

Petroleum Legislation Amendment Bill 2022

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Consultation Draft

Western Australia

LEGISLATIVE ASSEMBLY/COUNCIL

Petroleum Legislation Amendment Bill 2022

A Bill for

An Act to amend —

- **the *Petroleum and Geothermal Energy Resources Act 1967*;**
and
- **the *Petroleum Pipelines Act 1969*; and**
- **the *Petroleum (Submerged Lands) Act 1982*.**

The Parliament of Western Australia enacts as follows:

1
2
3
4
5
6
7
8

Part 1 — Preliminary

1. Short title

This is the *Petroleum Legislation Amendment Act 2022*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

Consultation Draft

1 **Part 2 — *Petroleum and Geothermal Energy Resources***
2 ***Act 1967 amended***

3 **3. Act amended**

4 This Part amends the *Petroleum and Geothermal Energy*
5 *Resources Act 1967*.

6 **4. Section 5 amended**

7 In section 5(1) insert in alphabetical order:

8
9 ***Department*** means the department of the Public
10 Service principally assisting in the administration of
11 this Act;

12 ***electronic means*** includes —

- 13 (a) an electronic database or document system; and
14 (b) any other means by which a document can be
15 accessed electronically;

16 ***instrument of consent*** has the meaning given in
17 section 116(1);

18 ***report*** means a report, return or other document in
19 connection with, or in connection with operations
20 under, any of the following —

- 21 (a) an access authority or special prospecting
22 authority;
23 (b) an agreement under section 67(2)(a);
24 (c) a drilling reservation;
25 (d) an instrument of consent;
26 (e) a lease;
27 (f) a licence;
28 (g) a permit;

29

s. 5

1 **5. Section 37A amended**

2 (1) In section 37A(1) delete “him” and insert:

3

4 the permittee

5

6 (2) Delete section 37A(2)(a).

7 (3) In section 37A(2) and (4) delete “shall” (each occurrence) and
8 insert:

9

10 must

11

12 **6. Section 72 amended**

13 (1) Before section 72(1) insert:

14

15 (1A) In this section —

16 *instrument of transfer*, in relation to an application for
17 approval of a transfer of a title, means an instrument of
18 transfer in the approved form executed —

19 (a) by the registered holder or, if there are 2 or
20 more registered holders, by each registered
21 holder; and

22 (b) by the transferee or, if there are 2 or more
23 transferees, by each transferee.

24

25 (2) In section 72(2) delete “one” and insert:

26

27 1

28

- 1 (3) Delete section 72(3) and insert:
2
- 3 (3) An application for approval of a transfer of a title
4 lodged in hard copy form must be accompanied by —
5 (a) the instrument of transfer; and
6 (b) a copy of the instrument of transfer; and
7 (c) for each transferee, if any, who is not a
8 registered holder — a statement of the technical
9 advice and financial resources available, or that
10 will be available, to the transferee.
- 11 (3A) An application for approval of a transfer of a title
12 lodged by electronic means must be accompanied
13 by —
14 (a) an electronic copy of the instrument of transfer;
15 and
16 (b) for each transferee, if any, who is not a
17 registered holder — an electronic copy of a
18 statement of the technical advice and financial
19 resources available, or that will be available, to
20 the transferee.
- 21 (3B) If subsection (3A) applies, the Minister may at any
22 time require the instrument of transfer to be lodged in
23 hard copy form.
24
- 25 (4) In section 72(4), (5) and (6) delete “shall” and insert:
26
27 must
28
- 29 (5) In section 72(7) delete “shall,” and insert:
30
31 must,
32

s. 7

- 1 (6) Delete section 72(9) and insert:
2
- 3 (9) If the Minister approves the transfer of a title, the
4 Minister must, on payment of the fee provided for by
5 the *Petroleum and Geothermal Energy Resources*
6 *(Registration Fees) Act 1967*, enter in the Register a
7 memorandum of the transfer and the name of the
8 transferee or of each transferee.
9
- 10 (7) In section 72(10)(a) delete “shall be deemed” and insert:
11
12 is taken
13
- 14 (8) In section 72(11) delete “shall” and insert:
15
16 must
17
- 18 (9) Delete section 72(12) and insert:
19
- 20 (12) If a transfer is registered, the Minister must —
21 (a) retain a copy of the instrument of transfer; and
22 (b) make the copy available for inspection in
23 accordance with this Division.
24

25 **7. Section 75 amended**

- 26 (1) In section 75(1) and (3)(a) delete “one” (each occurrence) and
27 insert:
28

29 1
30

- 1 (2) Delete section 75(4) and (4a) and insert:
2
- 3 (4) If an application under subsection (3) for approval of a
4 dealing is lodged in hard copy form, the application —
- 5 (a) must be accompanied by either —
- 6 (i) the instrument evidencing the dealing
7 and a copy of it; or
- 8 (ii) if the instrument evidencing the dealing
9 has already been lodged with the
10 Minister in hard copy form for the
11 purposes of another application —
12 2 copies of the instrument;
- 13 and
- 14 (b) may be accompanied by an instrument setting
15 out any particulars prescribed for the purposes
16 of an application for approval of a dealing of
17 that kind, and a copy of it.
- 18 (4A) If an application under subsection (3) for approval of a
19 dealing is lodged by electronic means, the
20 application —
- 21 (a) must be accompanied by an electronic copy of
22 the instrument evidencing the dealing; and
- 23 (b) may be accompanied by an electronic copy of
24 an instrument setting out any particulars
25 prescribed for the purposes of an application for
26 approval of a dealing of that kind.
- 27 (4B) If subsection (4A) applies, the Minister —
- 28 (a) may at any time require to be lodged in hard
29 copy form either —
- 30 (i) the instrument referred to in
31 subsection (4A)(a); or
- 32 (ii) if the instrument has already been
33 lodged with the Minister in hard copy

s. 7

- 1 form for the purposes of another
2 application — a copy of the instrument;
3 and
4 (b) may at any time require to be lodged in hard
5 copy form any instrument that accompanied the
6 application under subsection (4A)(b).
7
- 8 (3) In section 75(5) and (6) delete “shall” and insert:
9
10 must
11
- 12 (4) In section 75(7) delete “shall, for the purposes of this section, be
13 taken to be one” and insert:
14
15 are, for the purposes of this section, taken to be 1
16
- 17 (5) Delete section 75(8).
- 18 (6) In section 75(9) delete “shall” and insert:
19
20 must
21
- 22 (7) In section 75(11) delete “shall,” and insert:
23
24 must,
25
- 26 (8) Delete section 75(12) and insert:
27
- 28 (12) If the Minister approves a dealing, the Minister must,
29 on payment of the fee provided for by the *Petroleum*
30 *and Geothermal Energy Resources (Registration Fees)*

1 *Act 1967*, make an entry of the approval of the dealing
2 in the Register on the memorial relating to, or on the
3 copy of, the title in respect of which the approval is
4 sought.
5

6 (9) In section 75(13):

7 (a) in paragraph (a) delete “subsection (4)(b), one copy of
8 the instrument evidencing the dealing endorsed with a
9 memorandum of approval shall” and insert:

10
11 subsection (4)(b) or (4A)(b) (as the case may be), 1 copy
12 of the instrument evidencing the dealing must
13

14 (b) in paragraph (b) delete “subsection (4)(b), a copy of that
15 instrument endorsed with a memorandum of approval of
16 the dealing shall” and insert:

17
18 subsection (4)(b) or (4A)(b) (as the case may be), a copy
19 of that instrument must
20

21 (c) in paragraph (b) delete “shall” (2nd occurrence) and
22 insert:

23
24 must
25

26 (d) in paragraph (c) delete “endorsed with a memorandum
27 of approval”;

28 (e) in paragraph (c) delete “shall” and insert:

29
30 or (4B)(b) must
31

s. 8

1 (10) In section (14) delete “shall” and insert:

2

3 must

4

5 **8. Section 75A amended**

6 (1) In section 75A(1)(a) delete “one” and insert:

7

8 1

9

10 (2) In section 75A(2) after “Section 75(4),” insert:

11

12 (4A), (4B),

13

14 (3) In section 75A(3) delete “shall” and insert:

15

16 must

17

18 **9. Section 76 amended**

19 (1) In section 76(1):

20 (a) delete “shall” and insert:

21

22 must

23

24 (b) in paragraph (c) delete “of the kind referred to in
25 section 75(4)(b),” and insert:

26

27 described in section 75(4)(b), (4A)(b) or (4B)(b),

28

1 (2) In section 76(1) in the Penalty delete “Penalty:” and insert:

2

3

Penalty for this subsection:

4

5 **10. Section 115 amended**

6 In section 115(1)(c) delete “returns, other documents,”.

7 **11. Section 116 amended**

8 (1) Delete section 116(1) and insert:

9

10 (1) The Minister, on the application of a person, may
11 consent in writing (an *instrument of consent*) to the
12 carrying on in the State by any person of petroleum
13 exploration operations or geothermal energy resources
14 exploration operations in the course of scientific
15 investigation.

16

17 (2) In section 116(2):

18

(a) delete “under subsection (1)”.

19

(b) delete “such conditions, if any,” and insert:

20

any conditions

21

22

23 (3) In section 116(3) delete “in force under subsection (1)”.

24 **12. Section 116A amended**

25 In section 116A(1)(c) delete “returns, other documents,”.

s. 13

1 **13. Section 126A amended**

2 In section 126A(4) in the definition of *CEO* delete “department
3 of the Public Service principally assisting in the administration
4 of this Act.” and insert:

5

6 Department.

7

8 **14. Section 127 amended**

9 (1) In section 127(1):

10 (a) delete “shall” and insert:

11

12 must

13

14 (b) in paragraphs (b) and (d) delete “one” and insert:

15

16 1

17

18 (c) in paragraph (d) delete “age.” and insert:

19

20 age; or

21

22 (d) after paragraph (d) insert:

23

24 (e) by sending the document by electronic means
25 in the manner prescribed by the regulations.

26

27 (2) In section 127(2):

28 (a) delete “shall” and insert:

29

30 must

31

- 1 (b) in paragraph (b) delete “age.” and insert:
2
3 age; or
4
5 (c) after paragraph (b) insert:
6
7 (c) by sending the document by electronic means
8 in the manner prescribed by the regulations.
9
- 10 (3) In section 127(3):
11 (a) delete “shall” and insert:
12
13 must
14
15 (b) in paragraphs (a) and (b) delete “one” and insert:
16
17 1
18
19 (c) in paragraph (b) delete “age.” and insert:
20
21 age; or
22
23 (d) after paragraph (b) insert:
24
25 (c) by sending the document by electronic means
26 in the manner prescribed by the regulations.
27
- 28 (4) In section 127(4) delete “shall, unless the contrary is proved, be
29 deemed” and insert:
30
31 is, unless the contrary is proved, taken
32

s. 15

1 (5) After section 127(4) insert:

2

3 (5) Regulations may prescribe the time at which
4 documents sent by electronic means in accordance with
5 this section are taken to have been served.

6

7 **15. Section 150A amended**

8 In section 150A in the definition of *applicable document*
9 paragraph (c) delete “report, return or other document” and
10 insert:

11

12 report

13

14 **16. Part IV Division 1 heading inserted**

15 At the beginning of Part IV insert:

16

17 **Division 1 — General**

18

19 **17. Part IV Division 2 heading inserted**

20 After section 152 insert:

21

22 **Division 2 — Regulations and forms**

23

1 **18. Section 152A inserted**

2 Before section 153 insert:
3

4 **152A. Approved forms**

5 The following documents must be lodged in the
6 approved form —

- 7 (a) an application made to the Minister under the
8 Act;
- 9 (b) a nomination under section 46;
- 10 (c) a geothermal energy recovery development
11 plan submitted under section 62A(1);
- 12 (d) any other document prescribed for the purposes
13 of this section.
14

15 **19. Section 153 amended**

16 (1) After section 153(1) insert:
17

18 (1A) Without limiting subsection (1), the regulations may
19 make provision for or in relation to the following —

- 20 (a) the giving of a document required or permitted
21 to be given under this Act (including the giving
22 of the document by electronic means);
- 23 (b) the time at which the document is taken to have
24 been given;
- 25 (c) the means of satisfying a requirement under this
26 Act in relation to a document in writing (for
27 example, a requirement that the original of a
28 document be given or that a document be
29 signed) if the document is given by electronic
30 means.

s. 19

1 (1B) Subsection (1A) applies to a requirement or permission
2 to give a document whether the term “give”, “send” or
3 “serve”, or any other similar word or term, is used.
4

5 (2) In section 153(2) delete “In particular, but without limiting the
6 generality of” and insert:
7

8 Without limiting
9

1 **Part 3 — *Petroleum Pipelines Act 1969* amended**

2 **20. Act amended**

3 This Part amends the *Petroleum Pipelines Act 1969*.

4 **21. Section 4 amended**

5 In section 4(1) insert in alphabetical order:

6
7 ***Department*** means the department of the Public
8 Service principally assisting in the administration of
9 this Act;

10 ***electronic means*** includes —

- 11 (a) an electronic database or document system; and
12 (b) any other means by which a document can be
13 accessed electronically;

14
15 **22. Section 8 amended**

16 (1) In section 8(1):

17 (a) after “An application” insert:

18 made to the Minister

19 (b) in paragraph (b) delete “shall be made in the” and insert:

20 must be made in an

21 (c) in paragraph (c) delete “shall” and insert:

22 must

s. 22

- 1 (d) in paragraph (c)(v) delete “his” and insert:
2
3 the applicant’s
4
5 (e) in paragraph (d) delete “shall” (1st occurrence) and
6 insert:
7
8 must
9
10 (f) in paragraph (d)(iii) delete “if any” and insert:
11
12 if any,
13
14 (g) in paragraphs (d)(iv) and (e) delete “shall” and insert:
15
16 must
17
18 (h) in paragraph (e) delete “him” and insert:
19
20 the applicant
21
22 (i) in paragraph (f) delete “shall” and insert:
23
24 must
25
26 (j) in paragraph (f) delete “thereto; and” and insert:
27
28 to the pipeline; and
29
30 (k) in paragraphs (g), (h) and (j) delete “shall” and insert:
31
32 must
33

- 1 (2) In section 8(2):
2 (a) delete “him” and insert:
3
4 the applicant
5
6 (b) delete “his” and insert:
7
8 the
9
10 (3) In section 8(3) and (4) delete “shall” (each occurrence) and
11 insert:
12
13 must
14
15 (4) In section 8(4) delete “he” and insert:
16
17 the Minister
18
19 (5) Delete section 8(6).
- 20 **23. Section 15 amended**
- 21 (1) In section 15(2):
22 (a) before paragraph (b) insert:
23
24 (a) must be made in an approved manner; and
25
26 (b) in paragraphs (b), (c) and (d) delete “shall” and insert:
27
28 must
29

s. 24

- 1 (2) In section 15(3):
2 (a) delete “him” and insert:
3
4 the applicant
5
6 (b) delete “his” and insert:
7
8 the
9
10 (3) In section 15(4):
11 (a) in paragraph (a) delete “he” and insert:
12
13 the Minister
14
15 (b) in paragraph (b) delete “he” and insert:
16
17 the person
18
19 (4) In section 15(5):
20 (a) delete “to him”;
21 (b) delete “he” and insert:
22
23 the Minister
24
25 **24. Section 21 amended**
26 (1) In section 21(2):
27 (a) delete paragraphs (a) and (b) and insert:
28
29 (a) must be made in an approved manner; and
30

1 (b) in paragraph (c) delete “shall” and insert:

2

3

must

4

5 (2) In section 21(3):

6

(a) in paragraph (a) delete “shall” and insert:

7

8

must

9

10 (b) in paragraph (b) delete “he” and insert:

11

12

the Minister

13

14

(c) in paragraph (c) delete “shall” and insert:

15

16

must

17

18

(d) in paragraph (c) delete “he” and insert:

19

20

the person

21

22 (3) In section 21(4):

23

(a) delete “to him”.

24

(b) delete “he” (each occurrence) and insert:

25

26

the Minister

27

28

(4) In section 21(5) and (6) delete “shall” and insert:

29

30

must

31

s. 25

1 (5) In section 21(6) in the Penalty delete “Penalty:” and insert:

2

3

Penalty for this subsection:

4

5 **25. Section 44 amended**

6 (1) Before section 44(1) insert:

7

8 (1A) In this section —

9 *instrument of transfer*, in relation to an application for
10 approval of a transfer of a licence, means an instrument
11 of transfer in the approved form executed —

12 (a) by the registered holder or, if there are 2 or
13 more registered holders, by each registered
14 holder; and

15 (b) by the transferee or, if there are 2 or more
16 transferees, by each transferee.

17

18 (2) In section 44(2) delete “one” and insert:

19

20 1

21

22 (3) Delete section 44(3) and insert:

23

24 (3) An application for approval of a transfer of a licence
25 lodged in hard copy form must be accompanied by —

26 (a) the instrument of transfer; and

27 (b) a copy of the instrument of transfer; and

28 (c) for each transferee, if any, who is not a
29 registered holder — a statement of the technical
30 advice and financial resources available, or that
31 will be available, to the transferee.

- 1 (3A) An application for approval of a transfer of a licence
2 lodged by electronic means must be accompanied
3 by —
4 (a) an electronic copy of the instrument of transfer;
5 and
6 (b) for each transferee, if any, who is not a
7 registered holder — an electronic copy of a
8 statement of the technical advice and financial
9 resources available, or that will be available, to
10 the transferee.
- 11 (3B) If subsection (3A) applies, the Minister may at any
12 time require the instrument of transfer to be lodged in
13 hard copy form.
14
- 15 (4) In section 44(4), (5) and (6) delete “shall” and insert:
16
17 must
18
- 19 (5) In section 44(7) delete “shall,” and insert:
20
21 must,
22
- 23 (6) Delete section 44(9) and insert:
24
- 25 (9) Where the Minister approves the transfer of a licence,
26 the Minister must, on payment of the prescribed fee,
27 enter in the register a memorandum of the transfer and
28 the name of the transferee or of each transferee.
29

s. 26

1 (7) In section 44(10)(a) delete “shall be deemed” and insert:

2

3 is taken

4

5 (8) In section 44(11) delete “title, the Minister shall” and insert:

6

7 licence, the Minister must

8

9 (9) Delete section 44(12) and insert:

10

11 (12) If a transfer is registered, the Minister must —

12

(a) retain a copy of the instrument of transfer; and

13

(b) make the copy available for inspection in
accordance with this Part.

14

15

16 **26. Section 47 amended**

17 (1) In section 47(1) and (3) delete “one” (each occurrence) and
insert:

18

19
20 1

21

22 (2) Delete section 47(4) and (4a) and insert:

23

24 (4) If an application under subsection (3) for approval of a
25 dealing is lodged in hard copy form, the application —

26

(a) must be accompanied by either —

27

(i) the instrument evidencing the dealing
and a copy of it; or

28

29

(ii) if the instrument evidencing the dealing
has already been lodged with the

30

- 1 Minister in hard copy form for the
2 purposes of another application —
3 2 copies of the instrument;
- 4 and
- 5 (b) may be accompanied by an instrument setting
6 out any particulars prescribed for the purposes
7 of an application for approval of a dealing of
8 that kind, and a copy of it.
- 9 (4A) If an application under subsection (3) for approval of a
10 dealing is lodged by electronic means, the
11 application —
- 12 (a) must be accompanied by an electronic copy of
13 the instrument evidencing the dealing; and
- 14 (b) may be accompanied by an electronic copy of
15 an instrument setting out any particulars
16 prescribed for the purposes of an application for
17 approval of a dealing of that kind.
- 18 (4B) If subsection (4A) applies, the Minister —
- 19 (a) may at any time require to be lodged in hard
20 copy form either —
- 21 (i) the instrument referred to in
22 subsection (4A)(a); or
- 23 (ii) if the instrument has already been
24 lodged with the Minister in hard copy
25 form for the purposes of another
26 application — a copy of the instrument;
- 27 and
- 28 (b) may at any time require to be lodged in hard
29 copy form any instrument that accompanied the
30 application under subsection (4A)(b).
31

s. 26

1 (3) In section 47(5) and (6) delete “shall” and insert:

2

3 must

4

5 (4) In section 47(7) delete “shall, for the purposes of this section, be
6 taken to be one” and insert:

7

8 are, for the purposes of this section, taken to be 1

9

10 (5) Delete section 47(8).

11 (6) In section 47(9) delete “shall” and insert:

12

13 must

14

15 (7) In section 47(11) delete “shall,” and insert:

16

17 must,

18

19 (8) Delete section 47(12) and insert:

20

21 (12) If the Minister approves a dealing, the Minister must,
22 on payment of the prescribed fee, make an entry of the
23 approval of the dealing in the register on the memorial
24 relating to, or on the copy of, the licence in respect of
25 which the approval is sought.

26

- 1 (9) In section 47(13):
2 (a) in paragraph (a) delete “subsection (4)(b), one” and
3 insert:
4
5 subsection (4)(b) or (4A)(b) (as the case may be), a
6
7 (b) in paragraph (a) delete “endorsed with a memorandum
8 of approval shall” and insert:
9
10 must
11
12 (c) in paragraph (b) delete “subsection (4)(b),” and insert:
13
14 subsection (4)(b) or (4A)(b) (as the case may be),
15
16 (d) in paragraph (b) delete “endorsed with a copy of the
17 memorandum of approval of the dealing shall” and
18 insert:
19
20 must
21
22 (e) in paragraph (b) delete “shall” (2nd occurrence) and
23 insert:
24
25 must
26
27 (f) in paragraph (c) delete “endorsed with a memorandum
28 of approval”;
29 (g) in paragraph (c) delete “shall” and insert:
30
31 or (4B)(b) must
32

s. 27

1 (10) In section 47(14) delete “shall” and insert:

2

3 must

4

5 **27. Section 48 amended**

6 In section 48:

7 (a) delete “shall” and insert:

8

9 must

10

11 (b) in paragraph (c) delete “of the kind referred to in
12 section 47(4)(b),” and insert:

13

14 described in section 47(4)(b), (4A)(b) or (4B)(b),

15

16 **28. Part V Division 1 heading inserted**

17 At the beginning of Part V insert:

18

19 **Division 1 — General**

20

21 **29. Part V Division 2 heading inserted**

22 After section 61 insert:

23

24 **Division 2 — Inspectors and protection from liability**

25

1 **30. Part V Division 3 heading inserted**

2 After section 63A insert:

3

4 **Division 3 — Offences and proceedings**

5

6 **31. Section 66BB amended**

7 In section 66BB(4) in the definition of *CEO* delete “department
8 of the Public Service principally assisting in the administration
9 of this Act.” and insert:

10

11 Department.

12

13 **32. Part V Division 4 heading inserted**

14 After section 66E insert:

15

16 **Division 4 — Forms and regulations**

17

18 **33. Section 66F inserted**

19 Before section 67 insert:

20

21 **66F. Term used: application**

22 (1) In this section —

23 *application* means —

24 (a) an application made to the Minister under the
25 Act; or

26 (b) a request for consent under section 35(1).

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- 1 (2) An application must be lodged in the form approved
2 for that purpose.
3

4 **34. Section 67 amended**

- 5 (1) In section 67(1)(g) delete “thereof.” and insert:
6

7 of it.
8

- 9 (2) After section 67(1) insert:
10

11 (1AA) Without limiting subsection (1), the regulations may
12 make provision for or in relation to the following —

- 13 (a) the giving of a document required or permitted
14 to be given under this Act (including the giving
15 of the document by electronic means);
16 (b) the time at which the document is taken to have
17 been given;
18 (c) the means of satisfying a requirement under this
19 Act in relation to a document in writing (for
20 example, a requirement that the original of a
21 document be given or that a document be
22 signed) if the document is given by electronic
23 means.

24 (1AB) Subsection (1AA) applies to a requirement or
25 permission to give a document whether the expression
26 “give”, “send” or “serve”, or any other similar word or
27 expression, is used.
28

1 **Part 4 — Petroleum (Submerged Lands) Act 1982**
2 **amended**

3 **35. Act amended**

4 This Part amends the *Petroleum (Submerged Lands) Act 1982*.

5 **36. Section 4 amended**

6 In section 4(1) insert in alphabetical order:
7

8 ***Department*** means the department of the Public
9 Service principally assisting in the administration of
10 this Act;

11 ***electronic means*** includes —

- 12 (a) an electronic database or document system; and
13 (b) any other means by which a document can be
14 accessed electronically;

15 ***report*** means a report, return or other document in
16 connection with, or in connection with operations
17 under, any of the following —

- 18 (a) an access authority or special prospecting
19 authority;
20 (b) an instrument of consent under section 123;
21 (c) a lease;
22 (d) a licence, infrastructure licence or pipeline
23 licence;
24 (e) a permit;
25

s. 37

1 **37. Section 15 amended**

2 In section 15(1) in the definition of *officer* delete “department
3 of the Public Service principally assisting the Minister in the
4 administration of this Act.” and insert:

5

6 Department.

7

8 **38. Section 78 amended**

9 (1) Before section 78(1) insert:

10

11 (1A) In this section —

12 *instrument of transfer*, in relation to an application for
13 approval of a transfer of a title, means an instrument of
14 transfer in the approved form executed —

15 (a) by the registered holder or, if there are 2 or
16 more registered holders, by each registered
17 holder; and

18 (b) by the transferee or, if there are 2 or more
19 transferees, by each transferee.

20

21 (2) In section 78(2) delete “one” and insert:

22

23 1

24

25 (3) Delete section 78(3) and insert:

26

27 (3) An application for approval of a transfer of a title
28 lodged in hard copy form must be accompanied by —

29 (a) the instrument of transfer; and

30 (b) a copy of the instrument of transfer; and

- 1 (c) for each transferee, if any, who is not a
2 registered holder — a statement of the technical
3 advice and financial resources available, or that
4 will be available, to the transferee.
- 5 (3A) An application for approval of a transfer of a title
6 lodged by electronic means must be accompanied
7 by —
8 (a) an electronic copy of the instrument of transfer;
9 and
10 (b) for each transferee, if any, who is not a
11 registered holder — an electronic copy of a
12 statement of the technical advice and financial
13 resources available, or that will be available, to
14 the transferee.
- 15 (3B) If subsection (3A) applies, the Minister may at any
16 time require the instrument of transfer to be lodged in
17 hard copy form.
18
- 19 (4) In section 78(4), (5) and (6) delete “shall” and insert:
20
21 must
22
- 23 (5) In section 78(7) delete “shall,” and insert:
24
25 must,
26
- 27 (6) Delete section 78(9) and insert:
28
- 29 (9) If the Minister approves the transfer of a title, the
30 Minister must, on payment of the fee provided for by
31 the Registration Fees Act, enter in the register a

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1 memorandum of the transfer and the name of the
2 transferee or of each transferee.
3

4 (7) In section 78(10)(a) delete “shall be deemed” and insert:

5

6 is taken
7

8 (8) In section 78(11) delete “shall” and insert:

9

10 must
11

12 (9) Delete section 78(12) and insert:

13

14 (12) If a transfer is registered, the Minister must —

15

(a) retain a copy of the instrument of transfer; and

16

(b) make the copy available for inspection in
17 accordance with this Division.
18

19 **39. Section 81 amended**

20 (1) In section 81(1) and (3) delete “one” (each occurrence) and
21 insert:
22

23

24 1

25 (2) Delete section 81(4) and (4a) and insert:
26

27

28 (4) If an application under subsection (3) for approval of a
dealing is lodged in hard copy form, the application —

- 1 (a) must be accompanied by either —
2 (i) the instrument evidencing the dealing
3 and a copy of it; or
4 (ii) if the instrument evidencing the dealing
5 has already been lodged with the
6 Minister in hard copy form for the
7 purposes of another application —
8 2 copies of the instrument;
9 and
10 (b) the application may be accompanied by an
11 instrument setting out any particulars
12 prescribed for the purposes of an application for
13 approval of a dealing of that kind, and a copy of
14 it.
- 15 (4A) If an application under subsection (3) for approval of a
16 dealing is lodged by electronic means, the
17 application —
18 (a) must be accompanied by an electronic copy of
19 the instrument evidencing the dealing; and
20 (b) may be accompanied by an electronic copy of
21 an instrument setting out any particulars
22 prescribed for the purposes of an application for
23 approval of a dealing of that kind.
- 24 (4B) If subsection (4A) applies, the Minister —
25 (a) may at any time require to be lodged in hard
26 copy form either —
27 (i) the instrument referred to in
28 subsection (4A)(a); or
29 (ii) if the instrument has already been
30 lodged with the Minister in hard copy
31 form for the purposes of another
32 application — a copy of the instrument;
33 and

s. 39

- 1 (b) may at any time require to be lodged in hard
2 copy form any instrument that accompanied the
3 application under subsection (4A)(b).
4
- 5 (3) In section 81(5) and (6) delete “shall” and insert:
6
7 must
8
- 9 (4) In section 81(7) delete “shall, for the purposes of this section, be
10 taken to be one” and insert:
11
12 is, for the purposes of this section, taken to be 1
13
- 14 (5) Delete section 81(8).
- 15 (6) In section 81(9) delete “shall” and insert:
16
17 must
18
- 19 (7) In section 81(11) delete “shall,” and insert:
20
21 must,
22
- 23 (8) Delete section 81(12) and insert:
24
25 (12) If the Minister approves a dealing, the Minister must,
26 on payment of the fee provided for by the Registration
27 Fees Act, make an entry of the approval of the dealing
28 in the register on the memorial relating to, or on the
29 copy of, the title in respect of which the approval is
30 sought.
31

- 1 (9) In section 81(13):
- 2 (a) in paragraph (a) delete “section 203 of the *Acts*
- 3 *Amendment (Petroleum) Act 1990*”
- 4
- 5 the *Acts Amendment (Petroleum) Act 1990* section 203
- 6
- 7 (b) in paragraph (a) delete “subsection (4)(b), one” and
- 8 insert:
- 9
- 10 subsection (4)(b) or (4A)(b) (as the case may be), a
- 11
- 12 (c) in paragraph (a) delete “endorsed with a memorandum
- 13 of approval shall” and insert:
- 14
- 15 must
- 16
- 17 (d) in paragraph (b) delete “subsection (4)(b),” and insert:
- 18
- 19 subsection (4)(b) or (4A)(b) (as the case may be),
- 20
- 21 (e) in paragraph (b) delete “endorsed with a copy of the
- 22 memorandum of approval of the dealing shall” and
- 23 insert:
- 24
- 25 must
- 26
- 27 (f) in paragraph (b) delete “shall” (2nd occurrence) and
- 28 insert:
- 29
- 30 must
- 31
- 32 (g) in paragraph (c) delete “endorsed with a memorandum
- 33 of approval”;

s. 40

1 (h) in paragraph (c) delete “shall” and insert:

2

3 or (4B)(b) must

4

5 (10) In section 81(15) delete “shall” and insert:

6

7 must

8

9 **40. Section 81A amended**

10 (1) In section 81A(1)(a) delete “one” and insert:

11

12 1

13

14 (2) In section 81A(2) after “Section 81(4),” insert:

15

16 (4A), (4B),

17

18 (3) In section 81A(3) delete “shall be treated as if it were” and
19 insert:

20

21 is taken to be

22

23 **41. Section 82 amended**

24 (1) In section 82(1) —

25 (a) delete “shall” and insert:

26

27 must

28

1 (b) in paragraph (c) delete “of the kind referred to in
2 section 81(4)(b),” and insert:

3

4 described in section 81(4)(b), (4A)(b) or (4B)(b),

5

6 (2) In section 82(1) in the Penalty delete “Penalty:” and insert:

7

8 Penalty for this subsection:

9

10 **42. Section 122 amended**

11 In section 122(1)(c) delete “returns, other documents,”.

12 **43. Section 123 amended**

13 In section 123A(1):

14 (a) in paragraph (a)(viii) delete “a consent” and insert:

15

16 an instrument of consent

17

18 (b) in paragraph (c) delete “returns, other documents,”.

19 **44. Section 137A amended**

20 In section 137A(4) in the definition of *CEO* delete “department
21 of the Public Service principally assisting in the administration
22 of this Act.” and insert:

23

24 Department.

25

s. 45

1 **45. Section 138 amended**

2 (1) In section 138(1):

3 (a) delete “shall” and insert:

4

5 must

6

7 (b) in paragraphs (b) and (d) delete “one” and insert:

8

9 1

10

11 (c) in paragraph (d) delete “age.” and insert:

12

13 age; or

14

15 (d) after paragraph (d) insert:

16

17 (e) by sending the document by electronic means
18 in the manner prescribed by the regulations.

19

20 (2) In section 138(2):

21 (a) delete “shall” and insert:

22

23 must

24

25 (b) in paragraph (b) delete “age.” and insert:

26

27 age; or

28

- 1 (c) after paragraph (b) insert:
2
3 (c) by sending the document by electronic means
4 in the manner prescribed by the regulations.
5
- 6 (3) In section 138(3):
7 (a) delete “shall” and insert:
8
9 must
10
11 (b) in paragraphs (a) and (b) delete “one’ and insert:
12
13 1
14
15 (c) in paragraph (b) delete “age.” and insert:
16
17 age; or
18
19 (d) after paragraph (b) insert:
20
21 (c) by sending the document by electronic means
22 in the manner prescribed by the regulations.
23
- 24 (4) After section 138(3) insert:
25
26 (4) Regulations may provide for the time at which
27 documents sent by electronic means in accordance with
28 this section are taken to have been served.
29

s. 46

1 **46. Section 152A amended**

2 In section 152A in the definition of *applicable document*
3 paragraph (c) delete “report, return or other document” and
4 insert:

5

6 report

7

8 **47. Part IV Division 1 heading inserted**

9 At the beginning of Part IV insert:

10

11 **Division 1 — General**

12

13 **48. Part IV Division 2 heading inserted**

14 After section 152I insert:

15

16 **Division 2 — Forms and regulations**

17

18 **49. Section 152J inserted**

19 Before section 152 insert:

20

21 **152J. Term used: application**

22 (1) In this section —

23 *application* means any of the following —

24 (a) an application made to the Minister under the
25 Act;

- 1 (b) a nomination made under section 36;
2 (c) a request for consent under section 74(1);
3 (d) a request for an instrument of consent under
4 section 123.

- 5 (2) An application must be lodged in the form approved
6 for that purpose.
7

8 **50. Section 152 amended**

- 9 (1) After section 152(1) insert:
10

- 11 (1A) Without limiting subsection (1), the regulations may
12 make provision for or in relation to the following —
13 (a) the giving of a document required or permitted
14 to be given under this Act (including the giving
15 of the document by electronic means);
16 (b) the time at which the document is taken to have
17 been given;
18 (c) the means of satisfying a requirement under this
19 Act in relation to a document in writing (for
20 example, a requirement that the original of a
21 document be given or that a document be
22 signed) if the document is given by electronic
23 means.

- 24 (1B) Subsection (1A) applies to a requirement or permission
25 to give a document whether the term “give”, “send” or
26 “serve”, or any other similar word or term, is used.
27

s. 50

1 (2) In section 152(2) delete “In particular, but without limiting the
2 generality of” and insert:

3

4 Without limiting

5

=====

Consultation Draft