consent to operate the pipeline is granted.

121—Description of pipeline management system

The pipeline management plan must include a comprehensive description or assessment of, or demonstration of the effectiveness of—

- (a) the risk of significant pipeline accident events and other risks to the integrity of the pipeline associated with the design, construction, modification and decommissioning of the pipeline; and
- (b) measures that have been, or will be, implemented to reduce the risks to levels that are as low as reasonably practicable; and
- (c) the systems used to identify, evaluate and manage the risks and measures; and
- (d) the arrangements for monitoring, auditing and reviewing those systems, including the arrangements for continual and systematic identification of deficiencies of those systems and ways in which the systems could be improved.

122—Statement of standards

The pipeline management plan must include a statement about the Australian and international standards applied, or to be applied, to the design, construction, operation, modification and decommissioning of the pipeline.

123—Arrangements for documents

- (1) The pipeline management plan must include arrangements for—
 - (a) recording and making available documents and other records mentioned in subregulation (2) for the pipeline; and
 - (b) securely storing those documents and records at the address maintained under regulation 154 and in a way that makes their retrieval reasonably practicable.
- (2) The documents or other records are the following:
 - (a) a pipeline management plan in force for the pipeline;
 - (b) revisions of the pipeline management plan;
 - (c) records of reportable incidents made in compliance with regulation 148.
- (3) A document mentioned in subregulation (2)(a) or (b) must be kept for 5 years from the acceptance of the document.
- (4) A record mentioned in subregulation (2)(c) must be kept for 5 years from the making of the record.

124—Arrangements for reporting

The pipeline management plan must include arrangements for reporting to the Minister about the design, construction, operation, modification and decommissioning of the pipeline, at intervals agreed with the Minister, but not less often than annually.

Subdivision 3—Revision of a pipeline management plan

125—Revision because of a change, or proposed change, of circumstances or operations

- (1) A pipeline licensee for a pipeline for which a pipeline management plan is in force must submit to the Minister a proposed revision of the plan as soon as practicable after any of the circumstances mentioned in subregulation (3) is satisfied.
- (2) However, if a circumstance mentioned in subregulation (3) is satisfied because the licensee proposes to modify or decommission the pipeline, the licensee must not submit the proposed revision before the licensee and Minister have agreed on the scope of the validation of the proposal to revise the plan.
- (3) A need to revise a plan arises if—
 - (a) there are reasonable grounds for believing that the technical knowledge relied upon to formulate the plan is outdated and accordingly the plan no longer adequately provides for—
 - (i) the matters mentioned in regulations 119, 120, 121, 122 and 124 for the stages connected with the life of the pipeline mentioned in regulation 114 for which the plan is in force; or
 - (ii) the matters mentioned in regulation 123; or
 - (b) developments in systems for identifying and evaluating risks of significant pipeline accident events, or risks to the integrity of the pipeline, make it appropriate to revise the plan; or
 - (c) there are reasonable grounds for believing that a series of proposed modifications to the pipeline would result in a significant cumulative change in the overall level of risk—
 - (i) of significant pipeline accident events; or
 - (ii) to the integrity of the pipeline; or
 - (d) there are reasonable grounds for believing that a proposed modification to the pipeline would—
 - (i) significantly influence the level of a particular risk of a significant pipeline accident event or a risk to the integrity of the pipeline; or
 - (ii) significantly change the ranking of factors contributing to those risks; or
 - (e) the licensee proposes to significantly change the pipeline management system mentioned in regulation 121 for identifying, evaluating and managing risks—
 - (i) of significant pipeline accident events; or
 - (ii) to the integrity of the pipeline; or
 - (f) the compositions of petroleum conveyed in the pipeline are different from the compositions contemplated in the plan; or
 - (g) the licensee proposes to modify or decommission the pipeline and that proposal is not satisfactorily addressed in the plan; or

(h) developments in environmental conditions that affect design conditions make it appropriate to revise the plan.

126—Revision on request by the Minister

- (1) The Minister may request a pipeline licensee for a pipeline for which a pipeline management plan is in force to submit to the Minister a proposed revision of the plan.
- (2) A request by the Minister must be in writing and include the following information:
 - (a) the matters to be addressed by the revision;
 - (b) the proposed date of effect of the revision;
 - (c) the grounds for the request.
- (3) The licensee may make a submission in writing to the Minister stating the reasons for which the licensee believes—
 - (a) the revision should not occur; or
 - (b) the revision should be in different terms from the proposed terms; or
 - (c) the revision should take effect on a date after the proposed date.
- (4) A submission by the licensee must be made within 21 days after receiving the request, or within any longer period that the Minister allows in writing.
- (5) If a submission complies with subregulations (3) and (4), the Minister must—
 - (a) decide whether to accept the reasons stated in the submission; and
 - (b) give the licensee written notice of the decision; and
 - (c) to the extent (if any) that the Minister accepts the reasons, give the licensee written notice that varies or withdraws the request in accordance with the decision; and
 - (d) to the extent (if any) that the Minister does not accept the reasons, give the licensee written notice of the grounds for not accepting them.
- (6) The licensee must comply with the request (as varied under this regulation) as soon as practicable.
- (7) However, the licensee is not required to comply with the request if the request is withdrawn under this regulation.

127—Revision at the end of each 5 years

- (1) A pipeline licensee for a pipeline for which a pipeline management plan is in force must submit to the Minister a proposed revision of the plan (whether or not a proposal has been submitted under regulation 125 or 126)—
 - (a) at the end of the 5 years starting on the day the pipeline management plan is first accepted under regulation 117 by the Minister; and
 - (b) at the end of each 5 years starting on the day of the most recent acceptance, by the Minister, of a revision submitted under this regulation.
- (2) A revision submitted under this regulation must include—
 - (a) information about measures for ensuring the ongoing integrity of the pipeline; and

(b) details of the maximum allowable operating pressure for the pipeline.

128—Form of proposed revision

A proposed revision must be in the form of a revised pipeline management plan or, if the pipeline licensee and the Minister agree, a revised part of the pipeline management plan.

129—Time limit for accepting or not accepting a proposed revision

- (1) Within 28 days after a pipeline licensee submits a proposed revision, the Minister must—
 - (a) accept the revision under regulation 130; or
 - (b) refuse to accept the revision; or
 - (c) give written notice to the pipeline licensee stating that the Minister is unable to make a decision about the revision within the period of 28 days, and setting out a proposed timetable for consideration of the revision.
- (2) A failure by the Minister to comply with subregulation (1) in relation to a proposed revision does not of itself invalidate a decision to accept or to refuse to accept the revision.
- (3) This regulation applies to a proposed revision resubmitted under regulation 130(3) in the same way as it applies to the revision when first submitted.

130—Acceptance of a proposed revision of a pipeline management plan

- (1) The Minister must accept the proposed revision of the pipeline management plan only if—
 - (a) there are reasonable grounds for believing that—
 - (i) the revision is appropriate for the nature and proposed use of the pipeline; and
 - (ii) the pipeline management plan, as revised by the proposed revision, would comply with regulations 119, 120, 121, 122 or 124 for the stages connected with the life of the pipeline mentioned in regulation 114 for which the revision is submitted; and
 - (iii) the pipeline management plan, as revised by the proposed revision, would comply with regulation 123; and
 - (iv) in the case that the revision relates to a proposal to modify or decommission the pipeline—a validation of the proposal is in force; and
 - (b) the Safety Authority has notified the Minister under regulation 136 that the Safety Authority has accepted the revision.
- (2) If—
 - (a) the Safety Authority has accepted the revision only for one or more specified stages connected with the life of the pipeline, but not for all of the stages to which the pipeline management plan relates; and

(b) there are reasonable grounds for believing the matters in subregulation (1)(a) for each of those stages,

the Minister must accept the revision only for those stages.

- (3) If the Minister is not reasonably satisfied that the proposed revision when first submitted meets the criteria set out in subregulation (1), the Minister must give the pipeline licensee a reasonable opportunity to change and resubmit the revision.
- (4) If, after the pipeline licensee has had a reasonable opportunity to change and resubmit the proposed revision, the Minister is still not reasonably satisfied that the revision meets the criteria mentioned in subregulation (1), the Minister must refuse to accept the revision.
- (5) Despite subregulation (4), the Minister may—
 - (a) accept the revision in part for a particular stage connected with the life of the pipeline mentioned in regulation 114; and
 - (b) impose limitations or conditions applying to the pipeline in respect of any of those stages.
- (6) The Minister must give the pipeline licensee written notice of a decision by the Minister—
 - (a) to accept the proposed revision; or
 - (b) not to accept the revision; or
 - (c) to accept the revision in part for a particular stage connected with the life of the pipeline, or subject to the imposition of limitations or conditions.
- (7) A notice of a decision under subregulation (6)(b) or (c) must include—
 - (a) advice of the decision and the reasons for it; and
 - (b) if limitations or conditions are to apply to a stage connected with the life of the pipeline—a statement of those limitations or conditions.

131—Effect of non-acceptance of proposed revision

If a proposed revision is not accepted, the pipeline management plan in force for the pipeline immediately before the proposed revision was submitted remains in force, subject to the Act and this Part (in particular, Subdivision 4 of this Division), as if the revision had not been proposed.

Subdivision 4—Withdrawal of acceptance of a pipeline management plan

132—Withdrawal of acceptance of a pipeline management plan

- (1) The Minister, by written notice to a pipeline licensee, may withdraw the acceptance of the pipeline management plan in force for the pipeline on any of the following grounds:
 - (a) the pipeline licensee has not complied with the Act, or a direction given to the licensee under section 100 of the Act;
 - (b) the pipeline licensee has not complied with regulation 105 or 111;
 - (c) the pipeline licensee has not complied with regulation 125, 126 or 127;
 - (d) the Minister has refused to accept a proposed revision of the pipeline management plan.

(2) A notice under subregulation (1) must include advice of the reasons for the decision.

133—Steps to be taken before withdrawal of acceptance

- (1) Before withdrawing the acceptance of a pipeline management plan in force for a pipeline, the Minister must comply with subregulations (2), (4) and (5).
- (2) The Minister must give the pipeline licensee at least one month's written notice of the Minister's intention to withdraw acceptance of the plan.
- (3) The Minister may give a copy of the notice to such other persons (if any) as the Minister thinks fit.
- (4) The Minister must specify in the notice a date (the *cut-off date*) on or before which the pipeline licensee (or any other person to whom a copy of the notice has been given) may submit to the Minister, in writing, any matters for the Minister to take into account.
- (5) The Minister must take into account—
 - (a) any action taken by the pipeline licensee to remove the ground for withdrawal of acceptance, or to prevent the recurrence of that ground; and
 - (b) any matter submitted to the Minister before the cut-off date by the pipeline licensee or a person to whom a copy of the notice has been given.

134—Withdrawal of acceptance not affected by other provisions

- (1) The Minister may withdraw the acceptance of a pipeline management plan in force for a pipeline on a ground mentioned in regulation 132(1) even if the pipeline licensee has been convicted of an offence because of a failure to comply with a provision of the Act or of these regulations.
- (2) Even if the acceptance of a pipeline management plan has been withdrawn by the Minister on a ground mentioned in regulation 132(1), the pipeline licensee for the pipeline may be convicted of an offence because of a failure to comply with a provision of the Act or of these regulations.

Division 5—Pipeline safety management plans

Subdivision 1—Preliminary

135—Definition

In this Division—

pipeline safety management plan in force for a pipeline means the components of a pipeline management plan in force for a pipeline that provide for the health and safety of persons at or near the pipeline.

Subdivision 2—Acceptance of a pipeline safety management plan

136—Consideration of a pipeline safety management plan

- (1) This regulation applies if the Minister gives the Safety Authority a copy of a pipeline management plan.
- (2) The Safety Authority, within 21 days, must—
 - (a) consider the pipeline safety management plan within the pipeline management plan; and
 - (b) decide—
 - (i) to accept the pipeline safety management plan in full; or
 - (ii) to refuse to accept the pipeline safety management plan; or
 - (iii) to do both of the following:
 - (A) accept the pipeline safety management plan only for one or more specified stages connected with the life of the pipeline, but not for all of the stages to which the pipeline management plan relates; and
 - (B) refuse to accept the rest of the pipeline safety management plan; or
 - (iv) that it is unable to make a decision on the pipeline safety management plan; and
 - (c) notify the Minister, in writing, of the Safety Authority's decision and the reasons for any refusal.

Note—

See regulation 114(2) for the stages connected with the life of the pipeline.

- (3) The Safety Authority—
 - (a) may make an acceptance of a pipeline safety management plan, or of a pipeline safety management plan for one or more specified stages connected with the life of the pipeline, subject to conditions or limitations; and
 - (b) must include any conditions or limitations in the notice under subregulation (2)(c).
- (4) If the Safety Authority is unable to make a decision on the pipeline safety management plan, the Safety Authority must include in the notice under subregulation (2)(c)—
 - (a) a proposed timetable for consideration of the pipeline safety management plan that gives the pipeline licensee a reasonable opportunity to modify or resubmit the pipeline safety management plan; and
 - (b) a description of any further information the safety authority may require to assist it to consider the pipeline safety management plan.

137—Notice to pipeline licensee about a pipeline safety management plan

- (1) For the purposes of regulation 116(1), if the Safety Authority has given the Minister a timetable under regulation 136(4) for consideration of the pipeline safety management plan, the Minister must give written notice to the pipeline licensee explaining the effect of the timetable.
- (2) A failure by the Minister to comply with subregulation (1) in relation to a pipeline safety management plan does not affect the validity of a decision by the Safety Authority to accept or reject the pipeline safety management plan.

138—Revision of a pipeline management plan—request by the Safety Authority concerning a pipeline safety management plan

- (1) The Safety Authority may request the Minister to act under regulation 126 for a pipeline management plan if the Safety Authority believes that the pipeline safety management plan requires revision.
- (2) The request must be in writing, and must include the following information:
 - (a) the matters, relating to the pipeline safety management plan, to be addressed by the revision;
 - (b) the proposed date of effect of the revision;
 - (c) the grounds for the request.
- (3) If the Minister receives a request under subregulation (1)—
 - (a) the Minister must act under regulation 126 in accordance with the request; and
 - (b) the Minister is not prevented from dealing with other matters under regulation 126 at the same time.

139—Submission about proposed revision of a pipeline management plan

- (1) This regulation applies if—
 - (a) the Minister gives a request to a pipeline licensee under regulation 126(1) (whether or not the request was given after a request from the Safety Authority); and
 - (b) the pipeline licensee makes a submission to the Minister under regulation 126(3); and
 - (c) the submission deals in whole or in part with the pipeline safety management plan.
- (2) The Minister must give a copy of the submission (to the extent that it deals with the pipeline safety management plan) to the Safety Authority as soon as practicable after the pipeline licensee gives the submission to the Minister (but not later than 7 days after the pipeline licensee gives the submission).

140—Proposed revision of a pipeline management plan

- (1) This regulation applies if—
 - (a) a pipeline licensee resubmits a revision of a pipeline management plan under regulation 125, 126 or 127; and

- (b) the revision deals in whole or in part with the pipeline safety management plan; and
- (c) the Minister gives the Safety Authority a copy of the pipeline management plan.
- (2) The Safety Authority, within 21 days, must—
 - (a) consider the proposed revision of the pipeline safety management plan; and
 - (b) decide—
 - (i) to accept the proposed revision in full; or
 - (ii) to refuse to accept the proposed revision; or
 - (iii) to do both of the following:
 - (A) accept the proposed revision only for one or more specified stages connected with the life of the pipeline, but not for all of the stages to which the pipeline management plan relates; and
 - (B) refuse to accept the rest of the proposed revision; or
 - (iv) that it is unable to make a decision on the proposed revision; and
 - (c) notify the Minister, in writing, of the Safety Authority's decision and the reasons for any refusal.

Note—

See regulation 114(2) for the stages connected with the life of the pipeline.

- (3) The Safety Authority—
 - (a) may make an acceptance of a proposed revision, or of a proposed revision for one or more specified stages connected with the life of the pipeline, subject to conditions or limitations; and
 - (b) must include any conditions or limitations in the notice under subregulation (2)(c).
- (4) If the Safety Authority is unable to make a decision on the pipeline safety management plan, the Safety Authority must include in the notice under subregulation (2)(c)—
 - (a) a proposed timetable for consideration of the proposed revision that gives the pipeline licensee a reasonable opportunity to modify or resubmit the proposed revision; and
 - (b) a description of any further information the Safety Authority may require to assist it to consider the proposed revision.

141—Notice to pipeline licensee about proposed revision of a pipeline safety management plan

(1) For the purposes of regulation 129(1), if the Safety Authority has given the Minister a timetable under regulation 140(4) for consideration of the pipeline safety management plan, the Minister must give written notice to the pipeline licensee explaining the effect of the timetable.

(2) A failure by the Safety Authority to comply with subregulation (1) in relation to a pipeline safety management plan does not affect the validity of a decision by the Safety Authority to accept or reject the pipeline safety management plan.

Subdivision 3—Withdrawal of acceptance of a pipeline safety management plan

142—Request for withdrawal of acceptance of a pipeline management plan

- (1) The Safety Authority may, by written notice to the Minister, request the Minister to withdraw the acceptance of a pipeline management plan in force for a pipeline on any of the following grounds:
 - (a) the operator of the pipeline has not complied with a listed OHS law in relation to the pipeline;
 - (b) the pipeline licensee has not complied with regulation 105 or 111 in relation to the pipeline safety management plan;
 - (c) the pipeline licensee has not complied with regulation 125, 126 or 127 in relation to the pipeline safety management plan;
 - (d) the Safety Authority has refused to accept a proposed revision of the pipeline safety management plan.
- (2) The notice must—
 - (a) be in writing; and
 - (b) include the grounds for giving the notice.

143—Steps to be taken before request for withdrawal of acceptance

- (1) Before giving the Minister a notice under regulation 142(1)—
 - (a) the Safety Authority must comply with subregulation (2); and
 - (b) the Minister must comply with subregulations (3), (4) and (5).
- (2) The Safety Authority must give the Minister a written notice that the Safety Authority is considering giving the Minister the notice under regulation 142(1).
- (3) The Minister must give a notice to the pipeline licensee stating—
 - (a) that the Safety Authority is considering giving the Minister the notice under regulation 142(1); and
 - (b) the grounds for giving the notice; and
 - (c) a date (the *cut-off date*) on or before which the pipeline licensee (or any other person to whom a copy of the notice has been given) may submit to the Minister, in writing, any matters for the Minister to take into account.
- (4) The Minister—
 - (a) must give a copy of the notice under subregulation (3) to the operator, if the operator is not the pipeline licensee; and
 - (b) may give a copy of the notice to any other person that the Minister thinks appropriate.

(5) If, on or before the cut-off date, the pipeline licensee (or any other person to whom a copy of the notice has been given) submits to the Minister, in writing, a matter for the Safety Authority to take into account, the Minister must give a copy of the matter to the Safety Authority as soon as practicable after the pipeline licensee gives the matter to the Minister.

144—Withdrawal of acceptance of a pipeline management plan on request

- (1) In deciding whether to give the Minister the notice under regulation 142(1), the Safety Authority must take into account—
 - (a) any action taken by the pipeline licensee or the operator—
 - (i) to remove the ground for withdrawal of acceptance; or
 - (ii) to prevent the recurrence of that ground; and
 - (b) any matter submitted to the Minister before the cut-off date by the pipeline licensee or another person to whom a copy of the notice has been given.
- (2) If, after complying with subregulation (1), the Safety Authority gives the Minister a notice under regulation 142(1), the Minister—
 - (a) must withdraw the pipeline management plan under regulation 132; and
 - (b) must give a copy of the notice withdrawing the pipeline management plan to the operator, if the operator is not the pipeline licensee.

Division 6—Notifying and reporting accidents and dangerous occurrences

145—Prescribed period of incapacity

For the purposes of clause 67(1)(b) of Schedule 7 to the Act, the prescribed period in relation to a pipeline is 3 days.

146—Meaning of "dangerous occurrence"

For the purposes of the definition of *dangerous occurrence* in clause 3 of Schedule 7 to the Act, a dangerous occurrence is an occurrence at a pipeline that—

- (a) created a substantial risk of an accident; or
- (b) was of a kind that a reasonable operator would consider to require an immediate investigation.

Note—

This regulation relates to the reporting of accidents or dangerous occurrences under Schedule 7 to the Act, and therefore relates to incidents affecting or potentially affecting health and safety. Incidents of that kind must be reported to the Safety Authority by the operator.

147—Reporting accidents and dangerous occurrences

- (1) For the purposes of clause 67(1) of Schedule 7 to the Act, a notice of an accident or dangerous occurrence—
 - (a) may be oral or written; and

- (b) must be provided as soon as practicable after—
 - (i) the first occurrence of the accident or dangerous occurrence; or
 - (ii) if the accident or dangerous occurrence is not detected by the operator at the time of its first occurrence—the detection of the accident or dangerous occurrence by the operator; and
- (c) must contain all material details concerning the accident or dangerous occurrence that are reasonably available to the operator at the time of the notification.
- (2) For the purposes of clause 67(1) of Schedule 7 to the Act, the report—
 - (a) must be written; and
 - (b) unless otherwise agreed by the Safety Authority—must be provided within 3 days after—
 - (i) the first occurrence of the accident or dangerous occurrence; or
 - (ii) if the accident or dangerous occurrence is not detected by the operator at the time of its first occurrence—the detection of the accident or dangerous occurrence by the operator; and
 - (c) must contain material details concerning the accident or dangerous occurrence of the types determined by the Safety Authority.
- (3) A determination mentioned in subregulation (2)(c) must be—
 - (a) in writing; and
 - (b) published in the Gazette.
- (4) As soon as practicable, but not later than 15 days after the end of each month, the operator of a pipeline must submit, to the Safety Authority a written report, for that month, identifying—
 - (a) the number of deaths of persons at the pipeline; and
 - (b) the number and types of injuries to persons at the pipeline, other than minor injuries not requiring treatment or requiring treatment only in the nature of first aid.
- (5) The operator of a pipeline must compile and maintain a record of—
 - (a) all reports of accidents occurring in, or in connection with, the pipeline; and
 - (b) the details of any corrective action taken in each case.

Note—

This regulation relates to the reporting of accidents or dangerous occurrences under Schedule 7 to the Act, and therefore relates to incidents affecting or potentially affecting health and safety. Incidents of that kind must be reported to the Safety Authority by the operator.

148—Reportable incidents

- (1) A pipeline licensee must give notice (either oral or written) of a reportable incident to the Minister or an inspector, including all material details of the incident that are reasonably available to the licensee, as soon as practicable after—
 - (a) the first occurrence of the incident; or
 - (b) if the incident is not detected by the licensee at the time of its first occurrence—the detection of the incident by the licensee.

Maximum penalty: \$4 400.

- (2) Subregulation (1) does not apply if the pipeline licensee has a reasonable excuse.
- (3) The pipeline licensee must give a written report, in accordance with subregulation (5), of the incident to the Minister—
 - (a) as soon as practicable, but within 3 days, after—
 - (i) the first occurrence of the incident; or
 - (ii) if the incident is not detected by the licensee at the time of its first occurrence—the detection of the incident by the licensee; or
 - (b) if the Minister specifies, in writing and within the period mentioned in paragraph (a), another period for giving the report—within that period.

Maximum penalty: \$4 400.

- (4) It is a defence to a prosecution for an offence against subregulation (3) if subregulation (3)(b) applies in relation to the offence and the period specified by the Minister is not a reasonable period.
- (5) For the purposes of subregulation (3), the report must set out fully—
 - (a) all the material facts and circumstances of the incident that the licensee is aware of or is able, by reasonable search and inquiry, to find out, including the following:
 - (i) the date, time and place of the incident; and
 - (ii) the particulars of any loss or damage caused by the incident; and
 - (iii) if petroleum escaped from the pipeline or ignited—the amount of that petroleum and the measures taken to control the escape or fire; and
 - (iv) the cause of the incident; and
 - (v) the repairs (if any) carried out, or proposed to be carried out, on the pipeline; and
 - (b) the corrective action that has been taken, or is proposed to be taken, to prevent another incident of that kind.

Note—

This regulation relates to a *reportable incident*, as defined in this Part, which must be reported to the Minister by the pipeline licensee. Incidents related only to health and safety do not need to be reported under this regulation.

149—Dealing with documents

A pipeline licensee must not deal with a document or other record mentioned in regulation 124 in a way that is contrary to the arrangements for the document or record contained in the pipeline management plan in force for the pipeline.

Maximum penalty: \$3 300.

Note—

Regulation 123 requires a pipeline management plan to include such arrangements.

150—Reporting to Minister

A pipeline licensee must report to the Minister in accordance with the arrangements under regulation 124 contained in the pipeline management plan in force for the pipeline under the licence.

Maximum penalty: \$3 300.

Division 7—Miscellaneous

Subdivision 1—Requirements about workers

151—Competence of workers

- (1) A pipeline licensee must ensure that each person working on, or in connection with, a pipeline under the licence is competent to the extent that he or she has the necessary skills, training and ability—
 - (a) to carry out the tasks, both routine and non-routine, that may reasonably be given to the person; and
 - (b) to respond and to react appropriately, and at the level reasonably required of the person, during an emergency.

Maximum penalty: \$3 300.

(2) Subregulation (1) does not apply if the pipeline licensee has a reasonable excuse.

152—Awareness of legislation

- (1) A pipeline licensee must ensure, as far as reasonably practicable, that each person working on, or in connection with, the pipeline knows about the effect of relevant legislation that relates to the safety of any of the following:
 - (a) a person working on, or in connection with, the pipeline;
 - (b) the pipeline;
 - (c) the environment.
- (2) In this regulation—

relevant legislation means the Act, regulations (including these regulations) made under the Act and any directions given to the licensee under the Act.

153—Involvement of workers in pipeline management plan

- (1) The Minister may ask a pipeline licensee, in writing, to provide the Minister with reasonable grounds for believing that—
 - (a) in the development or revision of a pipeline management plan for a pipeline under the licence, there has been effective consultation with, and participation of, the classes of persons who—
 - (i) are identifiable before the pipeline management plan is developed; and
 - (ii) are working on, or in connection with, the pipeline, or are likely to be working on, or in connection with, the pipeline; and
 - (b) the pipeline management plan in force for the pipeline provides adequately for effective consultation with, and the effective participation of, those classes of persons, so that they are able to arrive at informed opinions about the risks to which they may be exposed through working on, or in connection with, the pipeline.
- (2) A pipeline licensee must, within 21 days after receiving a request under subregulation (1), give the Minister written notice of those grounds.
- (3) The Minister must also consult with the Safety Authority in relation to the Minister's exercise of its powers under this regulation.

Subdivision 2—Providing information

154—Notice of contact details

- (1) A pipeline licensee, at all times after the licensee applies under this Part for a consent to construct a pipeline under the licence, must maintain, and ensure that the Minister has notice of, an address of the licensee for communications on matters relating to the pipeline. Maximum penalty: \$3 300.
- (2) Subregulation (1) does not apply if the pipeline licensee has a reasonable excuse.
- (3) Also, despite subregulation (1), a pipeline licensee is not required to give information to the Minister under that subregulation if, at any relevant time—
 - (a) the information has been given according to any other provision of the Act or regulations (including these regulations) made under the Act; and
 - (b) the Minister has not advised the licensee that the information has been lost or destroyed.

155—Minister may decline to consider application or submission if information is not given

(1) Despite any other provision of these regulations, if a pipeline licensee for a pipeline does not provide information under regulation 154 and the information has not been given under another law, the Minister may decline to consider an application or submission, made by the licensee under this Part and relating to the pipeline, until the information is given.

(2) Despite any other provision of this Part, if a pipeline licensee does not provide the information required under regulation 105 or 111 for an application for a consent to construct or operate a pipeline and the information has not been given under another law, the Minister may decline to consider the application until the information is given.

Part 5—Diving safety

Division 1—Preliminary

156—Application

This Part applies to a diving operation that is an offshore petroleum operation.

157—Definitions

In this Part—

accepted DSMS means a DSMS that has been accepted by the Safety Authority under regulation 162 or 163;

ADAS means the Australian Diver Accreditation Scheme administered by the Board of the Australian Diver Accreditation Scheme on behalf of the Department within the meaning of the Commonwealth Act;

AS/NZS, followed by a number, means the Australian and New Zealand Standard of that number, as existing from time to time;

diving has the meaning given by regulation 158;

diving contractor means a person who enters into a contract to conduct a diving project;

diving operation means an offshore petroleum operation consisting of one or more dives;

diving project means an activity consisting of one or more diving operations;

DSMS means a diving safety management system;

facility means a facility described in clause 3 of Schedule 7 to the Act;

manned submersible craft means a craft that is designed to maintain its occupant, or some or all of its occupants, at or near atmospheric pressure while submerged (whether or not it is self-propelled, and whether or not it is supplied with breathing mixture by umbilical), including a craft in the form of a suit;

offshore petroleum operations has the meaning given by section 150XB of the Commonwealth Act;

operator, for a diving project, means—

- (a) if the facility associated with the project is a pipeline—the person registered as the operator of the pipeline under Part 4;
- (b) if the facility associated with the project is not a pipeline—the person registered as the operator of the facility under Part 3;

pipeline means a pipeline to which clause 4(8) of Schedule 7 to the Act applies;

pipeline safety management plan has the meaning given in regulation 94(1);

safety case means the document known as a safety case submitted to the Safety Authority under Division 4 of Part 3.

158—Meaning of "diving"

- (1) For the purposes of this Part—
 - (a) a person is *diving* if he or she—
 - (i) is in a chamber inside which the ambient pressure is equal to or higher than the hydrostatic pressure at a depth of 1 metre in seawater (whether or not the chamber is submerged in water or another liquid); or
 - (ii) is submerged in water or another liquid and his or her lungs are subjected to a pressure greater than atmospheric pressure (whether or not he or she is wearing a wetsuit or other protective clothing); or
 - (iii) is in a manned submersible craft that is submerged in water or another liquid; and
 - (b) *diving* includes diving using a snorkel and diving without the use of any breathing apparatus.
- (2) For the purposes of this Part, *diving* does not include—
 - (a) diving using a snorkel for the purpose of conducting an environmental survey; or
 - (b) diving without the use of any breathing apparatus for that purpose.

159—When a diving operation begins and ends

For the purposes of this Part, a diving operation—

- (a) begins when the diver, or first diver, who takes part in the operation starts to prepare to dive; and
- (b) ends when the diver, or last diver, who takes part in the operation leaves the water or the chamber or environment in which the dive took place and has completed any necessary decompression procedures; and
- (c) includes the time taken for therapeutic recompression if that is necessary.

Division 2—Diving safety management systems

160—No diving without DSMS

- (1) Before beginning diving work that forms part of a diving project, a diving contractor must—
 - (a) have a DSMS that is—
 - (i) accepted; and
 - (ii) current; and
 - (b) give the DSMS to the operator of the diving project.

Maximum penalty: \$5 500.

- (2) The operator of a diving project must not allow diving work, that forms part of the diving project, to begin if the diving contractor has not given to the operator a DSMS that is—
 - (a) accepted; and
 - (b) current.

Maximum penalty: \$10 000.

- (3) A diving contractor must not allow diving to continue on a diving project if the DSMS is no longer—
 - (a) accepted; and
 - (b) current.

Maximum penalty: \$10 000.

- (4) For the purposes of this regulation, an accepted DSMS is current if—
 - (a) the DSMS has not been revised, or the acceptance of the DSMS has not been withdrawn, since its latest acceptance.
 - (b) it is not more than 5 years since its latest acceptance.

Note—

A person may consult the register mentioned in regulation 166 to find out if a DSMS is accepted and current.

161—Contents of DSMS

- (1) A DSMS must meet the minimum standards set out in the Guidelines for complying with the *Petroleum (Submerged Lands) (Diving Safety) Regulations 2002* of the Commonwealth, as existing from time to time, published by the Safety Authority.
- (2) A DSMS must provide for—
 - (a) all activities connected with a diving project; and
 - (b) the preparation of a diving project plan, in accordance with Division 3, for a project (including consultation with members of the workforce in the preparation of the plan) and the revision of the plan as necessary; and
 - (c) the continual and systematic identification of hazards related to a diving project; and
 - (d) the continual and systematic assessment of—
 - (i) the likelihood of the occurrence, during normal or emergency situations, of injury or damage associated with those hazards; and
 - (ii) the likely nature of any injury or damage; and
 - (e) the elimination of risks to persons involved with the project and associated work including—
 - (i) risks arising during evacuation, escape and rescue in case of emergency;
 - (ii) risks to persons involved with the operation arising from equipment and hardware,

- or the reduction of those risks to as low as reasonably practicable; and
- (f) the inspection and maintenance of, and testing programs for, equipment and hardware integral to the control of those risks; and
- (g) communications between persons involved in a diving project; and
- (h) the performance standards that apply to the DSMS; and
- (i) a program of continuous improvement.
- (3) A DSMS must—
 - (a) specify any standard or code of practice that is to be used in a diving project; and
 - (b) require the diving to be carried out in accordance with those standards or codes.
- (4) A DSMS must contain—
 - (a) any information that is reasonably necessary to demonstrate that the DSMS complies with these regulations; and
 - (b) a system for the management of change.

162—Acceptance of new DSMS

- (1) If a diving contractor does not already have an accepted DSMS, the contractor must give a DSMS to the Safety Authority at least 60 days before a proposed diving project is expected to begin.
- (2) Within 60 days after receiving the DSMS, the Safety Authority must notify the diving contractor that it—
 - (a) accepts the DSMS, subject to any conditions necessary in the interests of safety; or
 - (b) rejects the DSMS.

163—Acceptance of revised DSMS

- (1) If a diving contractor has revised a DSMS, the contractor must give the revised DSMS to the Safety Authority.
- (2) The Safety Authority must notify the diving contractor that the revised DSMS has been accepted or rejected within—
 - (a) 28 days after receiving the revised DSMS; or
 - (b) another period agreed between the Safety Authority and the diving contractor.

164—Grounds for rejecting DSMS

The Safety Authority must reject a DSMS if—

- (a) the DSMS does not adequately comply with regulation 161; or
- (b) the Safety Authority is not satisfied that there was consultation with divers and other members of the workforce in the preparation of the DSMS, as required by regulation 175.

165—Notice of reasons

- (1) If the Safety Authority decides to reject a DSMS the Safety Authority must set out, in writing, with the notice mentioned in regulation 162(2) or 163(2), the reasons for rejecting the DSMS.
- (2) If the Safety Authority decides to impose conditions on a DSMS, the Safety Authority must set out, in writing, with the notice mentioned in regulation 162(2) or 163(2), the reasons for imposing conditions on the DSMS.

166—Register of DSMSs

- (1) The Safety Authority must keep a register of each DSMS and revised DSMS it receives, in a form that allows public access.
- (2) The register must record as many of the following details as apply to the DSMS:
 - (a) the name of the diving contractor;
 - (b) the date of acceptance;
 - (c) any conditions on acceptance;
 - (d) the date of rejection;
 - (e) the date that acceptance was withdrawn;
 - (f) the date of any revision notice under regulation 168.
- (3) The Safety Authority must also record on the register, the following details for each diving project plan it receives under regulation 170:
 - (a) the name of the diving contractor;
 - (b) the diving project to which the diving project plan applies;
 - (c) the proposed commencement date of the project;
 - (d) the date of receipt of the plan.

167—Revision of DSMS

A diving contractor must revise a DSMS—

- (a) if developments in scientific or technical knowledge, or in the assessment of hazards, relevant to diving projects make it appropriate to do so; and
- (b) if the diving contractor proposes to make a significant change to the method of operation or to procedures or equipment; and
- (c) if the Safety Authority gives notice in accordance with regulation 168; and
- (d) if a number of minor changes result in the DSMS being significantly different from the latest version of the DSMS accepted by the Safety Authority; and
- (e) at the end of each period of 5 years commencing on the later of—
 - (i) the date when the DSMS is first accepted by the Safety Authority; and
 - (ii) the date of the most recent acceptance by the Safety Authority of a revised version of the DSMS.

168—Notice to revise DSMS

- (1) The Safety Authority may give notice (a *revision notice*) to a diving contractor to revise a DSMS.
- (2) A revision notice must be in writing and must set out—
 - (a) the matters to be revised; and
 - (b) the time within which the revision must be completed; and
 - (c) the reasons why the revision is necessary.
- (3) The diving contractor may make a submission in writing to the Safety Authority, within 21 days after receiving the notice or any longer period that the Safety Authority allows in writing, setting out the contractor's reasons for any of the following:
 - (a) why the revision is not necessary;
 - (b) why the revision should be in different terms from those proposed;
 - (c) whether or not the contractor gives other reasons—why the notice should take effect on a later date than the date set out in the notice.
- (4) If a contractor makes a submission under subregulation (3), the Safety Authority must, within 28 days after receiving the submission—
 - (a) decide whether the Safety Authority accepts the reasons in the submission; and
 - (b) give the contractor notice in writing affirming, varying or withdrawing the revision notice; and
 - (c) if the Safety Authority decides not to accept the reasons or any part of them—set out in this notice the grounds for not accepting them.
- (5) The contractor must revise the DSMS, in accordance with the notice as originally given or as varied under subregulation (4), and submit it to the Safety Authority.
- (6) If the contractor does not revise a DSMS when required by this regulation to do so, the Safety Authority may withdraw its acceptance of the DSMS or its agreement to the use of the DSMS for the project.

Division 3—Diving project plans

169—Diving project plan to be approved

- (1) This regulation applies if there is an operator for a diving project.
- (2) The diving contractor must prepare a diving project plan for each diving project in consultation with the operator for the project.
- (3) The diving project plan must be approved by the operator for the project before diving can commence on the project.
- (4) The operator must not approve the diving project plan unless the operator is satisfied that—
 - (a) the plan complies with regulation 173; and
 - (b) there was effective consultation in the preparation of the plan, as required by regulation 175.

170—Diving project plan to Safety Authority if there is no operator

- (1) This regulation applies if there is no operator for a diving project.
- (2) The diving contractor must prepare a diving project plan for the diving project and give a copy of the plan to the Safety Authority.
- (3) The Safety Authority must not accept the diving project plan unless it is satisfied that—
 - (a) the plan complies with regulation 173; and
 - (b) there was effective consultation in the preparation of the plan, as required by regulation 175.

171—Diving project plan to Safety Authority if requested

If the Safety Authority asks the operator for a diving project for a copy of the diving project plan, the operator must give a copy of the plan to the Safety Authority.

172—Updating diving project plan

- (1) A diving contractor for a diving project must keep the diving project plan for the project up to date during the project.
- (2) The diving contractor must update the diving project plan if—
 - (a) because of modification of the project, there is a significant increase in the overall level of risk to a diving operation; or
 - (b) the operator for the project proposes to undertake or permit a modification of the project that might influence significantly the level of specific risks to a diving operation or the ranking of risk contributors.
- (3) If there is no operator for a diving project and the diving project plan has been updated, the diving contractor must resubmit the updated plan to the Safety Authority for consideration.

173—Contents of diving project plan

- (1) A diving project plan must set out the following matters:
 - (a) a description of the work to be done;
 - (b) a list of the South Australian and Commonwealth legislation (including these regulations) that the diving contractor considers applies to the project;
 - (c) a list of standards and codes of practice that will be applied in carrying out the project;
 - (d) a hazard identification;
 - (e) a risk assessment;
 - (f) a safety management plan;
 - (g) job hazard analyses for the diving operations;
 - (h) an emergency response plan;

- (i) the provisions of the DSMS and the safety case or the pipeline safety management plan that are relevant to the diving project, in particular the arrangements in the DSMS and the safety case or the pipeline safety management plan for simultaneous operations and emergency response;
- (j) details of consultation with divers and other members of the workforce working on the project.
- (2) The diving project plan must describe each diving operation that is part of the diving project.
- (3) The diving project plan must not specify as a diving operation a task that is too complex, or too big, to be supervised safely by one supervisor.
- (4) The diving project plan must provide for adequate communications between persons undertaking the project and any relevant—
 - (a) contractor; and
 - (b) facility; and
 - (c) vessel or aircraft; and
 - (d) on-shore installation.

174—No diving without approved diving project plan

A diving contractor for a project must not allow a person to dive on the project if—

- (a) there is no diving project plan for the project; or
- (b) the diving project plan has not been approved by the operator or accepted by the Safety Authority if there is no operator.

Maximum penalty: \$5 500.

Division 4—Involvement of divers and members of the workforce

175—Involvement of divers and members of the workforce in DSMS and diving project plan

- (1) In developing or revising a DSMS or diving project plan, a diving contractor must ensure that there is effective consultation with, and participation of, divers and other members of the workforce who will, or may be, working on—
 - (a) the project; or
 - (b) in the case of a DSMS—projects for which the DSMS would be appropriate.
- (2) When submitting a DSMS to the Safety Authority for acceptance, the diving contractor must set out in writing, details of the consultation that has taken place, including—
 - (a) submissions or comments made during the consultation; and
 - (b) any changes that have been made to the DSMS as a result of the consultation.

Division 5—Safety Responsibilities

176—Safety responsibilities of diving contractors

- (1) A diving contractor must take all necessary steps to provide and maintain a working environment (including equipment and systems of work) that reduces risks to the safety and health of divers and other members of the workforce to as low as reasonably practicable.
 - Maximum penalty: \$5 500.
- (2) A diving contractor must take all necessary steps to ensure that a diving operation for which the diving contractor is responsible is carried out in a way that complies with the accepted DSMS for the project.

Maximum penalty: \$5 500.

177—Safety in the diving area

- (1) At each place of diving, before the diving operation begins, the diving contractor must make available a copy of—
 - (a) the instrument by which the diving supervisor was appointed; and
 - (b) the DSMS; and
 - (c) the diving project plan that relates to the operation.

Maximum penalty: \$1 100.

- (2) A person engaged in a diving operation must comply with—
 - (a) an instruction given by a diving supervisor for the diving operation about a matter in the diving project plan; and
 - (b) a direction under regulation 180(3) given to the person by a diving supervisor for the diving operation.

Maximum penalty: \$1 100.

178—Diving depths

(1) The operator for a surface-oriented diving operation, involving the use of air or mixed gas as a breathing medium, must not allow the operation to be carried out at a depth of more than 50 metres.

Maximum penalty: \$10 000.

(2) The diving contractor for a surface-oriented diving operation, involving the use of air or mixed gas as a breathing medium, must not allow the operation to be carried out at a depth of more than 50 metres.

Maximum penalty: \$5 500.

- (3) The operator for a diving operation that is carried out at a depth of more than 50 metres must ensure that the diving operation involves the use of—
 - (a) a closed diving bell and a suitable mixed gas breathing medium; or
 - (b) a manned submersible craft.

Maximum penalty: \$10 000.

- (4) The diving contractor for a diving operation that is carried out at a depth of more than 50 metres must ensure that the diving operation involves the use of—
 - (a) a closed diving bell and a suitable mixed gas breathing medium; or
 - (b) a manned submersible craft.

Maximum penalty: \$5 500.

Division 6—Diving supervisors

179—Appointment of diving supervisors

(1) The diving contractor responsible for a diving operation must appoint, in writing, one or more diving supervisors to ensure that there is a diving supervisor to supervise all diving that is carried out as part of the operation.

Maximum penalty: \$2 200.

Note—

Regulation 173(3) limits the scope of a diving operation that can be supervised by one diving supervisor.

- (2) A diving contractor must not appoint, as a diving supervisor, a person who is not—
 - (a) qualified as a supervisor under ADAS; and
 - (b) competent to supervise the operation.

Maximum penalty: \$2 200.

(3) Strict liability applies to subregulation (2).

180—Duties of diving supervisors

- (1) The duties of a diving supervisor for a diving operation are—
 - (a) to ensure that the diving operation is carried out—
 - (i) as far as is reasonably practicable without risk to the health or safety of anybody taking part in it or of anyone else who may be affected by it; and
 - (ii) in accordance with the law; and
 - (iii) in accordance with the accepted DSMS for the operation; and
 - (iv) in accordance with the relevant diving project plan; and
 - (b) to countersign entries about the operation in divers' log books; and
 - (c) if there is an operator for the diving project—to report to the operator, during the operation, any of the following:
 - (i) the death of, or serious personal injury to, a person;
 - (ii) the incapacitation of a person that prevents the person from performing work for a period of 3 or more days;
 - (iii) an event that could reasonably have led to a consequence of the type mentioned in subparagraph (i) or (ii);
 - (iv) a decompression illness;

- (v) a pulmonary barotrauma;
- (vi) a case of omitted decompression;
- (vii) an occurrence for which the standby diver is deployed for an emergency, except for the purposes of training, exercises or drills;
- (viii) a failure of life support equipment or man riding equipment.
- (2) In subregulation (1)(c)(viii), *man riding equipment* includes any of the following:
 - (a) an air stage;
 - (b) a wet bell;
 - (c) a closed bell;
 - (d) a guide wire system.

Note—

Regulation 184 requires a diving supervisor to maintain a diving operations record.

(3) A diving supervisor who fails to carry out a duty imposed on him or her by subregulation (1) is guilty of an offence.

Maximum penalty: \$2 200.

- (4) A diving supervisor, when supervising a diving operation, may give such reasonable directions to any person taking part in the operation as are necessary to enable the diving supervisor to comply with subregulation (1)(a)(i).
- (5) A diving supervisor must not dive while he or she is on duty as diving supervisor. Maximum penalty: \$2 200.
- (6) A diving supervisor for a diving operation must tell each person who takes part in the operation any instruction, in the diving project plan for the operation, that applies to the person.

Maximum penalty: \$2 200.

Division 7—Start-up notices

181—Start-up notice

(1) In this regulation—

start-up notice, for a diving project, means a written notice, signed by or for the person giving it, dated and containing the following information:

- (a) the name, address and telephone number of the diving contractor for the project;
- (b) the name, address and telephone number of a person who can be contacted by the Safety Authority at any time during the project;
- (c) the date when diving is expected to begin;
- (d) the expected duration of the project;
- (e) the location of the project;

- (f) the depth to which divers will dive;
- (g) the purpose of the diving project;
- (h) the estimated number of people to be engaged in the project;
- (i) the breathing mixture to be used;
- (j) the title, document number and revision number of the diving project plan for the project.
- (2) The operator for a diving project must not allow diving on the project to begin if the operator has not given a start-up notice to the Safety Authority—
 - (a) at least 14 days before the day when diving is to begin; or
 - (b) on another day as agreed between the Safety Authority and the operator.

Maximum penalty: \$10 000.

- (3) If there is no operator for a diving project, the diving contractor must not allow diving on the project to begin if the diving contractor has not given a start-up notice to the Safety Authority—
 - (a) at least 14 days before the day when diving is to begin; or
 - (b) on another day as agreed between the Safety Authority and the diving contractor.

Maximum penalty: \$5 500.

Division 8—Diving operations

182—Divers in diving operations

- (1) A diving contractor for a diving operation must not allow a person to dive in the diving operation if the person is not competent to carry out safely any activity that is reasonably likely to be necessary while the person is taking part in the operation.
 - Maximum penalty: \$5 500.
- (2) A diving supervisor for a diving operation must not allow a person to dive in the diving operation if the person is not competent to carry out safely any activity that is reasonably likely to be necessary while the person is taking part in the operation.
 - Maximum penalty: \$2 200.
- (3) A diving contractor for a diving operation must not allow a person to dive in the diving operation if the person does not have a current diving qualification under ADAS to carry out any activity that is reasonably likely to be necessary while the person is taking part in the operation.
 - Maximum penalty: \$5 500.
- (4) A diving supervisor for a diving operation must not allow a person to dive in the diving operation if the person does not have a current diving qualification under ADAS to carry out any activity that is reasonably likely to be necessary while the person is taking part in the operation.

Maximum penalty: \$2 200.

(5) A diving contractor for a diving operation must not allow a person to dive in the diving operation if the person does not have a valid medical certificate.

Maximum penalty: \$5 500.

Note—

For the meaning of *valid medical certificate*—see regulation 183.

(6) A diving supervisor for a diving operation must not allow a person to dive in the diving operation if the person does not have a valid medical certificate.

Maximum penalty: \$2 200.

Note—

For the meaning of *valid medical certificate*—see regulation 183.

- (7) Subregulations (3), (4), (5) and (6) do not apply if the person—
 - (a) is diving in a manned submersible craft; or
 - (b) is diving to provide emergency medical care to an injured person in a chamber.

183—Medical certificates

A diver's medical certificate is valid if it satisfies regulation 31(2) or (3) of the *Petroleum* (Submerged Lands) (Diving Safety) Regulations 2002 of the Commonwealth.

Division 9—Records

184—Diving operations record

(1) A diving supervisor for a diving operation must ensure that a diving operations record for the operation is maintained in the form required by subregulations (2) and (3).

Maximum penalty: \$5 500.

- (2) A diving operations record—
 - (a) must be kept in a hard-covered form bound in such a way that its pages cannot easily be removed; or
 - (b) if it is in a form that has multiple copies of each page, must be bound so that at least one copy of each page cannot easily be removed.
- (3) The pages of a diving operations record must be serially numbered.
- (4) The diving supervisor for a diving operation must ensure that an entry is made in the diving operations record for each day when diving for the operation takes place, with the following information about the diving operation on that day:
 - (a) the date to which the entry relates;
 - (b) the diving contractor's name and address;
 - (c) the name of the diving supervisor, or the names of the diving supervisors, who supervised the operation;
 - (d) the location of the diving operation (including, if the diving was done from a vessel or installation, its name);

- (e) the name of each person who took part in the operation (whether as a diver or as a member of a dive team);
- (f) the name of each person who took part as a diver or stand by diver in the operation;
- (g) the purpose of the diving operation;
- (h) for each diver—the breathing apparatus and breathing mixture used;
- (i) for each diver—the times at which the diver left the surface, reached the bottom, left the bottom and arrived at the surface again, and bottom time;
- (j) for each diver—the maximum depth reached;
- (k) the decompression schedule followed including, for each diver, details of the depths and the duration at each depth during decompression;
- (l) details of any emergency or incident of special note that happened during the operation;
- (m) details of any decompression illness and any treatment given;
- (n) details of any significant defect or significant failure of diving plant or equipment used in the operation;
- (o) details of any environmental factors relevant to the operation;
- (p) anything else that is likely to affect the health or safety of anybody who took part in the operation.

Maximum penalty: \$1 100.

- (5) A diving supervisor responsible for a diving operation must sign—
 - (a) either—
 - (i) if the record is in a form that has multiple copies of each page—the original of each page of each entry; or
 - (ii) in any other case—each page of each entry; or
 - (b) if there are 2 or more diving supervisors for the operation—those parts of the entry that relate to diving work that he or she supervised,

in the diving operations record for the operation and must print his or her name below the signature.

Maximum penalty: \$1 100.

(6) A diving contractor must keep a diving operations record for at least 7 years after the last entry in it.

Maximum penalty: \$550.

185—Divers' log books

- (1) A diver must—
 - (a) have a log book in the form required by subregulation (2); and
 - (b) for each time he or she dives—
 - (i) make an entry in the log book, in ink, as required by subregulation (3); and

- (ii) sign the entry; and
- (iii) have the diving supervisor for the operation countersign the entry; and
- (c) keep the log book for at least 7 years after the date of the last entry in it.

Maximum penalty: \$550.

- (2) The log book must—
 - (a) have hard covers; and
 - (b) be bound so that pages cannot easily be removed; and
 - (c) have its pages serially numbered; and
 - (d) show the diver's name; and
 - (e) have a clear photograph of the head and shoulders of the diver; and
 - (f) have a specimen of the diver's signature.
- (3) An entry in the log book must contain the following information:
 - (a) the date to which the entry relates;
 - (b) the location of the dive (and, if the dive was from a ship or installation, the name of the ship or installation);
 - (c) the maximum depth reached;
 - (d) the times at which the diver left the surface, reached the bottom, left the bottom and arrived at the surface again, and bottom time;
 - (e) the breathing apparatus and breathing mixture used;
 - (f) the decompression schedule followed;
 - (g) the work done and the plant and tools used;
 - (h) any decompression illness, barotrauma, discomfort or injury and details of any treatment given;
 - (i) details of any emergency or incident;
 - (j) anything else relevant to the diver's health or safety.

Part 6—Fees

186—Fees

- (1) The fees set out in Schedule 3 are payable as specified in that schedule.
- (2) For the purpose of determining the registration of fees payable under section 91 of the Act—
 - (a) the prescribed amount for the purposes of section 91(1), (2) and (5) is \$810;
 - (b) the prescribed amount for the purposes of section 91(3) and (6) is \$4 040.

Schedule 1—Hazardous substances

Part 1—Interpretation

1 In this Schedule—

bona fide research means a systematic, investigative or experimental activity conducted for the purpose of—

- (a) acquiring new knowledge; or
- (b) creating new or improved materials, products, devices, processes or services; or
- (c) analysis to identify the kind or quantities of ingredients in a substance;

in situ, in relation to a product that contains asbestos, means that, at the time the use of the form of asbestos in the product is prohibited under regulation 12, the product is fixed or installed—

- (a) in—
 - (i) a building or any other structure that forms a workplace; or
 - (ii) a plant, a vehicle or any other thing that is for use at a workplace; and
- (b) in a way that does not constitute a risk to users until the asbestos contained in the product is disturbed.

Part 2—Permitted circumstances for using certain hazardous substances

Item	Substance (identified by substance name)	Pe	Permitted circumstance	
201	Polychlorinated biphenyls (also known as PCBs)	1	Handling for storage prior to removal or disposal.	
		2	Storage prior to removal or disposal.	
		3	Removal or disposal.	
		4	Use when contained in existing electrical equipment or construction material.	
		5	Repair of existing electrical equipment or construction material.	

Part 3—Permitted circumstances for using certain hazardous substances with carcinogenic properties

Item	Substance (identified by substance name, with chemical abstract number in square brackets)	Pern	nitted circumstances
301	2-Acetylaminofluorene [53-96-3]	Bona fide research	
302	Aflatoxins	Bona fide research	
303	4-Aminodiphenyl [92-67-1]	Bona fide research	
304	Amosite (brown asbestos) [12172-73-5]	1	Bona fide research.
		2	Handling for storage prior to removal or disposal of amosite.
		3	Storage prior to removal or disposal of amosite.
		4	Removal or disposal of amosite in accordance with a law of a State or Territory relating to the removal of asbestos.
		5	Disturbance of naturally occurring amosite that is incidental to operations not related to the extraction or processing of amosite, for example, roadworks.
		6	Use (without disturbance) of amosite in products that are in situ.
305	Benzidine [92-87-5] and its salts, including benzidine dihydrochloride [531-85-1]	Bona fide research	
306	bis (Chloromethyl) ether [542-88-1]	Bona fide research	
307	Chloromethyl methyl ether (technical grade containing bis (chloromethyl) ether) [107-30-2]	Bon	a fide research
308	Crocidolite (blue asbestos) [12001-28-4]	1	Bona fide research.

Item	Substance (identified by substance name, with chemical abstract number in square brackets)	Peri	Permitted circumstances	
		2	Handling for storage prior to removal or disposal of crocidolite.	
		3	Storage prior to removal or disposal of crocidolite.	
		4	Removal or disposal of crocidolite in accordance with a law of a State or Territory relating to the removal of asbestos.	
		5	Disturbance of naturally occurring crocidolite that is incidental to operations not related to the extraction or processing of crocidolite, for example, roadworks.	
		6	Use (without disturbance) of crocidolite in products that are in situ.	
309	4-Dimethylaminoazo-benzene [60-11-7]	Bon	a fide research	
310	2-Naphthylamine [91-59-8] and its salts	Bon	a fide research	
311	4-Nitrodiphenyl [92-93-3]	Bon	Bona fide research	
312	Actinolite asbestos [77536-66-4]	1	Bona fide research.	
		2	Handling for storage prior to removal or disposal of actinolite.	
		3	Storage prior to removal or disposal of actinolite.	
		4	Removal or disposal of actinolite in accordance with a law of a State or Territory relating to the removal of asbestos.	
		5	Disturbance of naturally occurring actinolite that is incidental to operations not related to the extraction or processing of actinolite, for example, roadworks.	
		6	Use (without disturbance) of actinolite in products that are in situ.	
313	Anthophyllite asbestos [77536-67-5]	1	Bona fide research.	
		2	Handling for storage prior to removal or disposal of anthophyllite.	
		3	Storage prior to removal or disposal of anthophyllite.	
		4	Removal or disposal of anthophyllite in accordance with a law of a State or Territory relating to the removal of asbestos.	
		5	Disturbance of naturally occurring anthophyllite that is incidental to operations not related to the extraction or processing of anthophyllite, for example, roadworks.	
		6	Use (without disturbance) of anthophyllite in products that are in situ.	
314	Chrysotile (white asbestos) [12001-29-5]	1	Bona fide research.	

Item	Substance (identified by substance name, with chemical abstract number in square brackets)	Per	mitted circumstances
		2	Handling for storage prior to removal or disposal of chrysotile.
		3	Storage prior to removal or disposal of chrysotile.
		4	Removal or disposal of chrysotile in accordance with a law of a State or Territory relating to the removal of asbestos.
		5	Disturbance of naturally occurring chrysotile that is incidental to operations not related to the extraction or processing of chrysotile, for example, roadworks.
		6	Use (without disturbance) of chrysotile in products that are in situ.
315	Tremolite asbestos [77536-68-6]	1	Bona fide research.
		2	Handling for storage prior to removal or disposal of tremolite.
		3	Storage prior to removal or disposal of tremolite.
		4	Removal or disposal of tremolite in accordance with a law of a State or Territory relating to the removal of asbestos.
		5	Disturbance of naturally occurring tremolite that is incidental to operations not related to the extraction or processing of tremolite, for example, roadworks.
		6	Use (without disturbance) of tremolite in products that are in situ.

Note—

This Part sets out the prohibitions and permitted uses that apply to all Australian workplaces under a national agreement. However, not all items and permitted uses are relevant to offshore petroleum operations.

Schedule 2—Forms for occupational health and safety purposes

Form 1

Petroleum (Submerged Lands) Act 1982

Provisional improvement notice

To:

(the responsible person within the meaning of clause 37(2) of Schedule 7 to the Act)

I, (name of the health and safety representative issuing the notice), selected as the health and safety representative under clause 24 or 25 of Schedule 7 to the Act for (description of the designated work group), after consultation in accordance with clause 37(1) of Schedule 7 to the Act, believe that the following provision, or provisions, of the Act or regulations is, or are, being contravened or is, or are, likely to continue to be contravened:

The contravention is (a brief description):

The contravention is occurring at (location):

The reasons for my opinion are as follows:

In accordance with clause 37(5)(b) of Schedule 7 to the Act, action necessary to prevent the contravention, or the likely contravention, of the provision or provisions referred to above must be taken before (the date of a day that is—

- (a) not less than 7 days after the day when the notice is issued; and
- (b) reasonable in the opinion of the health and safety representative).

In accordance with clause 37(6) of Schedule 7 to the Act, I specify the following action to be taken:

Dated

(signed) Health and safety representative

Notes-

- Under clause 38(1) of Schedule 7 to the Act, a person to whom a provisional improvement notice is given may, within 7 days, request the Safety Authority or an OHS inspector to conduct an investigation into the subject matter of the notice.
- Clause 38(5) of Schedule 7 to the Act requires a responsible person to whom a provisional improvement notice is given—
 - to notify each group member affected by the notice of the fact that the notice has been issued; and
 - to display a copy of the notice at or near each workplace at which work that is the subject of the notice is being performed.
- 3 Under clause 38(6) of Schedule 7 to the Act, a provisional improvement notice ceases to have effect when—
 - it is cancelled by the health and safety representative or an OHS inspector; and
 - the responsible person takes the action specified in the notice, or if no action is specified, takes the action that is necessary to prevent the contravention, or likely contravention, with which the notice is concerned.
- 4 Clause 38(7) of Schedule 7 to the Act requires the responsible person—
 - to ensure, as far as possible, that a provisional improvement notice is complied with; and
 - to inform the health and safety representative who issued the notice of the action taken to comply with the notice.
- 5 Under clause 65 of Schedule 7 to the Act, if an OHS inspector has confirmed or varied a provisional improvement notice—
 - the operator of the facility or an employer affected by the decision; or
 - the health and safety representative for a designated work group that includes a group member affected by the decision; or
 - the owner of any plant substances or thing to which that decision relates; or
 - the person to whom the notice was issued; or
 - a workforce representative in relation to the designated work group that includes a group member affected by the decision; or
 - if there is no designated work group—a workforce representative in relation to a member of the workforce affected by the decision,

may request the Australian Industrial Relations Commission in writing to review the OHS inspector's decision.

Petroleum (Submerged Lands) Act 1982

Notice of removal of plant or sample

To:

(name of operator, employer or owner of the plant, substance or thing (if applicable))

and

(name of health and safety representative for designated workgroup)

I, (name of OHS inspector), an OHS inspector within the meaning of the Act, in the course of conducting an inspection under clause 48 of Schedule 7 to the Act, have taken possession of:

(description of item removed)

from the workplace at:

(address)

The reason for this action is:

(explanation of why removal of item was necessary)

Dated:

(signed) OHS Inspector

Notes-

- This notice must be displayed in a prominent place at the workplace from which the item was
- 2 Under clause 63 of Schedule 7 to the Act, this notice must not be tampered with or removed until the item has been returned to the workplace.
- Under clause 63 of Schedule 7 to the Act, a person who tampers with, or removes, a notice, before the item has been returned to the workplace, may be liable to a penalty of not more than \$11 000 in the case of a natural person or \$55 000 in the case of a body corporate.
- 4 Under clause 65 of Schedule 7 to the Act, any of the following persons may request the Australian Industrial Relations Commission in writing to review the OHS inspector's decision—
 - the operator of the facility or an employer affected by the decision;
 - the health and safety representative for a designated work group that includes a group member affected by the decision;
 - a workforce representative in relation to the designated work group that includes a group member affected by the decision;
 - if there is no designated work group—a workforce representative in relation to a member of the workforce affected by the decision;
 - the owner of any plant, substance or thing to which the OHS inspector's decision relates.

Petroleum (Submerged Lands) Act 1982

Do not disturb notice

To:

(name of operator's representative at the facility)

I, (name of OHS inspector) an OHS inspector within the meaning of the Act, direct that:

(description of the affected workplace or part of workplace, plant, substance or thing) is not to be disturbed during the period from a.m./p.m. to a.m./p.m. on (date).

The reasons for issuing this notice are:

Dated:

(signed)
OHS Inspector

Notes-

- Under clause 58 of Schedule 7 to the Act, an operator of a facility who does not ensure that a notice is complied with may be liable to a penalty of not more than \$27 500 in the case of a natural person and \$137 500 in the case of a body corporate.
- This notice must be displayed in a prominent place at the workplace and must not be tampered with or removed before the notice has ceased to have effect.
- Under clause 65 of Schedule 7 to the Act, any of the following persons may request the Australian Industrial Relations Commission in writing to review the OHS inspector's decision—
 - the operator of the facility or an employer affected by the decision;
 - the health and safety representative for a designated work group that includes a group member affected by the decision;
 - a workforce representative in relation to the designated work group that includes a group member affected by the decision;
 - if there is no designated work group—a workforce representative in relation to a member of the workforce affected by the decision;
 - the owner of any plant, substance or thing to which the OHS inspector's decision relates.

Petroleum (Submerged Lands) Act 1982

Prohibition notice

To:

(name of operator's representative at the facility)

I, (name of OHS inspector), an OHS inspector within the meaning of the Act, am satisfied that it is necessary to issue a prohibition notice to the operator of (name of the facility) in order to remove an immediate threat to the health or safety of a person.

I THEREFORE PROHIBIT the following activity or activities—

- (a) at this workplace or part of workplace: (specify workplace, or part, as the case may be)
- (b) using this plant or substance: (specify plant or substance, if applicable)
- (c) following this procedure: (specify procedure, if applicable)

(if insufficient space, use additional page)

Dated:

(signed)
OHS Inspector

[* Omit if inapplicable]

Notes-

- Under clause 60 of Schedule 7 to the Act, an operator who fails to ensure that this notice is complied with, to the extent that it relates to a matter over which the operator has control, may be liable to a penalty of not more than \$27 500 in the case of a natural person and \$137 500 in the case of a body corporate.
- This notice must be displayed in a prominent place at the workplace and must not be tampered with or removed before the notice has ceased to have effect.
- 3 Under clause 65 of Schedule 7 to the Act, any of the following persons may request the Australian Industrial Relations Commission, in writing, to review the OHS inspector's decision—
 - the operator of the facility or an employer who is affected by the decision;
 - a person to whom a prohibition notice has been issued;
 - the health and safety representative for a designated work group that has a group member affected by the decision;
 - a workforce representative in relation to the designated work group that includes a group member affected by the decision;
 - if there is no designated work group—a workforce representative in relation to a member of the workforce affected by the decision;
 - the owner of any plant, substance or thing to which the OHS inspector's decision relates.

^{*}Action that may be taken that will be adequate to remove the threat to health and safety is:

Petroleum (Submerged Lands) Act 1982

Improvement notice

To:

(name of responsible person)

I, (name of OHS inspector), an OHS inspector within the meaning of the Act, am satisfied that the person named above as the responsible person is contravening, or has contravened, and is likely to contravene:

(a) clause of Schedule 7 to the Act; or

(b) regulation

at

(location of workplace).

The reasons for my opinion are:

(brief description of contravention)

You are required to take action within (insert number) days of the date of this notice to prevent any further contravention or likely contravention of the clause or regulation.

*The following action must be taken by the responsible person within the period specified above:

(If insufficient space, use additional page)

Dated:

(signed) OHS Inspector

*(Omit if inapplicable)

When the required improvement has been completed, return this part of the notice to the following person at the address below:

Name:

Position:

Address:

Telephone number:

Improvement Notice No. has been complied with.

Signed:

This notice was delivered to: (insert name)

in the office or position of (insert office or position)

at: (insert time, a.m. or p.m.) on (insert date).

Notes-

- Under clause 62 of Schedule 7 to the Act, a person who fails to ensure that this notice is complied with, to the extent that it relates to a matter over which the person has control, may be liable to a penalty of not more than \$11 000 in the case of a natural person and \$55 000 in the case of a body corporate.
- This notice must be displayed in a prominent place at the workplace and, under clause 63 of Schedule 7 to the Act, must not be tampered with or removed before the notice has ceased to have effect.
- This notice ceases to have effect when the OHS inspector notifies the responsible person that he or she is satisfied that the responsible person has taken adequate action to remove the threat to health and safety that caused the notice to be issued. If the OHS inspector has specified action that the responsible person should take to remove the threat, the responsible person should advise the OHS inspector as soon as the action has been taken.
- 4 Under clause 61(7) of Schedule 7 to the Act, an operator, or an employer of a member of the workforce to whom this notice is given must—
 - (a) give a copy of the notice to each health and safety representative for a designated workgroup having group members performing work that is affected by the notice; and
 - (b) display a copy of the notice in a prominent place at or near each workplace at which the work is being performed.
- Under clause 65 of Schedule 7 to the Act, any of the following persons may request the Australian Industrial Relations Commission to review the OHS inspector's decision—
 - the operator of the facility or an employer affected by the decision;
 - any person to whom an improvement notice has been issued;
 - the health and safety representative for a designated work group that includes a group member affected by the decision;
 - a workforce representative in relation to a designated work group that includes a group member affected by the decision;
 - if there is no designated work group—a workforce representative in relation to a member of the workforce affected by the decision;
 - the owner of any plant, substance or thing to which the OHS inspector's decision relates.

Schedule 3—Fees

1 Application fees, payable on application for—

(a)	an exploration permit (section 20(1)(f))	\$4 040.00
(b)	an exploration permit in respect of a surrendered etc block (section 23(1)(a))	\$4 040.00
(c)	renewal of an exploration permit (section 29(2)(c))	\$1 615.00
(d)	a retention lease (section 37A(2)(e))	\$1 615.00
(e)	renewal of a retention lease (section 37F(2)(d))	\$1 615.00
(f)	a production licence (section 40(1)(e))	\$1 615.00
(g)	a production licence in respect of a surrendered etc block (section $47(1)(a)$)	\$4 040.00
(h)	two or more production licences in exchange for original production licence (section $50(2)(e)$)	\$810.00
(i)	renewal of a production licence (section 53(2)(d))	\$1 615.00
(j)	a pipeline licence (section 63(1)(f))	\$4 040.00
(k)	renewal of a pipeline licence (section 67(2)(c))	\$1 615.00
(1)	variation of a pipeline licence (section 70(2)(e))	\$810.00

	(m)	registration of devolution of title (section 78(2))	\$81.00
	(n)	registration of change of company name (section 78(3)(b))	\$81.00
	(o)	special prospecting authority (section 110(2)(d))	\$810.00
2	For insp (section	ection of register and all instruments or copies subject to inspection 85(1))	\$17.00
3	For certi	ified copy or extract from register etc (section 86(2))	\$3.10 (per page)
4	For Min	ister's certificate as to registration etc (section 86(3))	\$40
5		ess to information, or cores, cuttings or samples, under section 117(1b)(b), 3)(b), (5)(c), (5)(d) or (5a)(b)	\$34.00 (per day)
6		exploration permit fee, payable in respect of each block to which the elates at the commencement of each year of the term of the permit (section	\$55.00 (Minimum fee \$1 100.00)
7		retention lease fee, payable in respect of each block to which the lease t the commencement of each year of the term of the lease (section 138)	\$6 600.00
8		production licence fee, payable in respect of each block to which the relates at the commencement of each year of the term of the licence 138)	\$19 800.00
9	kilometi	pipeline licence fee, payable in respect of each kilometre (or part re) of the length of the pipeline at the commencement of each year of the the pipeline licence (section 138)	\$88.00

Schedule 4—Revocation of regulations

1—Revocation of regulations

The Petroleum (Submerged Lands) (Fees) Regulations 1994 are revoked.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister as certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on $30 \, \text{June} \, 2005$

No 150 of 2005

MMRD 05/003 CS

South Australia

Australian Energy Market Commission Establishment Regulations 2005

under the Australian Energy Market Commission Establishment Act 2004

Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Confidentiality
- 5 Annual reports

1—Short title

These regulations may be cited as the *Australian Energy Market Commission Establishment Regulations 2005*.

2—Commencement

These regulations will come into operation on 1 July 2005.

3—Interpretation

In these regulations—

Act means the Australian Energy Market Commission Establishment Act 2004.

4—Confidentiality

For the purposes of section 24(3) of the Act, disclosing information to any of the following is authorised use and disclosure of the information:

- (a) the Australian Competition and Consumer Commission established by section 6A of the *Trade Practices Act 1974* of the Commonwealth;
- (b) the Australian Energy Regulator established by section 44AE of the *Trade Practices Act 1974* of the Commonwealth;
- (c) National Electricity Market Management Company Limited ACN 072 010 327;
- (d) any staff or consultant assisting a body referred to in a preceding paragraph in performing its functions.

5—Annual reports

- (1) A report of the AEMC under section 27 of the Act must include a report on the following in respect of the financial year concerned:
 - (a) the National Energy Law provisions and other legislative provisions that confer functions on the AEMC;
 - (b) the AEMC's relationship to other bodies involved in the administration of National Energy Laws;

- (c) the membership and organisation of the AEMC;
- (d) the AEMC's strategic plans and the relationship of the plans to objectives set out in National Energy Laws;
- (e) the AEMC's activities and their efficiency and effectiveness;
- (f) the AEMC's financial affairs;
- (g) disclosures made by Commissioners under section 22 of the Act;
- (h) positions in the employment of the AEMC, including the salary levels for the positions, any positions created or filled and any positions abolished or vacated;
- (i) the extent to which external consultants have been engaged by the AEMC, the nature of the work undertaken by the consultants and the total cost to the AEMC of the consultancies;
- (j) the occupational health, safety and rehabilitation programs of the AEMC and their effectiveness;
- (k) any instances of fraud in the operations of the AEMC and the strategies implemented to prevent and control fraud;
- (l) in relation to electricity—
 - (i) the extent to which the operation of the Rules has met the national electricity market objective and the strategic development of the Rules to meet the national electricity market objective;
 - (ii) any statements of policy principles that have been issued by the MCE in relation to the AEMC and any directions that have been given by the MCE to the AEMC:
 - (iii) the Rule making activities of the AEMC under the National Electricity Law, including—
 - (A) requests for Rules in each of the categories of jurisdictional derogations, participant derogations, non-controversial Rules and urgent Rules; and
 - (B) the stages at which proposed Rules are in the Rule making procedure; and
 - (C) decisions of the AEMC not to proceed with requests for Rules; and
 - (D) Rules made; and
 - (E) Rules that have come into operation;
 - (iv) MCE directed reviews and AEMC initiated reviews under the National Electricity Law;
 - (v) market development functions;
 - (vi) recommendations made by the AEMC for the MCE to request the making of Rules;
 - (vii) the composition and activities of the Reliability Panel and of any other panels or committees that have been established by the AEMC;
 - (viii) NEMMCO's use of powers of direction in relation to power system security under clause 4.8.9(a) of the Rules;

- (ix) the use by Registered Participants of inspection and testing rights under clauses 5.7.1 and 5.7.2 of the Rules;
- (x) the extent and effectiveness of demand side participation in the national electricity market, including measures that could be undertaken to enhance demand side participation in the national electricity market.
- (2) The AEMC's report must include its audited financial statements for the financial year and the Auditor-General's report on the financial statements.
- (3) In this regulation—
 - *National Electricity Rules* or, in relation to electricity, *Rules* means the National Electricity Rules as defined in section 2 of the National Electricity Law.
- (4) Terms used in subregulation (1)(l) that are defined in the National Electricity Law or the National Electricity Rules have the same respective meanings as in the National Electricity Law or the National Electricity Rules.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

No 151 of 2005

MEN05/011CS

South Australia

Natural Resources Management (General) Regulations 2005

under the Natural Resources Management Act 2004

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Natural Resources Management (General) Regulations 2005*.

2—Commencement

These regulations will come into operation on 1 July 2005.

3—Interpretation

In these regulations—

Act means the Natural Resources Management Act 2004.

Part 2—Legislative definitions

4—Definition of animal

- (1) The following classes of animals are excluded from the definition of *animal* in section 3(1) of the Act:
 - (a) fish;
 - (b) invertebrates.
- (2) Subregulation (1) only applies for the purposes of Chapter 8 of the Act.
- (3) In this regulation—

fish has the same meaning as in the *Fisheries Act 1982*.

5—Definition of animal-proof fence

For the purposes of the definition of *animal-proof fence* in section 3(1) of the Act, the requirements set out in Schedule 1 are prescribed for fences of the kind specified in that schedule.

6—Definition of Mount Lofty Ranges Watershed

For the purposes of the definition of *Mount Lofty Ranges Watershed* in section 3(1) of the Act, the area identified as the *Mount Lofty Ranges Watershed* in General Registry Plan No 001/2005 is prescribed.

7—Definition of plant

- (1) The following classes of vegetation or material are excluded from the definition of *plant* in section 3(1) of the Act:
 - (a) non-living processed timber, food or medicinal products;
 - (b) bacteria, fungi, algae and micro-organisms.
- (2) Subregulation (1) only applies for the purposes of Chapter 8 of the Act.

Part 3—NRM Council and NRM authorities

8—NRM Council—Aboriginal Advisory Committee

- (1) The NRM Council must establish an *Aboriginal Advisory Committee*.
- (2) The Minister may determine in relation to the committee—
 - (a) the criteria for membership; and
 - (b) the terms and conditions under which a member is appointed; and

- (c) the term of office of a member.
- (3) The function of the committee is to provide advice to the NRM Council on matters that may be relevant to Aboriginal issues arising under the Act.
- (4) The committee may provide advice at the request of the NRM Council, or on its own initiative.

9—Regional NRM boards—Annual reports

The annual report of a regional NRM board under section 38 of the Act must include the following information:

- (a) the rate of remuneration of each employee of the board appointed under section 34(3) of the Act for the financial year to which the report relates and where such an employee receives a package including a non-monetary component, the total value of the package and the value of each of the monetary and non-monetary components; and
- (b) the amount of superannuation contributions by the board in the relevant financial year in respect of each employee under paragraph (a); and
- (c) the number of meetings (if any) that each member of the board has failed to attend during the relevant year and the reason given by the member for the failure; and
- (d) the persons or bodies to whom or to which the board has delegated functions or powers under section 36 of the Act and the nature of the functions or powers delegated to each person or body; and
- (e) the nature of any functions or powers delegated to the board under the Act or any other Act and the person who delegated the function or power.

Part 4—NRM plans

10—Regional NRM plans—prescribed information or material

- (1) This regulation sets out the information that a plan must include under section 75(3)(a) of the Act.
- (2) For the purposes of section 75(3)(a)(i) of the Act:
 - (a) a description of each of the following (from a regional perspective):
 - (i) soils;
 - (ii) water resources;
 - (iii) geological features and landscapes;
 - (iv) native vegetation, native animals and other native organisms;
 - (v) ecosystems;
 - (vi) other significant natural resources,

identifying the geographical distribution of these natural resources and the extent of each on a regional scale, providing sufficient qualitative information to show the main or distinctive features of each category of natural resource and highlighting any natural resources of particular significance;

- (b) a description of any catchment, wetland, estuarine or marine systems;
- (c) a description of how the natural resources and other elements identified under paragraphs (a) and (b) interrelate;
- (d) a description of any significant deficiencies in the information that is available to the board with respect to the natural resources within the region, and the board's proposals to address this situation.
- (3) For the purposes of section 75(3)(a)(ii) of the Act:
 - (a) an assessment of the state and condition of the natural resources within the region (from a regional perspective);
 - (b) a description of the factors affecting the state and condition of those natural resources and information on other factors that may affect those natural resources in the future, including any risks of damage to, or degradation of, the natural resources within the region;
 - (c) information on any trends in the state and condition of natural resources within the region;
 - (d) information on any programs that are being undertaken to monitor or evaluate the state and condition of natural resources within the region, and any proposals to improve the level of monitoring and evaluation;
 - (e) a description of programs to improve the state and condition of natural resources or, if relevant, to halt or reduce any rate of decline;
 - (f) a description of the primary and other economic production systems occurring in the region and the impact any changes to production methodology or systems may have on the natural resources:
 - (g) a description of any significant deficiencies in the information that is available to the board with respect to the state or condition of the natural resources within the region, and the board's proposals to address this situation.
- (4) For the purposes of section 75(3)(a)(iii) of the Act:
 - (a) a broad evaluation of the significance of the natural resources of the region from an environmental, social and economic perspective;
 - (b) an evaluation of relevant environmental, social, economic and practical considerations in connection with setting priorities for natural resources management within the region;
 - (c) information on any steps or programs that will achieve a combination of outcomes from an environmental, social or economic perspective;
 - (d) a description of any significant deficiencies in the methods used to address any issues associated with natural resources management, and the board's proposals to address this situation.
- (5) For the purposes of section 75(3)(a)(iv) of the Act:
 - (a) an assessment of the risks posed to natural resources within the region from pest species of animals or plants, and a ranking of these risks according to priorities;

- (b) a description of the projects that are being undertaken, or are proposed to be undertaken, to address or manage the risks identified under paragraph (a), or to reduce the impact of any pest species of animals or plants;
- (c) a description of any projects or programs that are in place, or that are proposed to be in place, to prevent, or to address, the presence of any animals or plants that may cause a risk, or that are otherwise subject to control, under this Act.

11—Concept statements and public consultation

- (1) For the purposes of section 78(8) of the Act, a concept statement and the results of any relevant investigations must be made available to the public—
 - (a) at the principal office of the Department; and
 - (b) on the Department's website.
- (2) For the purposes of section 79(8) of the Act, the period of 4 weeks is prescribed.

Part 5—Management and protection of water resources

12—Rate at which drinking water may be taken

The rate of 100 litres per day is prescribed for the purposes of section 124(6) of the Act.

13—Water affecting activities—section 127(3)(f)

- (1) An activity specified under Schedule 2 is prescribed as an activity under section 127(3)(f) of the Act.
- (2) Pursuant to section 126(2)(d) of the Act, the Minister is prescribed as the authority from whom a permit is required in the case of an activity within the ambit of subregulation (1).

14—Activities subject to operation of NRM plans—section 127(5)(k)

Using water in the course of carrying on a business in an NRM region at a rate that exceeds the rate prescribed by the relevant water allocation plan is, if the water has been brought from a water resource in some other part of the region specified in the plan by means of a pipe or channel, prescribed as an activity under section 127(5)(k) of the Act.

15—Expiation fees—section 127(6)

For the purposes of the imposition of an expiation fee under section 127(6) of the Act, any condition of a licence is prescribed.

16—Prescribed date—section 134(1)

For the purposes of section 134(1) of the Act, the prescribed date is 2 July 1997.

17—Notice to be given by relevant authority under section 136 or 159

(1) The notices referred to in section 136(2) and 159(2) of the Act that are to be given to persons specified in the relevant water allocation plan must be given by the relevant authority in accordance with section 208 of the Act.

- (2) The notices referred to in sections 136(2) and 159(2) of the Act that are to be given to the public generally must be given by publication in a newspaper circulating generally throughout the State.
- (3) The notice must—
 - (a) set out relevant particulars of the application; and
 - (b) identify the land that will be affected by the grant or refusal of the application; and
 - (c) include an address at which a copy of the application can be inspected during normal business hours; and
 - (d) set out the text of regulation 18.

18—Requirements as to representations under section 136(3) or 159(3)

Representations under section 136(3) or 159(3) of the Act must—

- (a) be in writing; and
- (b) be made within 20 business days after the notice referred to in regulation 17 is given to the person making the representations or, in the case of a member of the public, within 20 days after the publication of the notice in a newspaper under regulation 17(2)); and
- (c) state the name and address of the person making the representations; and
- (d) if 2 or more persons make the same representations, nominate one of them to represent the others for procedural purposes; and
- (e) state whether or not the person making the representation wishes to appear before the relevant authority to be heard in support of the representations.

19—Time for response by applicant

- (1) 10 business days is prescribed for the purposes of section 136(5) and 159(5) as the period within which the applicant may respond to representations.
- (2) The period referred to in subregulation (1) may be increased by the relevant authority if, in its opinion in the circumstances of a particular case, that period is too short.

20—Well drillers' licences—prescribed conditions

The following conditions are prescribed under section 139(3) of the Act in relation to well drillers' licences:

- (a) the licensee must keep such records as the Chief Officer directs in such manner and for such period as the Chief Officer directs;
- (b) the licensee must, at the direction of the Chief Officer or an authorised officer, produce records referred to in paragraph (a) to the Chief Officer or the authorised officer for inspection or copying;
- (c) the licensee must not, in pursuance of the licence, commence an activity that requires a permit under the Act unless the licensee has sighted the permit;

- (d) the licensee must, at the direction of the Chief Officer or an authorised officer, take samples of water or other material from a well being drilled by the licensee and must submit the samples to the Chief Officer or the authorised officer for inspection and analysis;
- (e) the licensee must comply with directions given by the Chief Officer in relation to the drilling, plugging, backfilling or sealing of a well or to the repair, replacement or alteration of the casing, lining or screen of a well if those directions are given to the licensee by the Chief Officer or published in the Gazette;
- (f) the licensee must comply with the permit authorising the work that he or she is performing.

21—The Water Well Drilling Committee

- (1) The Water Well Drilling Committee must consist of at least 4 members appointed by the Minister of whom—
 - (a) 1 must be a hydrogeologist; and
 - (b) 1 must be a person who has extensive experience in designing wells; and
 - (c) 1 must be a person who has extensive experience as a well driller who has been selected by the Minister from a panel submitted by the South Australian branch of the Australian Drilling Industry Association; and
 - (d) 1 must be a person who has extensive experience in well drilling and who is not a public sector employee.
- (2) Any additional members appointed by the Minister must be persons who have knowledge or experience that will be of value to the committee in carrying out its functions.
- (3) The Minister may appoint suitable persons to be deputies to the members of the committee and a deputy to a member must be appointed in the same manner as the member was appointed and must have the same qualifications for membership of the committee.
- (4) A deputy may, in the absence of a member, act as a member of the committee.
- (5) The Minister must appoint a member (the *presiding member*) to preside at meetings of the committee and another member (the *deputy presiding member*) to preside at meetings of the committee in the absence of the presiding member.
- (6) The committee has the following functions in addition to the functions prescribed by section 140(3)(a) of the Act:
 - (a) to advise the Chief Officer in relation to each application for the grant of a well driller's licence:
 - (b) to advise the Chief Officer, at his or her request, in relation to the use of any machinery or equipment pursuant to a well driller's licence;
 - (c) to advise the Minister and the NRM Council in relation to the operation of the Act and these regulations;
 - (d) functions that are delegated to it by the Minister.

22—Sale of water allocations by Minister

- (1) The following provisions apply in relation to the sale by the Minister of a water allocation by public auction:
 - (a) the Minister must, by notice published in a newspaper circulating generally throughout the State, give at least 14 days notice of the time and place at which the auction will be held; and
 - (b) the Minister may refuse to sell an allocation if bidding for the allocation does not reach the reserve price fixed by the Minister.
- (2) The sale of a water allocation, whether by public auction or tender or by private contract, is subject to the Minister being prepared to endorse the allocation in accordance with the Act on a water licence held by the purchaser.

Part 6—Control of plants and animals

Division 1—Sale of contaminated items

23—Sale of produce or goods carrying plants

- (1) For the purposes of assisting to prevent the sale of any animal, plant, soil, vehicle, farming implement or other produce, goods, material or other thing carrying a prescribed plant in contravention of section 177(2), the person making the sale may provide to the purchaser a declaration in the form set out in Schedule 3.
- (2) A person must not make a statement that is false or misleading in a material particular in a declaration provided under subregulation (1).

Maximum penalty: \$5 000.

(3) In subregulation (1)—

prescribed plant means a plant to which subsection (2) of section 177 of the Act applies that is not of a class to which subsection (1) of section 178 of the Act applies.

24—Sale of contaminated items

For the purposes of subsection (1) of section 178, a fully completed copy of a form specified under subsection (3) must be handed to the purchaser by (or on behalf of) the person making the sale.

Division 2—Control measures

25—Interpretation

In this Division—

Flinders Ranges means the control area declared by the Minister under section 174(1)(b)(i) in relation to goats in the Flinders Ranges;

off-shore islands—

(a) in relation to deer—means the control area declared by the Minister under section 174(1)(b)(i) in relation to deer on islands (other than Kangaroo Island) off the coast of the State;

(b) in relation to goats—means the control area declared by the Minister under section 174(1)(b)(i) in relation to goats on islands off the coast of the State.

26—Prescribed measures for control of deer and goats (other than on off-shore islands, etc)

- (1) For the purposes of section 182(3) of the Act, the measures set out in this regulation are prescribed in relation to—
 - (a) deer in all parts of the State (other than on off shore islands); and
 - (b) goats in all parts of the State (other than in the Flinders Ranges or on off shore islands).
- (2) A deer or goat on land owned or occupied by the owner of the deer or goat, or on land with the consent of the owner or occupier of the land, must be—
 - (a) secured or confined; and
 - (b) permanently identified,

in a manner determined by the Chief Officer.

- (3) Subject to subregulation (4) and regulation 28, a deer or goat on land without the consent of the owner or occupier of the land must—
 - (a) be captured and removed from the land within 6 weeks after capture; or
 - (b) be destroyed.
- (4) An owner of land is not required to capture a deer or goat if, by reason of the terrain inhabited by the deer or goat or any other circumstance, capture is impossible.
- (5) Subject to subregulation (6), a deer or goat (whether captured under subregulation (3) or not) may be released with a radio transmitter or other tracking device attached for the purpose of locating other deer or goats, as the case requires.
- (6) A deer or goat must not be released under this regulation except with the written approval of the Chief Officer and in accordance with the conditions (if any) to which the approval is subject.

27—Prescribed measures for control of deer and goats on off-shore islands and goats in the Flinders Ranges

- (1) For the purposes of section 182(3) of the Act, the measures set out in this regulation are prescribed in relation to—
 - (a) deer on off shore islands; and
 - (b) goats in the Flinders Ranges and on off shore islands.
- (2) Subject to subregulation (3) and regulation 28, a deer or goat must—
 - (a) be captured and removed from the land within 6 weeks after capture; or
 - (b) be destroyed.
- (3) An owner of land is not required to capture a deer or goat if, by reason of the terrain inhabited by the deer or any other circumstance, capture is impossible.

- (4) Subject to subregulation (5), a deer or goat (whether captured under subregulation (2) or not) may be released with a radio transmitter or other tracking device attached for the purpose of locating other deer or goats, as the case requires.
- (5) A deer or goat must not be released under this regulation except with the written approval of the Chief Officer and in accordance with the conditions (if any) to which the approval is subject.

28—Additional measures in relation to deer and goats

- (1) A person taking measures for the control or destruction of deer on land pursuant to the Act and these regulations must not destroy, sell or otherwise dispose of the deer if—
 - (a) the deer bears a clearly visible ear tag at least 6 cm wide and 5 cm high; and
 - (b) the person has received notification (either orally or in writing) from a deer keeper that deer have escaped from land where deer are kept by the deer keeper; and
 - (c) less than 48 hours have elapsed since that notification was received.
- (2) A person taking measures for the control or destruction of goats on land pursuant to the Act and these regulations must not, knowing or having reason to believe that another person claims ownership of the goats, destroy the goats or sell or otherwise dispose of them to any other person unless—
 - (a) written notice has been served on the person who claims, or is believed to claim, ownership of the goats requiring that person to remove the goats from the land within a period specified in the notice (being a period not less than—
 - (i) if the notice is served personally—48 hours; or
 - (ii) if the notice is served by post or by publication in a newspaper—7 days commencing at the time of posting or publication); and
 - (b) the period specified in the notice has expired; and
 - (c) not more than 90 days have elapsed since the expiry of the period specified in the notice.
- (3) A notice under subregulation (2) may be served—
 - (a) personally or by post; or
 - (b) if the whereabouts of the person on whom the notice is to be served are unknown by publication of the notice in a newspaper circulating generally throughout the State.
- (4) In this regulation—

deer keeper means a person registered as a deer keeper under the *Livestock Regulations 1998*.

Division 3—Permits

29—Permits

For the purposes of section 188(8)(b) of the Act, the following amounts are prescribed:

- (a) in the case of a natural person—\$1 250;
- (b) in the case of a body corporate—\$12 500.

Part 7—Exemptions

30—Movement of animals and plants

- (1) An authorised officer is exempt from the operation of section 175 of the Act while acting in the course of official duties.
- (2) A person is exempt from the operation of section 175(1), (2)(a) and (3)(a) of the Act in respect of a plant that—
 - (a) is being carried by wool that is being transported or moved to a place where it is to be cleaned; or
 - (b) is being carried by grain that is being transported or moved to a place where it is to be milled.
- (3) A person is exempt from the operation of section 175(2)(b) and (3)(b) in respect of—
 - (a) wool carrying a plant of a class to which section 175(2) or (3) of the Act applies if the wool is being transported or moved on a public road to a place where it is to be cleaned; or
 - (b) grain carrying a plant of a class to which section 175(2) or (3) of the Act applies if the grain is being transported or moved on a public road to a place where it is to be milled.
- (4) A person is exempt from section 175(1), (2) and (3) of the Act in respect of a plant declared under the *Biological Control Act 1986* to be a target organism for the purposes of that Act if the person is participating in a community programme to rear and release an agent organism (within the meaning of that Act) for the control of that target organism.

31—Sale of wool or grain carrying plants

A person who sells wool or grain carrying a plant of a class to which section 177(2) of the Act applies is exempt from that section if, at the time of the sale, the person believes on reasonable grounds that the purchaser will remove, or arrange for the removal of, that plant from the wool or grain before any re-sale of the wool or grain.

32—Release of animals

(1) A person is exempt from section 179(1) of the Act in respect of the release of an animal of a class to which that subsection applies in a control area for that class of animals if the Chief Officer has approved that release for the purposes of research relating to the control of animals of that class.

- (2) An approval under subregulation (1)—
 - (a) must be given to the person by notice in writing;
 - (b) may be given subject to such conditions as the Chief Officer thinks fit and specifies in the notice.
- (3) The Chief Officer may, by notice in writing, vary or revoke an approval under this regulation.

33—Destruction or control of animals or plants

An NRM group or regional NRM board is exempt from the operation of section 182(7) of the Act in respect of a plant declared under the *Biological Control Act 1986* to be a target organism for the purposes of that Act if the NRM group or regional NRM board (as the case requires) is participating in a community program to rear and release an agent organism (within the meaning of that Act) for the control of that target organism.

Part 8—Miscellaneous

34—Requirement to provide information to Minister

- (1) SA Water and all other persons who provide reticulated water supply or sewerage services and all persons who provide water drainage services must, at the request of the Minister, provide the Minister with the following information:
 - (a) the location of the infrastructure used by the person to provide those services; and
 - (b) the materials used in the construction of the infrastructure; and
 - (c) the capacity of the infrastructure; and
 - (d) in the case of SA Water or any other person who provides reticulated water supply services—
 - (i) the source, volume and quality of the water flowing into reservoirs and other storage facilities used by SA Water or other person; and
 - (ii) the volume and quality of water held in storage; and
 - (iii) the volume of water lost to evaporation or leakage from storage facilities; and
 - (iv) the volume and quality of water discharged from storage facilities for supply to consumers or for any other purpose; and
 - (e) in the case of SA Water or any other person who provides sewerage or other water drainage services—
 - (i) the volume and quality of the water in the sewerage or water drainage system; and
 - (ii) the volume and quality of water discharged from the sewerage or water drainage system;
 - (f) such other information as the Minister thinks fit.

(2) Section 10(3) of the Act applies to the kinds of information referred to in subregulation (1) including information requested by the Minister under subregulation (1)(f).

35—Assignment of responsibility for infrastructure—section 43(3)

- (1) An agreement under section 43 of the Act must—
 - (a) be in writing; and
 - (b) describe the infrastructure with reasonable particularity; and
 - (c) set out the responsibilities that are being assigned to the relevant person; and
 - (d) comply with any instruction issued by the Registrar-General for the purposes of subsection (5) of that section.
- (2) Subregulation (1) does not limit or affect the ability to include other provisions, terms or conditions in an agreement under section 43 of the Act.

36—Reimbursement of expenses—section 69(12)

- (1) An application for reimbursement under section 69(12) of the Act must—
 - (a) be made to the Department in writing; and
 - (b) include reasonable details concerning the costs or expenses that have been incurred; and
 - (c) comply with any other requirement determined by the Chief Officer.
- (2) The reimbursement must be made by cheque furnished to the person personally or by post sent to an address provided by the person as part of the application.
- (3) The reimbursement should be made within 20 business days after a valid application is received under subregulation (1).

37—Applications for warrants—sections 32 and 69

- (1) The grounds for an application for a warrant under section 32 or 69 of the Act made personally must be verified by affidavit.
- (2) If an application for a warrant is made under section 32 or 69 of the Act by telephone—
 - (a) the applicant must inform the magistrate of the applicant's name and identify the position that he or she holds for the purposes of the Act, and the magistrate, on receiving that information, is entitled to assume, without further inquiry, that the applicant holds that position; and
 - (b) the applicant must inform the magistrate of the purpose for which the warrant is required and the grounds on which it is sought; and
 - (c) if it appears to the magistrate from the information given by the applicant that there are reasonable grounds to issue a warrant (taking into account the requirements of the Act), the magistrate must inform the applicant of the facts that justify, in the magistrate's opinion, the issue of the warrant, and must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts; and

- (d) if the applicant gives such an undertaking, the magistrate may then make out and sign a warrant, noting on the warrant the facts that justify, in the magistrate's opinion, the issue of the warrant; and
- (e) the warrant is taken to have been issued, and comes into force, when signed by the magistrate; and
- (f) the magistrate must inform the applicant of the terms of the warrant; and
- (g) the applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (c).
- (3) A magistrate by whom a warrant is issued must file the warrant, or a copy of the warrant, and the affidavit verifying the grounds on which the application for the warrant was made, in the Magistrates Court.

38—Provision of information sheets

Pursuant to subsection (16) of section 69 of the Act, subsection (14) of that section will not apply where an authorised officer is undertaking the investigation of an offence (or a suspected or alleged offence) under the Act and the authorised officer has determined that the investigation would be jeopardised if the authorised officer were to provide a copy of an information sheet at that time.

39—Review of notice to prepare an action plan

An application under section 123(3) or 183(3) of the Act must be made in writing and must set out clearly the grounds on which the applicant seeks the review.

40—Service of notices or other documents

If a notice or other document is to be served on, or given to, a person under section 208(1)(d) of the Act, the person acting under that section must—

- (a) seal the notice or document in a clear wrapper that is reasonably waterproof; and
- (b) fix the notice or document, as wrapped, to a conspicuous part of the land (including by fixing it to a post and then by fixing the post into the ground in a conspicuous place on the land).

41—Exemption of part of State from certain provisions of the Act

Pursuant to section 232 of the Act, the following provisions of the Act do not apply in relation to the part of the State extending seawards from the low water mark:

- (a) Chapter 6;
- (b) sections 181 to 186 (inclusive);
- (c) Chapter 9 Part 1.

42—Fees

- (1) The fees set out in Schedule 4 are payable as prescribed in that Schedule.
- (2) The Minister may, on application or on the Minister's own initiative, in the Minister's discretion, waive payment of the whole or a part of a fee.

43—Notice of meetings

- (1) A notice under clause 3(2) of Schedule 1 of the Act must be given—
 - (a) in the case of a notice given by the NRM Council—by publication of a notice in a newspaper circulating generally throughout the State;
 - (b) in the case of a regional NRM board or an NRM group—by publication of a notice in a newspaper circulating in the local area.
- (2) The requirement to give notice is dispensed with if—
 - (a) the relevant meeting is being held with less than 14 days notice to the members of the relevant prescribed body; or
 - (b) the only matters on the agenda for the relevant meeting relate to the receipt, consideration or consideration of information or a matter or matters listed in clause 3(6) of Schedule 1 and the presiding member of the prescribed body, or his or her delegate, has determined that there is a reasonable likelihood that the prescribed body will close the whole of the meeting to the public.

44—Transitional provisions—ERD Court commissioners

A commissioner of the ERD Court designated as a person who has expertise in the use, conservation or management of water resources will be taken to have been specifically designated as a person who has expertise in fields that are relevant to the jurisdiction conferred on the Court by the Act.

45—Transitional provisions—Declaration of prescribed water resources

- (1) A regulation within the ambit of Schedule 4 clause 54(2) of the Act (including such a regulation in force by virtue of the operation of Schedule 3 of the *Water Resources Act 1997*) may be varied or revoked by a regulation under section 125 of the Act.
- (2) A reference in any regulation under subregulation (1) to a provision or part of the *Water Resources Act 1990* or the *Water Resources Act 1997* will be construed and have effect as if it were a reference to the corresponding provision or part of the *Natural Resources Management Act 2004*.
- (3) Any notice published under section 8 of the *Water Resources Act 1997* before the commencement of this regulation will continue to have force and effect for the purposes of the *Natural Resources Management Act 2004* (and any related process may be continued under the *Natural Resources Management Act 2004*).

46—Transitional provisions—Penrice Exemption

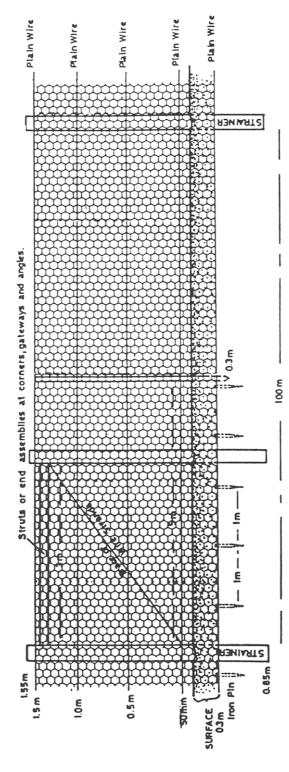
- (1) The *Water Resources (Penrice Exemption) Regulations 1997* will continue in force and effect as if they were regulations made under section 232 of the Act (with any necessary modifications).
- (2) Without limiting subregulation (1), a reference in the *Water Resources (Penrice Exemption)* Regulations 1997 to a provision or part of the *Water Resources Act* 1997 or the *Water Resources Regulations* 1997 will be construed and have effect as if it were a reference to the corresponding provision or part of the *Natural Resources Management Act* 2004 or these regulations (as the case requires).

Schedule 1—Prescribed requirements for animal-proof fences

1—Prescribed requirements for dog-proof fences

For the purposes of the definition of *animal-proof fence* in section 3(1) of the Act, a dog-proof fence is a fence that consists of—

- (a) strainers that—
 - (i) are not less than 150mm in diameter; and
 - (ii) are placed 100m apart, 0.85m under the ground and protrude 1.55m above the ground; and
- (b) posts that are placed 5m apart, 0.3m under the ground and protrude 1.5m above the ground; and
- (c) wire netting that—
 - (i) has a gauge of 1.8mm; and
 - (ii) has a width of 1.8m; and
 - (iii) has a maximum mesh of 100mm; and
 - (iv) is erected on the outside of the fence so that 1.5m of the netting is above the ground with a ground lap of 0.3m that is held in place and secured by means of a 0.3m x 25mm x 5mm flat iron pin every metre, with a hole drilled 25mm from the top, driven into the ground for a depth of 0.27m at the outer edge of the ground lap with one 2.5mm gauge galvanised wire well strained and the wire and wire netting secured to the pin by not less than 2.5mm gauge galvanised wire; and
- (d) four plain wires—
 - (i) each of which is made of galvanised iron and is not less than 2.5mm in diameter; and
 - (ii) that are placed at 50mm, 0.5m, 1.0m and 1.5m intervals above the ground and secured at equal intervals to each 5m panel securing the netting to the 3 bottom wires at not more than 0.75m intervals and to the top wire at not more than 0.5m intervals.

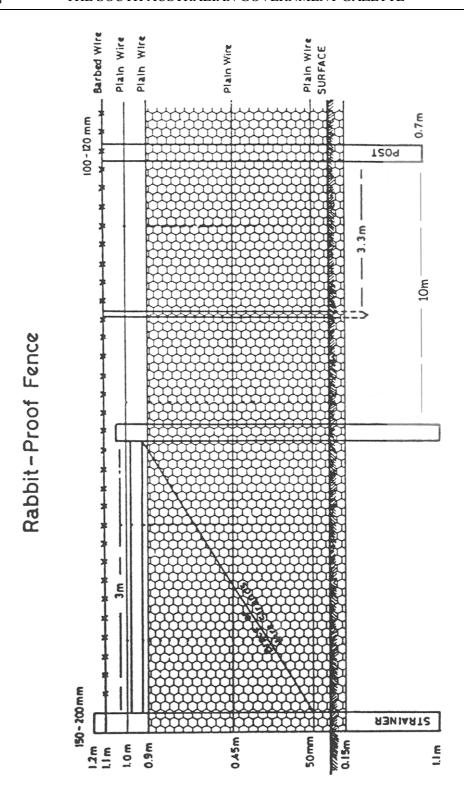


2—Prescribed requirements for rabbit-proof fences

For the purposes of the definition of *animal-proof fence* in section 3(1) of the Act, a rabbit-proof fence is a fence that consists of—

(a) strainers that—

- (i) are not less than 150mm in diameter and not more than 200mm in diameter; and
- (ii) are placed 150m apart, 1.1m under the ground and protrude 1.2m above the ground; and
- (b) posts that—
 - (i) are at least 100mm in diameter but not more than 120mm in diameter; and
 - (ii) are placed 10m apart, 0.7m in the ground and protrude 1.1m above the ground; and
- (c) droppers at 3.3m intervals between the posts; and
- (d) 4 plain fence wires—
 - (i) each of which is 2.4mm in diameter; and
 - (ii) that are placed at intervals of 50mm, 0.45m, 0.9m and 1.0m above the ground; and
- (e) 1 barbed wire that is placed 1.1m above the ground; and
- (f) wire netting that—
 - (i) has a gauge of at least 1.4mm; and
 - (ii) has a width of 1.05m; and
 - (iii) has a maximum mesh of 30mm; and
 - (iv) 150mm of which is placed under the ground and 0.9m of which protrudes above the ground; and
 - (v) is secured to the lower 3 plain fence wires with galvanised tie iron 1.44mm in diameter and not more than 0.5m apart on the highest of the 3 wires and not more than 0.75m apart on the lower 2 wires; and
- (g) struts on the corner strainers that are either—
 - (i) single diagonal struts (on which are placed barriers to prevent the entry of rabbits if the struts are placed outside the netting); or
 - (ii) double post and brace rail struts.



Schedule 2—Water affecting activities

1—Prescribed commercial forestry activities

(1) Subject to subclause (3), establishing or expanding a commercial forest in an area referred to in subclause (4) is specified under this Schedule.

- (2) For the purposes of subclause (1), the expansion of a commercial forest will be taken to include a situation where there is to be an increase in the land that is to be planted with trees for the purposes of a commercial forest.
- (3) Subclause (1) does not apply if—
 - (a) the commercial forest is situated, or to be situated, on a farm; and
 - (b) the total area of the commercial forest does not exceed, or will not exceed, 10% of the total area of land within the farm that is available for farm purposes.
- (4) The following are the areas for the purposes of subclause (1):
 - (a) the whole of the area of the District Council of Grant;
 - (b) the whole of the area of The District Council of Robe;
 - (c) the whole of the area of the Wattle Range Council;
 - (d) that part of the area of the Naracoorte Lucindale Council comprising the Hundreds of Fox, Coles, Townsend, Conmurra, Joyce, Spence, Robertson, Naracoorte, Jessie and Joanna;
 - (e) that part of the area of the Kingston District Council comprising the Hundreds of Mount Benson and Bowaka.

(5) In this clause—

commercial forest means a forest plantation where the forest vegetation is grown or maintained so that it can be harvested or used for commercial purposes (including through the commercial exploitation of the carbon absorption capacity of the forest vegetation);

farm means a place being used solely or predominantly for the business of agriculture, pasturage, horticulture, viticulture, animal farming or any other business consisting of the cultivation of soils, the gathering in of crops or the rearing of livestock, other than where the sole or predominant use is commercial forestry.

Schedule 3—Declaration concerning produce or goods carrying plants

Natural Resources Management Act 2004 section 177

Produce/Goods Contamination Declaration (SA)

This vendor declaration applies to any animal, plant, soil, vehicle, farming implement or other produce, goods, material or other thing offered for sale.

Description of item or material	Quantity	Consigned to (name/address)

A plant, as defined under the Act, includes the seeds or other propagules of that plant. It does not include material incapable of growth, such as seasoned timber.

Declaration 1

To the best of my knowledge, the items or material offered for sale are free from contamination by any plant declared under the *Natural Resources Management Act 2004* to be a plant to which section 177 of that Act applies.

<u>Declaration 2</u> (Delete if not applicable)

However, I am aware that the items or material offered for sale are contaminated with the following plant declared under the *Natural Resources Management Act 2004* to be a plant to which section 178 of that Act applies:

The following must be completed and sign	ed by the vendor or his/her agent:
I	of ¹
	Telephone:
declare that the information I have provide best of my knowledge.	d in this Declaration is true and accurate to the
Signed	Date

Insert full contact address

Schedule 4—Fees

1	Application for a permit under Chapter 7 of the Act, other than an application for a permit to drill a well	\$38.50
2	Application for a permit to drill a well	\$60.00 plus a technical assessment fee of an amount not exceeding \$120.00 determined by the Minister after taking into account any advice from his or her department about the costs associated with assessing the application
3	Maximum fee under section 138 of the Act	\$1.05 per page
4	Application for a well driller's licence—	
	(a) for a new licence	\$179.00
	(b) for the renewal of a licence	\$92.00
5	Application for the variation of a well driller's licence	\$137.00
6	Application for a water licence	\$159.50
7	Maximum fee under section 149 of the Act	\$1.05 per page
8	Application to transfer a water licence	\$300.00 plus a technical assessment fee of \$200.00
9	Application to vary a water licence on transfer of an allocation	\$300.00 plus a technical assessment fee of \$200.00
10	Additional fee where Minister directs an assessment by an expert under section 151(6) or 158(2) of the Act (and the expenses of the assessment are to be paid by the applicant in addition to this fee)	\$132.00
11	Application to vary a licence for any other reason	\$300.00 plus a technical assessment fee of \$200.00
12	Application for a permit under section 188 of the Act—	
	(a) in relation to a Category 1 or Category 2 animal	\$250.00
	(b) in relation to a Category 1 or Category 2 plant	\$70.00
	(c) in relation to a Category 3 animal or plant	\$70.00
13	Maximum fee for a copy of an annual report under the Act	\$1.20 per page
14	Maximum fee for a copy of a submission under section 42 of the Act	\$1.05 per page
15	Maximum fee for a copy of the State NRM Plan or any amendments to the State NRM Plan	\$1.20 per page
16	Maximum fee for a copy of a document under section 83 of the Act	\$1.05 per page
17	Maximum fee for a copy of an agenda or minutes under Schedule 1 of the Act	\$1.20 per page
18	Application for notation on NRM Register or for the removal of a notation	\$6.15
19	Fee for providing information required by the Land and Business (Sale and Conveyancing) Act 1994	\$17.90

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

on the recommendation of the Minister and with the advice and consent of the Executive Council on $30 \, \text{June} \, 2005$

No 152 of 2005

EC04/0068CS

South Australia

Natural Resources Management (Financial Provisions) Regulations 2005

under the Natural Resources Management Act 2004

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Schedule 1—Fees

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Natural Resources Management (Financial Provisions) Regulations 2005*.

2—Commencement

These regulations will come into operation on 1 July 2005.

3—Interpretation

In these regulations—

Act means the Natural Resources Management Act 2004;

prime bank rate for a particular financial year means the corporate loan reference rate applied by the Commonwealth Bank of Australia for corporate lending on the first trading day of the Bank in that financial year.

Part 2—Financial matters

4—Interest payable by councils

Interest accrues under section 93(1) of the Act from the date on which the instalment was payable under that section at the prime bank rate for the relevant financial year, calculated in respect of each month (or part of a month) for which the relevant amount remains unpaid.

5—Interest payable in cases of default

- (1) Interest accrues on an unpaid levy and on an unpaid instalment of levy under section 110 of the Act from the date stated for payment of the levy or instalment in the notice imposing the levy or instalment.
- (2) Interest accrues on unpaid interest under section 110 of the Act at six monthly intervals from the date referred to in subregulation (1).
- (3) Any interest—
 - (a) that accrues under subregulation (1) or (2); or
 - (b) that is liable to be paid under section 123(16), 183(13), 185(4), 194(5)(a), 196(5)(a) or 197(9)(a) of the Act,

will be interest equal to the prime bank rate for the relevant financial year, calculated in respect of each month (or part of a month) for which the relevant amount remains unpaid.

6—Levy first charge on land

- (1) The charge created by section 112 of the Act will correspond to a mortgage in favour of the Minister over the relevant land that ranks ahead of any registered mortgage, encumbrance or charge.
- (2) For the purposes of subregulation (1), the *relevant land* is—
 - (a) in the case of an OC-NRM levy—the land in respect of which the levy has been imposed;
 - (b) in the case of an NRM water levy—the land where the water is used or applied.

7—Form of consent—special purpose water levy

The consent referred to in section 103(5) of the Act must be in a form determined by the Minister.

8—Recovery costs

(1) The Minister may from time to time, by notice in the Gazette, determine a charge that may be imposed on account of any steps that may be taken by the Department in the administration of the Act if a person fails to pay an NRM water levy in accordance with the requirements of the Act.

- (2) The charge must not exceed the Minister's determination of the reasonable costs to the Department in taking the relevant steps.
- (3) The charge will be recoverable as a debt due to the Crown.

9—Recovery of penalty under section 115

Pursuant to section 115(5) of the Act, the following sections of Chapter 5 of the Act are prescribed:

- (a) section 106;
- (b) section 110;
- (c) sections 112 and 113;
- (d) section 116.

10-NRM Fund

For the purposes of section 117(2)(e) of the Act, the prescribed percentage is 100%.

Part 3—Meters

11—Supply and installation of meters

- (1) In order to determine the quantity of water taken for the purposes of the Act the Minister may—
 - (a) supply, install or seal a meter; or
 - (b) by written notice, direct a person to supply or install a meter.
- (2) The Minister may require—
 - (a) an owner of land on which a meter supplied by the Minister is installed; or
 - (b) the holder of a water licence under which water taken under the licence will be measured by a meter supplied by the Minister (if not an owner of the land),

to pay any costs involved with the supply, installation or sealing of the meter, which will then become a debt due by the owner or the holder of the licence (as the case requires) to the Crown.

(3) A meter supplied by the Minister remains the property of the Minister unless all relevant costs are paid under subregulation (2) or the Minister transfers property in the meter to another person.

12—Meters owned by the Minister

- (1) The holder of a water licence in respect of which a meter owned by the Minister is used to measure the quantity of water taken under the licence is liable for rent for the meter at the rate prescribed in Schedule 1.
- (2) The Minister may enter land on which a meter owned by the Minister is installed to read, inspect, service, maintain, seal, repair or replace the meter.

13—Meters owned by other persons

(1) The Minister may enter land on which a meter owned by a person other than the Minister is installed to read, inspect or seal the meter.

(2) The Minister may, by notice in writing, direct a person to service, maintain, repair, replace or adjust a meter being used by the person if in the Minister's opinion such action is necessary.

14—Provisions applying to meters generally

- (1) Where a meter is used to measure the quantity of water taken at a particular place then—
 - (a) a person must not take water except through the meter;
 - (b) a person must not adjust or alter the meter, or tamper with a seal fixed to the meter, without the authority of the Minister;
 - (c) a person must not damage or destroy the meter;
 - (d) a person must not—
 - (i) cut through or into a pipe to which this paragraph applies;
 - (ii) install a fitting providing access to the inside of a pipe to which this paragraph applies;
 - (iii) change the configuration of, remove, or interfere in any other way with, a pipe to which this paragraph applies,

without the authority of the Minister.

- (2) Subregulation (1)(d) applies to—
 - (a) the pipe connecting the water resource from which water is taken to the meter; and
 - (b) the pipe on the other side of the meter to (and including) the S bend in the pipe or, where there is no S bend, the first T junction or elbow in the pipe, or any other distance of pipe determined in accordance with a specification approved by the Minister.
- (3) A person must not—
 - (a) remove a meter without the authority of the Minister;
 - (b) replace a meter without the authority of the Minister.
- (4) In addition, any responsible person in relation to a meter—
 - (a) must not permit sand, soil or any other material to be deposited on or around the meter; and
 - (b) must not permit deposits of sand, soil or any other material to build up around the meter; and
 - (c) must keep vegetation cleared away from the meter.
- (5) If a meter is damaged or destroyed, a responsible person in relation to the meter must, at the written direction of the Minister, repair or replace the meter.
- (6) In this regulation—

responsible person in relation to a meter means—

- (a) an owner of land on which the meter is installed, other than the Crown or an agency or instrumentality of the Crown; and
- (b) the holder of the water licence under which water taken under the licence is measured (or supposed to be measured) by the meter.

15—Requirements as to installation, repair etc of meters

- (1) If a person is required to comply with a direction under this Part to supply and install a meter or to replace a meter, the new meter must be rated by the manufacturer to an accuracy of at least plus or minus 2 per cent.
- (2) If a person is required to comply with a direction under this Part to install a meter, the meter must be installed in accordance with specifications approved by the Minister.
- (3) If a person is required to comply with a direction under this Part to service, repair, replace or adjust a meter, the person must employ a competent person approved by the Minister to do the work and the work must be done in accordance with specifications approved by the Minister.
- (4) A person who is required to comply with a direction under this Part to service or repair a meter must ensure that only parts that are supplied or approved by the manufacturer of the meter are used.
- (5) If a person is required to comply with a direction under this Part to maintain a meter, he or she must maintain the meter in accordance with specifications approved by the Minister.

16—Testing requirements

- (1) The following requirements are prescribed for the purposes of section 106(5) of the Act.
- (2) The Minister must be given notice (in a manner and form determined by the Minister) at least 48 hours before the commencement of work to remove a meter for testing.
- (3) The security seals attached to the meter may only be removed by a person approved by the Minister.
- (4) The meter must be read—
 - (a) by a person approved by the Minister; or
 - (b) by the relevant person,

immediately before it is removed.

- (5) The reading obtained under subregulation (4) must be provided in writing to the Minister within a period determined by the Minister.
- (6) The meter must be tested by a competent person approved by the Minister.
- (7) The meter must be tested within 5 business days after it is removed or within a longer period determined by the Minister.
- (8) The meter must be tested in accordance with any specifications determined by the Minister.
- (9) A certificate relating to the testing must be provided to the Minister within 10 business days after the meter is tested or within a longer period determined by the Minister.
- (10) The certificate must be in a form determined or approved by the Minister.
- (11) If the meter is found to be outside an accuracy rating of plus or minus 2 per cent, the meter must not be reinstalled unless or until—
 - (a) the meter is refurbished in accordance with a specification determined by the Minister; and
 - (b) the Minister is provided with a certificate of accuracy (certifying the accuracy of the meter to plus or minus 2 per cent).
- (12) The meter must be reinstalled in accordance with specifications approved by the Minister.

- (13) The meter must, on being reinstalled, be sealed by a person approved by the Minister.
- (14) The meter must be read—
 - (a) by a person approved by the Minister; or
 - (b) by the relevant person,

immediately after it is reinstalled.

- (15) The reading obtained under subregulation (14) must be provided in writing to the Minister within a period determined by the Minister.
- (16) Despite a preceding subregulation, a meter may be tested without being removed if the Minister gives his or her approval to this course of action.
- (17) In this regulation—

relevant person means the person who is liable to pay the relevant levy, as contemplated by section 106(5) of the Act.

17—Compliance with Part

(1) A person who fails to comply with a direction of the Minister under this Part or who contravenes or fails to comply with a provision of this Part is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$250.

- (2) Subregulation (1) does not apply in relation to regulation 16 (which is subject to enforcement under section 106(5) of the Act).
- (3) If a person fails to comply with a direction of the Minister under this Part or contravenes or fails to comply with a provision of this Part, the Minister may enter the land concerned and take such action as the Minister thinks fit to remedy the contravention or failure and the Minister's costs will be a debt due to the Crown by the person who has contravened or failed to comply with the provision or failed to comply with the direction.

Schedule 1—Fees

Rent for meter for a period of 12 months or less ending on 30 June—

Nomina	l size of meter—	
(a)	less than 50mm	\$146
(b)	50 to 100mm	\$212
(c)	150 to 175mm	\$314
(d)	200 to 380mm	\$357
(e)	407 to 610mm	\$430
Fee for testing meter under section 106(4) of the Act		Estimated cost determined by the Minister
Fee for reading meter at request of licensee		Estimated cost determined by the Minister

Note—

As required by section 10AA(2) of the Subordinate Legislation Act 1978, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

on the recommendation of the Minister and with the advice and consent of the Executive Council on 30 June 2005

No 153 of 2005

EC04/0068CS

South Australia

Regulations Variation and Revocation (Natural Resources Management) Regulations 2005

under the Agricultural and Veterinary Products (Control of Use) Act 2002, the Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986, the Aquaculture Act 2001, the Controlled Substances Act 1984, the Development Act 1993, the Native Vegetation Act 1991, the Natural Gas Authority Act 1967, the Pastoral Land Management and Conservation Act 1989, the Public and Environmental Health Act 1987, the River Murray Act 2003 and the Workers Rehabilitation and Compensation Act 1986

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- 2 Commencement
- 3 Variation provisions

Part 2—Variation of Agricultural and Veterinary Products (Control of Use) Regulations 2004

4 Variation of Schedule 2—Restricted agricultural and veterinary products

Part 3—Variation of Aquaculture Regulations 2002

5 Variation of regulation 4—Bodies to which draft aquaculture policies must be referred (section 12(4)(a))

Part 4—Variation of Controlled Substances (Poisons) Regulations 1996

6 Variation of regulation 16—Possession (section 22)

Part 5—Variation of Development Regulations 1993

- 7 Variation of regulation 6A—Significant trees
- 8 Variation of regulation 14—Prescribed plans etc
- 9 Variation of Schedule 5—Requirements as to plans and specifications
- 10 Variation of Schedule 8—Referrals and concurrences

Part 6—Variation of Native Vegetation Regulations 2003

11 Variation of regulation 5—Exemptions

Part 7—Variation of Natural Gas Authority Regulations 1995

12 Variation of Schedule—Prescribed form of pipeline lease

Part 8—Variation of Pastoral Land Management and Conservation Regulations 1991

Variation of regulation 5—Other Acts to be complied with by lessees

Part 9—Variation of Public and Environmental Health (Waste Control) Regulations 1995

14 Variation of regulation 12A—Approval of disposal or reuse of waste

Part 10—Variation of River Murray Regulations 2003

Variation of regulation 5—Consultation—section 9(2)(a)

Part 11—Variation of Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999

Variation of Schedule 6—Section 61—agencies and instrumentalities of the Crown

Part 12—Revocation of Animal and Plant Control (Agricultural Protection and Other Purposes) Regulations 2002

17 Revocation of Animal and Plant Control (Agricultural Protection and Other Purposes) Regulations 2002

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Regulations Variation and Revocation (Natural Resources Management) Regulations 2005.*

2—Commencement

These regulations will come into operation on 1 July 2005.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of Agricultural and Veterinary Products (Control of Use) Regulations 2004

4—Variation of Schedule 2—Restricted agricultural and veterinary products

Schedule 2—delete "Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986" wherever occurring and substitute:

Natural Resources Management Act 2004

Part 3—Variation of Aquaculture Regulations 2002

5—Variation of regulation 4—Bodies to which draft aquaculture policies must be referred (section 12(4)(a))

(1) Regulation 4(v)(iii)—delete "catchment water management board (within the meaning of the *Water Resources Act 1997*)" and substitute:

regional NRM board (within the meaning of the *Natural Resources Management Act 2004*)

(2) Regulation 4(w)(i)—delete "catchment water management boards (within the meaning of the *Water Resources Act 1997*)" and substitute:

regional NRM boards (within the meaning of the *Natural Resources Management Act 2004*)

Part 4—Variation of Controlled Substances (Poisons) Regulations 1996

6—Variation of regulation 16—Possession (section 22)

- (1) Regulation 16(2)(c)—delete paragraph (c) and substitute:
 - (c) sodium fluoroacetate if—
 - (i) the sodium fluoroacetate is a constituent of baits designed for destroying wild rabbits, dingoes or foxes; and
 - (ii) the concentration of sodium fluoroacetate in each bait does not exceed 0.04 per cent; and
 - (iii) the total amount of sodium fluoroacetate present in the particular quantity of baits for destroying wild rabbits, dingoes or foxes does not exceed 10 grams; and
 - (iv) the person—
 - (A) has the written approval of a regional NRM board under the *Natural Resources Management Act 2004* to acquire and possess those baits; and
 - (B) acquires the baits from a supplier approved by the Chief Officer; and
 - (C) complies with any conditions imposed by the Chief Officer on granting the approval to acquire and possess baits
- (2) Regulation 16(3)—delete subregulation (3) and substitute:
 - (3) A regional NRM board that granted an approval under subregulation (2)(c)(iv)(A) may, in relation to the approval—
 - (a) impose such conditions as it thinks fit; and
 - (b) for such reasons as it thinks fit, vary or revoke the approval.
 - (3a) The Chief Officer may, in relation to an approval under subregulation (2)(c)(iv)(B) or (C)—
 - (a) impose such conditions as he or she thinks fit; and
 - (b) for such reasons as he or she thinks fit, vary or revoke the approval.
- (3) Regulation 16(5)—delete subregulation (5)
- (4) Regulation 16(6)—before the definition of *Metropolitan Adelaide* insert:

Chief Officer means the Chief Officer under the *Natural Resources Management Act 2004* (and includes a person acting in that office from time to time);

Part 5—Variation of Development Regulations 1993

7—Variation of regulation 6A—Significant trees

Regulation 6A(6)(b)—delete paragraph (b) and substitute:

(b) a tree belonging to a class of plants to which a declaration by the Minister under Chapter 8 Part 1 of the *Natural Resources Management Act 2004* applies; or

8—Variation of regulation 14—Prescribed plans etc

Regulation 14—after paragraph (g) insert:

(h) an NRM plan prepared under Chapter 4 of the *Natural Resources Management Act 2004* (or a part of any such plan).

9—Variation of Schedule 5—Requirements as to plans and specifications

Schedule 5 clause 7(1)—delete "Water Resources Act 1997" and substitute:

Natural Resources Management Act 2004

10—Variation of Schedule 8—Referrals and concurrences

(1) Schedule 8, clause 2, item 12(1), column 1—delete "section 9(3)(d) or (4)(a) of the *Water Resources Act 1997* if it were not for the operation of 12(1)(d) of that Act" and substitute:

section 127(3)(d) or (5)(a) of the *Natural Resources Management Act 2004* if it were not for the operation of section 129(1)(e) of that Act (on the basis that the referral required by virtue of this item operates in conjunction with section 129(1)(e) of that Act)

(2) Schedule 8, clause 2, item 12(1), column 2 delete—"Water Resources Act 1997 who would, but for 12(1)(d)" and substitute:

Natural Resources Management Act 2004 who would, if it were not for the operation of section 129(1)(e) of that Act

(3) Schedule 8, clause 2, item 12(2), column 1—delete the material appearing in column 1 of item 12(2) and substitute:

Development that involves a change in use of land for the purposes of establishing or expanding a commercial forest within a prescribed area under clause 1(2a) where a permit would be required under section 127(3) of the *Natural Resources*Management Act 2004 by virtue of the operation of regulation 13 of the Natural Resources Management (General) Regulations 2005 if it were not for the operation of section 129(1)(e) of that Act (on the basis that the referral required by virtue of this item operates in conjunction with section 129(1)(e) of that Act)

(4) Schedule 8, clause 2, item 12(2), column 2—delete "Water Resources Act 1997" and substitute:

Natural Resources Management Act 2004

(5) Schedule 8, clause 2, item 12A—delete "*Water Resources Act 1997*" wherever occurring and substitute in each case:

Natural Resources Management Act 2004

(6) Schedule 8, clause 2, item 12A(b)—delete "section 16" and substitute:

section 132

(7) Schedule 8, clause 2, item 16, column 1—delete "section 16 of the *Water Resources Act 1997*" and substitute:

section 132 of the Natural Resources Management Act 2004

- (8) Schedule 8, clause 2, item 16, column 2—delete "Water Resources Act 1997" and substitute: Natural Resources Management Act 2004
- (9) Schedule 8, clause 2, item 19(d)—delete paragraph (d) and substitute:
 - (d) the development comprises or includes an activity for which a permit would be required under section 127(3)(d), (3)(f) or (5)(a) of the *Natural Resources Management Act 2004* if it were not for the operation of section 129(1)(e) of that Act (on the basis that the referral required by virtue of this paragraph operates in conjunction with section 129(1)(e) and (3)(a) of that Act);
- (10) Schedule 8, clause 2, item 20(b)—delete paragraph (b) and substitute:
 - (b) the development comprises or includes an activity for which a permit would be required under section 127(3)(d), (3)(f) or (5)(a) of the *Natural Resources Management Act 2004* if it were not for the operation of section 129(1)(e) of that Act (on the basis that the referral required by virtue of this paragraph operates in conjunction with section 129(1)(e) and (3)(a) of that Act);
- (11) Schedule 8, clause 2, item 21—delete "Water Resources Act 1997" and substitute:

Natural Resources Management Act 2004

Part 6—Variation of Native Vegetation Regulations 2003

11—Variation of regulation 5—Exemptions

(1) Regulation 5(1)(zk)(i)—delete "Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986" and substitute:

Natural Resources Management Act 2004

(2) Regulation 5(1)(zk)(ii)—delete "after consultation with the Animal and Plant Control Commission (in addition to any other consultation required by that section)"

Part 7—Variation of Natural Gas Authority Regulations 1995

12—Variation of Schedule—Prescribed form of pipeline lease

- (1) Schedule, clause 7(a)—delete paragraph (a)
- (2) Schedule, clause 7(d)—delete paragraph (d)
- (3) Schedule, clause 7—after paragraph (e) insert:

Natural Resources Management Act 2004.

Part 8—Variation of Pastoral Land Management and Conservation Regulations 1991

13—Variation of regulation 5—Other Acts to be complied with by lessees

Regulation 5(c)—delete paragraph (c)

Part 9—Variation of Public and Environmental Health (Waste Control) Regulations 1995

14—Variation of regulation 12A—Approval of disposal or reuse of waste

Regulation 12A—delete "section 9 of the *Water Resources Act 1997*" wherever occurring and substitute:

section 127 of the Natural Resources Management Act 2004

Part 10—Variation of River Murray Regulations 2003

15—Variation of regulation 5—Consultation—section 9(2)(a)

Regulation 5(1)(a)(iv)—delete "the River Murray Catchment Water Management Board" and substitute:

the South Australian Murray Darling Basin regional NRM board;

Part 11—Variation of Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999

16—Variation of Schedule 6—Section 61—agencies and instrumentalities of the Crown

(1) Schedule 6, Part 1—after "Aboriginal Health Council." insert:

Adelaide and Mount Lofty Ranges Regional NRM Board

(2) Schedule 6, Part 1—after "Adelaide Convention Centre." insert:

Alinytjara Wilurara Regional NRM Board

(3) Schedule 6, Part 1—after "Eudunda and Kapunda Health Service Inc." insert:

Eyre Peninsula Regional NRM Board

(4) Schedule 6, Part 1—after "Julia Farr Centre." insert:

Kangaroo Island Regional NRM Board

(5) Schedule 6, Part 1—after "Northern and Far Western Regional Health Service Inc." insert: Northern and Yorke Regional NRM Board

(6) Schedule 6, Part 1—after "S.A. Ambulance Service" insert:

South Australian Arid Lands Regional NRM Board South Australian Murray Darling Basin regional NRM board

(7) Schedule 6, Part 1—after "South Coast District Hospital Inc." insert:

South East Regional NRM Board

Part 12—Revocation of Animal and Plant Control (Agricultural Protection and Other Purposes) Regulations 2002

17—Revocation of Animal and Plant Control (Agricultural Protection and Other Purposes) Regulations 2002

The Animal and Plant Control (Agricultural Protection and Other Purposes) Regulations 2002 are revoked.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

after consultation with the Controlled Substances Advisory Counsel and with the advice and consent of the Executive Council

on 30 June 2005

No 154 of 2005

EC04/0068CS

South Australia

Security and Investigation Agents Variation Regulations 2005

under the Security and Investigation Agents Act 1995

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of Security and Investigation Agents Regulations 1996

4 Variation of Schedule 2

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Security and Investigation Agents Variation Regulations 2005*.

2—Commencement

These regulations will come into operation on 1 July 2005 immediately after the *Security* and *Investigation Agents Variation Regulations* 2005 published in the Gazette 26 May 2005 p 1577.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of Security and Investigation Agents Regulations 1996

4—Variation of Schedule 2

(1) Schedule 2, clause 2(a)(i)—delete "\$134.00" and substitute:

\$210.00

(2) Schedule 2, clause 2(a)(ii)—delete "\$329.00" and substitute:

\$440.00

(3) Schedule 2, clause 2(b)—delete "\$496.00" and substitute:

\$575.00

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

No 155 of 2005

OCBACS013/05

South Australia

Daylight Saving Regulations 2005

under the Daylight Saving Act 1971

Contents

- 1 Short title
- 2 Commencement
- 3 South Australian summer time 2005-2006

Schedule 1—Revocation of Daylight Saving Regulations 2004

1—Short title

These regulations may be cited as the Daylight Saving Regulations 2005.

2—Commencement

These regulations will come into operation 4 months after the day on which they are made (see *Subordinate Legislation Act 1978* section 10AA).

3—South Australian summer time 2005-2006

The period for observance of South Australian summer time for 2005-2006 is the period from 2.00 am South Australian standard time on 30 October 2005 until 3.00am South Australian summer time on 2 April 2006.

Schedule 1—Revocation of Daylight Saving Regulations 2004

The Daylight Saving Regulations 2004 are revoked.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

No 156 of 2005

MIR05/007

South Australia

Liquor Licensing (Dry Areas—Long Term) Variation Regulations 2005

under the Liquor Licensing Act 1997

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of Liquor Licensing (Dry Areas—Long Term) Regulations 1997

4 Variation of Schedule 1—Long term dry areas

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Liquor Licensing (Dry Areas—Long Term) Variation Regulations 2005*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of Liquor Licensing (Dry Areas—Long Term) Regulations 1997

4—Variation of Schedule 1—Long term dry areas

- (1) Schedule 1, item headed "Port Pirie—Area 1", column headed "Period"—delete "3 June 2005." and substitute:
 - 4 June 2006, provided that where—
 - (a) an event of historic, cultural, traditional or major community significance is held in the area; and
 - (b) the consumption and possession of liquor in the area (or a defined portion of the area) are authorised for a specified period for the purposes of the event by the Port Pirie Regional Council,

the prohibition does not apply in the area (or defined portion of the area) during that specified period.

The Port Pirie Regional Council may not grant authorisations under these regulations in relation to more than 3 events per calendar year.

(2) Schedule 1, item headed "Port Pirie—Area 2", column headed "Period"—delete "3 June 2005." and substitute:

4 June 2006, provided that where—

- (a) an event of historic, cultural, traditional or major community significance is held in the area; and
- (b) the consumption and possession of liquor in the area (or a defined portion of the area) are authorised for a specified period for the purposes of the event by the Port Pirie Regional Council,

the prohibition does not apply in the area (or defined portion of the area) during that specified period.

The Port Pirie Regional Council may not grant authorisations under these regulations in relation to more than 3 events per calendar year.

(3) Schedule 1, item headed "Port Pirie—Area 3", column headed "Period"—delete "3 June 2005." and substitute:

4 June 2006, provided that where—

- (a) an event of historic, cultural, traditional or major community significance is held in the area; and
- (b) the consumption and possession of liquor in the area (or a defined portion of the area) are authorised for a specified period for the purposes of the event by the Port Pirie Regional Council,

the prohibition does not apply in the area (or defined portion of the area) during that specified period.

The Port Pirie Regional Council may not grant authorisations under these regulations in relation to more than 3 events per calendar year.

Note-

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

with the advice and consent of the Executive Council on 30 June 2005

No 157 of 2005

OLGC97/0117

South Australia

National Electricity (South Australia) Variation Regulations 2005

under Part 4 of the National Electricity (South Australia) Act 1996

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *National Electricity (South Australia) Variation Regulations 2005*.

2—Commencement

These regulations will come into operation on the day on which section 12 of the *National Electricity (South Australia) (New National Electricity Law) Amendment Act 2005* comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of National Electricity (South Australia) Regulations

4—Substitution of regulations 3 to 12

Regulations 3 to 12 (inclusive)—delete the regulations and substitute:

3—Interpretation

In these regulations—

commencement date of the new National Electricity Law means the date of commencement of section 12 of the National Electricity (South Australia) (New National Electricity Law) Amendment Act 2005;

NECA means National Electricity Code Administrator Limited ACN073 942 775;

new National Electricity Law means the National Electricity Law as in force on or after the commencement date of the new National Electricity Law;

old National Electricity Law means the National Electricity Law as in force before the commencement date of the new National Electricity Law.

4—Jurisdictional regulator—Tasmania

For the purposes of paragraph (h) of the definition of *jurisdictional regulator* in section 2 of the new National Electricity Law, in relation to the State of Tasmania as a participating jurisdiction, the Regulator within the meaning of the *Electricity Supply Industry Act 1995* of Tasmania is a jurisdictional regulator of Tasmania.

5—Relevant participant

- (1) For the purposes of the definition of *relevant participant* in section 2 of the new National Electricity Law—
 - (a) a Registered participant is not a relevant participant to the extent that the Registered participant is acting in the capacity of a Metering Provider under the Rules; and
 - (b) an applicant within the meaning of clause 2.9.3 of the Rules is a relevant participant to the extent that the person would have been a Registered participant if the person had not been exempted under that clause from the requirement to register as a Generator or Network Service Provider; and
 - (c) a connection applicant who is not a Registered participant is a relevant participant but only for the purposes of clause 8.2 of the Rules
- (2) Terms used in subregulation (1) that are defined in the Rules have the same respective meanings in that subregulation as in the Rules.

6—Civil penalty provisions

- (1) For the purposes of paragraph (c) of the definition of *civil penalty provision* in section 58 of the new National Electricity Law, the provisions of the Rules in Schedule 1 are civil penalty provisions.
- (2) For the purposes of the definition of *rebidding civil penalty provision* in section 58 of the new National Electricity Law, clause 3.8.22A of the Rules is a rebidding civil penalty provision.

7—Relevant Parts of Commercial Arbitration Act—Commonwealth and Tasmania

For the purposes of paragraph (f) of the definition of *relevant Parts of the Commercial Arbitration Act of this jurisdiction* in section 71(3) of the new National Electricity Law—

- (a) in relation to the Commonwealth as a participating jurisdiction—Parts 3, 4 and 5 of the *Commercial Arbitration Act 1986* of the Australian Capital Territory are prescribed as corresponding to Parts III, IV and V of the *Commercial Arbitration Act 1986* of South Australia; and
- (b) in relation to the State of Tasmania as a participating jurisdiction—Parts III, IV and V of the Commercial Arbitration Act 1986 of Tasmania are prescribed as corresponding to Parts III, IV and V of the Commercial Arbitration Act 1986 of South Australia.

8—Content of requests for Rule

- (1) For the purposes of section 92(1)(a) of the new National Electricity Law, a request for the making of a Rule must contain the following information:
 - (a) the name and address of the person making the request;
 - (b) a description of the Rule that the person proposes be made, including, if the request is for a derogation, a statement as to whether the derogation is a jurisdictional derogation or a participant derogation;
 - (c) a statement of the issue concerning the existing Rules that is to be addressed by the proposed Rule and an explanation of how the proposed Rule would address the issue;
 - (d) an explanation of how the proposed Rule would or would be likely to contribute to the achievement of the national electricity market objective.
- (2) A request under section 92(1) of the new National Electricity Law for the making of a Rule must be in writing.

5—Variation of regulation 13—System operations functions or powers

(1) Regulation 13(1)—after "section 77A of the" insert:

old

- (2) Regulation 13(2)—delete subregulation (2) and substitute:
 - (2) For the purposes of section 119(7) of the new National Electricity Law, the following are prescribed as a system operations function or power:
 - (a) a function or power of NEMMCO under the Rules performed or exercised as an agent engaged, or delegate appointed, by NEMMCO under clause 4.3.3(a)(1) of the Rules;
 - (b) a function or power that NEMMCO could have performed or exercised under the Rules performed or exercised pursuant to a contractual arrangement with NEMMCO under clause 4.3.3(a)(2) of the Rules;
 - (c) the provision of information to NEMMCO in relation to the performance or exercise of a function or power referred to in paragraph (a) or (b);
 - (d) the provision of information to NEMMCO for the purposes of clause 3.13.3(f), (g), (i) or (n), 4.5.1(b) or (c), 4.6.1(a), 4.6.2 or 4.6.5(a) of the Rules;
 - (e) the provision of information to NEMMCO for the purposes of clause 3.11.2(b) or 4.3.4(d) of the Rules insofar as the compiling of the information involves analysis, judgements or calculations;

- (f) the development of procedures for the purposes of clause 4.10.1(b) of the Rules;
- (g) a function under any of the following clauses of the Rules:
 - (i) clause 4.3.4(a), (b), (c) or (f);
 - (ii) clause 4.6.5(c);
 - (iii) clause 4.10.3(a);
 - (iv) clause 4.10.5(b);
 - (v) clause 4.11.2(a) or (d);
- (h) the disconnection or reconnection of a facility as contemplated by the power system operating procedures defined in clause 4.10.1(a) of the Rules insofar as the disconnection or reconnection is performed by—
 - (i) a Transmission Network Service Provider; or
 - (ii) a Distribution Network Service Provider at the direction of a Transmission Network Service Provider;
- (i) the disconnection of a Registered participant's facilities or market loads under clause 5.9.3(a)(1), (2) or (3) of the Rules;
- (j) the reconnection of a Registered participant's facilities under clause 5.9.6(a) or (b) of the Rules;
- (k) action taken as directed by NEMMCO under any of the following clauses of the Rules:
 - (i) clause 5.9.3;
 - (ii) clause 5.9.5;
 - (iii) clause 5.9.6;
- (1) the provision and maintenance of communications systems between a communications interface at a power station and the control centre as required under clause S5.2.6.3 of Schedule 5.2 of the Rules;
- (m) the provision and maintenance of equipment by means of which routine and emergency control telephone calls may be made as required under clause S5.2.6.3(a) of Schedule 5.2 of the Rules;
- (n) the provision and maintenance of a telephone link or radio installation as required under clause S5.2.6.3(b) of Schedule 5.2 of the Rules.
- (3) Terms used in subregulation (1) that are defined in the Code have the same respective meanings in that subregulation as in the Code.
- (4) Terms used in subregulation (2) that are defined in the Rules have the same respective meanings in that subregulation as in the Rules.

6—Variation of regulation 14—Maximum civil monetary liabilities of NEMMCO or network service providers

- (1) Regulation 14(1)—after "section 77A(4)(c) of the" insert:
 - old National Electricity Law and section 119(3) of the new
- (2) Regulation 14(2)(e)—after "NECA" insert:
 - , or, after the commencement date of the new National Electricity Law, by the AER,
- (3) Regulation 14(3)—after the definition of *prescribed amount* insert:
 - prescribed day means 13 November 1999;
- (4) Regulation 14(3), definition of *prescribed 12 month period*—after paragraph (f) insert:

or

- (g) the period of 12 months from the end of the period referred to in paragraph (f); or
- (h) the period of 12 months from the end of the period referred to in paragraph (g);
- (5) Regulation 14(3), definition of *relevant event*—delete "6 years" wherever occurring and substitute in each case:

8 years

- (6) Regulation 14(3), definition of *relevant event*—after "under the" wherever occurring insert: old
- (7) Regulation 14(3), definition of *relevant event*—after "Code" wherever occurring insert: or the new National Electricity Law or the Rules

7—Substitution of Schedule

Schedule—delete the Schedule and substitute:

Schedule 1—Civil penalty provisions

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SCHEDULE 9A3		
clause 6.3(a) - (b)		

Schedule 2—Transitional and savings provisions

Part 1—Interpretation

1—Interpretation

(1) In this Schedule—

ACCC means the Australian Competition and Consumer Commission established by section 6A of the *Trade Practices Act 1974* of the Commonwealth.

- (2) Terms used in this Schedule that are defined in the Code have, when used in this Schedule in reference to matters under the Code, the same respective meanings as in the Code.
- (3) Terms used in this Schedule that are defined in the Rules have, when used in this Schedule in reference to matters under the Rules, the same respective meanings as in the Rules.

Part 2—Transitional and savings provisions

2—Continuation of Advocacy Panel

On the commencement date of the new National Electricity Law—

- (a) the persons appointed under clause 8.10 of the Code, and comprising the Advocacy Panel immediately before the commencement date, are to be taken to be the persons appointed to comprise the Advocacy Panel within the meaning of the Rules; and
- (b) the Advocacy Panel within the meaning of the Rules is to be taken to be the same body as the Advocacy Panel established under clause 8.10 of the Code.

3—Continuation of Inter-regional Planning Committee

On the commencement date of the new National Electricity Law—

- (a) the persons appointed under clause 5.6.3 of the Code, and comprising the Inter-regional Planning Committee immediately before the commencement date, are to be taken to be the persons appointed to comprise the Inter-regional Planning Committee within the meaning of the Rules; and
- (b) the Inter-regional Planning Committee within the meaning of the Rules is to be taken to be the same body as the Inter-regional Planning Committee established under clause 5.6.3 of the Code.

4—Continuation of settlement residue committee

On the commencement date of the new National Electricity Law—

- (a) the persons appointed under clause 3.18.5 of the Code, and comprising the settlement residue committee immediately before the commencement date, are to be taken to be the persons appointed to comprise the settlement residue committee within the meaning of the Rules; and
- (b) the settlement residue committee within the meaning of the Rules is to be taken to be the same body as the settlement residue committee established under clause 3.18.5 of the Code.

5—Continuation of Dispute Resolution Adviser, pool of persons for Dispute Resolution Panels, and Dispute Resolution Panels

- (1) On the commencement date of the new National Electricity Law, the person or persons appointed under clause 8.2.2(a) of the Code to perform the functions of the Adviser (within the meaning of the Code), and in office immediately before the commencement date, are to be taken to be the person or persons appointed to perform the functions of the Adviser within the meaning of the Rules.
- (2) On the commencement date of the new National Electricity Law, the pool of persons established and maintained under clause 8.2.2(e) of the Code by the Adviser (within the meaning of the Code) is to be taken to be the pool of persons established and maintained under the Rules by the Adviser (within the meaning of the Rules) from which the members of a Dispute Resolution Panel (within the meaning of the Rules) may be selected in accordance with the Rules.
- (3) On the commencement date of the new National Electricity Law, any persons who, immediately before the commencement date, comprised a Dispute Resolution Panel established to determine a dispute under clause 8.2.6A(a) of the Code are to be taken to comprise a Dispute Resolution Panel established to determine that dispute under the Rules.

6—Metering Providers

A person who, immediately before the commencement date of the new National Electricity Law, was accredited and registered by NEMMCO under clause 7.4.2 of the Code as a Metering Provider in respect of a particular category of registration is, on the commencement date, to be taken to be accredited and registered by NEMMCO under the Rules as a Metering Provider in respect of that category of registration.

7—Registered Participant Agents

A person who, immediately before the commencement date of the new National Electricity Law, was a Code Participant Agent appointed by a Code Participant (the *Participant*) under clause 4.11.5 of the Code is, on the commencement date, to be taken to be a Registered Participant Agent appointed by the Participant under the Rules.

8—Exemptions relating to appointment of intermediaries

On the commencement date of the new National Electricity Law, an exemption granted by NEMMCO under clause 2.9.3 of the Code and in force immediately before the commencement date is to be taken to be an exemption granted under clause 2.9.3 of the Rules.

9—Classifications relating to generating units, loads, connection points and network services

On the commencement date of the new National Electricity Law—

(a) a generating unit that, immediately before the commencement date, was classified under the Code as a scheduled generating unit, a non-scheduled generating unit, a market generating unit, a nonmarket generating unit or an ancillary service generating unit is to be taken to have been classified as such under the Rules subject to any terms and conditions that were in force in respect of it immediately before the commencement date and that had been imposed by NEMMCO under the Code; and

Note—

see clause 2.2.1(e)(1), (f) and (f1) of the initial National Electricity Rules

(b) a load that, immediately before the commencement date, was classified under the Code as a first tier load, a second tier load, a market load, an intending load, an ancillary service load or a scheduled load is to be taken to have been classified as such under the Rules subject to any terms and conditions that were in force in respect of it immediately before the commencement date and that had been imposed by NEMMCO under the Code; and

Note—

see clauses 2.3.1(b)(1) and (f) and 2.3.4(d) of the initial National Electricity Rules

(c) a connection point that, immediately before the commencement date, was classified under the Code as a market connection point or a market load in relation to a particular person is to be taken to have been classified as such in relation to that person under the Rules subject to any terms and conditions that were in force in respect of it immediately before the commencement date and that had been imposed by NEMMCO under the Code; and

Note—

see clauses 2.3.1(c), 2.3.3(d) and 2.3.4(h) of the initial National Electricity Rules

(d) a network service that, immediately before the commencement date, was classified under the Code as a market network service or a scheduled network service is to be taken to have been classified as such under the Rules subject to any terms and conditions that were in force in respect of it immediately before the commencement date and that had been imposed by NEMMCO under the Code.

Note-

see clauses 2.5.2(a) and 2.5.3(a) of the initial National Electricity Rules

10—Classifications relating to meters

On the commencement date of the new National Electricity Law, a metering installation that, immediately before the commencement date, was classified under the Code as a revenue metering installation or a check metering installation is to be taken to have been classified as such under the Rules.

11—Participant compensation fund

On and from the commencement date of the new National Electricity Law, the Participant compensation fund established by NEMMCO under clause 3.16 of the Code is to be taken to be the Participant compensation fund required to be maintained by NEMMCO under the Rules.

12—Rule funds

On and from the commencement date of the new National Electricity Law, the Code funds established by NEMMCO under section 67 of the old National Electricity Law and clause 1.11 of the Code are to be taken to be the corresponding Rule funds required to be maintained by NEMMCO under the new National Electricity Law and the Rules.

13—Actual and pending Chapter 6 determinations and preliminary action—ACCC

- (1) On the commencement date of the new National Electricity Law, a determination made by the ACCC in accordance with Chapter 6 of the Code and in effect immediately before the commencement date—
 - (a) continues in effect and is to be taken to be a determination made by the AER under the new National Electricity Law and Chapter 6 of the Rules; and

- (b) may be revoked, amended or varied by the AER in accordance with the new National Electricity Law and the Rules as if it were made under the new National Electricity Law and Chapter 6 of the Rules.
- (2) On the commencement date of the new National Electricity Law, a determination made by the ACCC in accordance with clause 9.8.4C of the Code and in effect immediately before the commencement date—
 - (a) continues in effect and is to be taken to be a determination made by the AER under the new National Electricity Law and clause 9.8.4C of the Rules; and
 - (b) may be revoked, amended or varied by the AER in accordance with the new National Electricity Law and the Rules as if it were made under the new National Electricity Law and clause 9.8.4C of the Rules.
- (3) On the commencement date of the new National Electricity Law, any action taken by the ACCC for the purpose of making a determination in accordance with Chapter 6 of the Code that was not made before the commencement date is to be taken to have been taken by the AER for the purpose of making a determination under the new National Electricity Law and Chapter 6 of the Rules.
- (4) Despite subclauses (1) and (2), the question of whether such a determination should be revoked, amended or varied is to be decided by the AER taking into account only matters that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (5) Despite subclause (3), if the ACCC had published a draft determination for the purposes of Chapter 6 of the Code and had not published a final determination in respect of the matter before the commencement date of the new National Electricity Law, then the AER must take any action after the commencement date for the purpose of making the final determination, and make the final determination, as if the provisions that apply are those of the Code as in force immediately before the commencement date (and not those of the new National Electricity Law or the Rules).
- (6) Despite subclauses (3) and (5), if the ACCC had taken action for the purpose of making a determination under clause 2.5.2(c) of the Code and a consequent revenue cap determination in accordance with Chapter 6 of the Code and had not published a draft or final determination in respect of the matter before the commencement date of the new National Electricity Law, then the AER must take any action after the commencement date for the purpose of making any such determination, and make any such determination, in respect of the matter as if the provisions that apply are those of the Code as in force immediately before the commencement date (and not those of the new National Electricity Law or the Rules).

- (7) The question of whether a determination made as referred to in subclause (5) or (6) should be revoked, amended or varied is to be decided by the AER taking into account only matters that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (8) An appeal against or review of—
 - (a) a determination referred to in subclause (1), (2) or (7); or
 - (b) action referred to in subclause (5) or (6),

is to be decided as if the only matters to be taken into account in deciding the appeal or review were those that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.

(9) Subclauses (4), (5), (6), (7) and (8) apply subject to any Rules made after the commencement date of the new National Electricity Law.

14—Actual and pending Chapter 6 determinations and preliminary action—jurisdictional regulator

- (1) On the commencement date of the new National Electricity Law, a determination made by a jurisdictional regulator in accordance with Chapter 6 of the Code and in effect immediately before the commencement date—
 - (a) continues in effect and is to be taken to be a determination made by that jurisdictional regulator under the new National Electricity Law and Chapter 6 of the Rules; and
 - (b) may be revoked, amended or varied by that jurisdictional regulator in accordance with the new National Electricity Law and the Rules as if it were made under the new National Electricity Law and Chapter 6 of the Rules.
- (2) On the commencement date of the new National Electricity Law, any action taken by a jurisdictional regulator for the purpose of making a determination in accordance with Chapter 6 of the Code that was not made before the commencement date is to be taken to have been taken by that regulator for the purpose of making a determination under the new National Electricity Law and Chapter 6 of the Rules.
- (3) Despite subclause (1), the question of whether such a determination should be revoked, amended or varied is to be decided by the jurisdictional regulator taking into account only matters that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.

- (4) Despite subclause (2), if the jurisdictional regulator had published a draft determination for the purposes of Chapter 6 of the Code and had not published a final determination in respect of the matter before the commencement date of the new National Electricity Law, then the jurisdictional regulator must take any action after the commencement date for the purpose of making the final determination, and make the final determination, as if the provisions that apply are those of the Code as in force immediately before the commencement date (and not those of the new National Electricity Law or the Rules).
- (5) Despite subclauses (2) and (4), if the jurisdictional regulator had taken action for the purpose of making a determination under clause 2.5.2(c) of the Code and a consequent revenue cap determination in accordance with Chapter 6 of the Code and had not published a draft or final determination in respect of the matter before the commencement date of the new National Electricity Law, then the jurisdictional regulator must take any action after the commencement date for the purpose of making any such determination, and make any such determination, in respect of the matter as if the provisions that apply are those of the Code as in force immediately before the commencement date (and not those of the new National Electricity Law or the Rules).
- (6) The question of whether a determination made as referred to in subclause (4) or (5) should be revoked, amended or varied is to be decided by the jurisdictional regulator taking into account only matters that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (7) An appeal against or review of—
 - (a) a determination referred to in subclause (1) or (6); or
 - (b) action referred to in subclause (4) or (5),

is to be decided as if the only matters to be taken into account in deciding the appeal or review were those that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.

(8) Subclauses (3), (4), (5), (6) and (7) apply subject to any Rules made after the commencement date of the new National Electricity Law.

15—Continuation of disputes

On and from the commencement date of the new National Electricity Law, any dispute commenced in accordance with the dispute resolution regime set out in clause 8.2 of the Code and not completed before the commencement date must continue to be conducted and completed as if it were a dispute commenced in accordance with the dispute resolution regime under the Rules.

16—Continuation of consultation

On and from the commencement date of the new National Electricity Law, any consultation commenced under provisions of the Code and not completed before the commencement date must continue to be conducted and completed as if it were consultation commenced and conducted under the provisions of the Rules (if any) that correspond to those provisions of the Code.

17—Provision of information and documents

On the commencement date of the new National Electricity Law, any information or document that had been given or provided to the ACCC or NECA under a provision of the Code is to be taken to have been given or provided to the AEMC or the AER under the provision of the Rules (if any) that corresponds to that provision of the Code.

18—Continuation of things done under Code

- (1) On the commencement date of the new National Electricity Law—
 - (a) each rule, principle, guideline, test, standard, procedure, report, protocol or other document (however described) that had been issued, published, made, promulgated, approved, accepted or prepared under, or for the purposes of, a provision of the Code and that was in force for the purposes of the Code, or continued to have some effect or contingent effect for the purposes of the Code, immediately before the commencement date is to be taken to have been issued, published, made, promulgated, approved, accepted or prepared under, or for the purposes of, the provision of the Rules (if any) that corresponds to that provision of the Code; and
 - (b) a relevant action that had been taken under, or for the purposes of, a provision of the Code by any person or body (including the ACCC, NECA, NEMMCO, a jurisdictional regulator, a Code Participant, the Reliability Panel, the Inter-regional Planning Committee, the settlement residue committee, the Dispute Resolution Adviser or a Dispute Resolution Panel) and that continued to have some effect or contingent effect for the purposes of the Code immediately before the commencement date is to be taken to be a relevant action that has been taken under, or for the purposes of, the provision of the Rules (if any) that corresponds to that provision of the Code; and
 - (c) a right, privilege, obligation or liability that had accrued or been acquired or incurred under a provision of the Code and was in existence immediately before the commencement date is to be taken to be a right, privilege, obligation or liability that has accrued or been acquired or incurred under the provision of the Rules (if any) that corresponds to that provision of the Code.

- (2) Subclause (1)(a) applies in respect of a rule, principle, guideline, test, standard, procedure, report, protocol or other document (however described) issued, published, made, promulgated, approved, accepted or prepared by the ACCC or NECA under, or for the purposes of, a provision of the Code despite the fact that the corresponding provision of the Rules (if any) may refer to that rule, principle, guideline, test, standard, procedure, report, protocol or other document being issued, published, made, promulgated, approved, accepted or prepared by the AER or the AEMC.
- (3) Subclause (1)(b) applies in respect of any relevant action taken by the ACCC or NECA under, or for the purposes of, a provision of the Code despite the fact that the corresponding provision of the Rules (if any) may refer to the relevant action being taken by the AER or the AEMC.
- (4) For the purposes of subclause (1)(b), *relevant action* means the doing of anything, including (without limitation) any of the following:
 - (a) the performance or exercise of any function, power, obligation or right;
 - (b) the making or publishing of any determination, decision, declaration or recommendation;
 - (c) the issuing, publishing, making, preparing, promulgation, approval or acceptance of any rule, principle, guideline, test, standard, procedure, report, protocol or other document;
 - (d) the issuing, giving, publishing, lodging or providing or service or receipt of any statement, invoice, communication, notice or other document;
 - (e) the establishment of any criteria, process or procedure;
 - (f) the giving or receipt of any approval or acceptance;
 - (g) the giving or receipt of any direction or instruction;
 - (h) the making of any requirement;
 - (i) the provision or receipt of any submission, information or data;
 - (j) the making, submission, lodgement or receipt of any bid or offer;
 - (k) the making or receiving of any inquiry, request or application;
 - (l) the making of any calculation;
 - (m) the undertaking or completion of any transaction;
 - (n) the undertaking or application of any test, process or procedure;
 - (o) the payment of any monetary amount or fee;
 - (p) the making or receipt of any claim;
 - (q) the making of any agreement;
 - (r) the making or acceptance of any appointment;
 - (s) the establishment or maintenance of any database or register;
 - (t) the undertaking of any investigation, inquiry or review.

- (5) Nothing in subclause (1)(b) or (c) is to be taken as—
 - (a) entitling a person or body to exercise—
 - (i) a power or right under the Code to the extent that the power or right has already been exercised under the Rules; or
 - (ii) a power or right under the Rules to the extent that the power or right has already been exercised under the Code; or
 - (b) requiring a person or body to perform—
 - (i) a function or obligation under the Code to the extent that the function or obligation has already been performed under the Rules; or
 - (ii) a function or obligation under the Rules to the extent that the function or obligation has already been performed under the Code.
- (6) This clause does not apply to the extent that it is inconsistent with the new National Electricity Law or another provision of these Regulations.

19—Time periods

If a period of time for the doing of anything under a provision of the Code had commenced and had not expired immediately before the commencement date of the new National Electricity Law, then, on and from the commencement date, that period of time is to be taken to continue to run (and the portion of the period that has elapsed is to be taken into account) under, or for the purposes of, the provision of the Rules (if any) that corresponds to that provision of the Code.

20—Disclosure of information held by NECA

- (1) Despite anything to the contrary in the Code or at law, NECA may disclose to the AER or the AEMC any information that had been provided to NECA under, or for the purposes of, a provision of the old National Electricity Law or the Code (whether or not such information was provided in confidence to NECA), and the AER or the AEMC (as the case may be) may use that information for any purpose connected with the performance of its functions or the exercise of its powers under the provision of the new National Electricity Law or the Rules (if any) that corresponds to that provision of the old National Electricity Law or the Code.
- (2) A disclosure of information referred to in subclause (1) may be made by providing a document, or a copy of a document, that contains that information.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

on the unanimous recommendation of the Ministers of the participating jurisdictions and with the advice and consent of the Executive Council on 30 June 2005

No 158 of 2005

MEN05/001CS

South Australia

Emergency Services Funding (Remissions—Land) Variation Regulations 2005

under the Emergency Services Funding Act 1998

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Emergency Services Funding (Remissions—Land) Variation Regulations 2005*.

2—Commencement

These regulations will come into operation on 1 July 2005.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of Emergency Services Funding (Remissions— Land) Regulations 2000

4—Variation of regulation 4—Interpretation

Regulation 4, definition of *relevant financial year*—delete "2004/2005" and substitute: 2005/2006

5—Variation of regulation 6B—Amount of remission

Regulation 6B—delete "0.001232" and substitute:

0.001160

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

on the recommendation of the Treasurer with the advice and consent of the Executive Council on $30 \, \text{June} \, 2005$

No 159 of 2005

T&F05/049CS