

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

SEA INSTALLATIONS BILL 1987

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Acts applying in adjacent areas

1985-86-87

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 2 April 1987

(Minister for Arts, Heritage and Environment)

A BILL

FOR

An Act relating to certain installations in the sea

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Sea Installations Act 1987*.

Commencement

2. This Act commences on a day to be fixed by Proclamation.

Interpretation

- 10 3. (1) In this Act, unless the contrary intention appears:
“adjacent area” means an adjacent area in respect of a State or affected Territory ascertained in accordance with section 4 and, in relation

to a State or affected Territory, means the adjacent area in respect of that State or Territory;

“affected Territory” means a Territory other than:

- (a) the Australian Capital Territory;
- (b) the Jervis Bay Territory; 5
- (c) the Australian Antarctic Territory; or
- (d) the Territory of Heard Island and McDonald Islands;

“approved form” means a form approved by the Minister in writing;

“Australian fishing zone” has the same meaning as in the *Fisheries Act 1952*; 10

“brought into physical contact”, in relation to a sea installation in relation to the seabed, has the meaning given by subsection 5 (5);

“Commissioner” means the Commissioner of Taxation;

“construct”, in relation to a sea installation, includes assemble and fit out; 15

“continental shelf” has the same meaning as in the Petroleum Act;

“contravention”, in relation to a permit, includes contravention of a condition of the permit;

“environment” includes all aspects of the surroundings of a natural person, whether affecting the person as an individual or in the person’s social groupings; 20

“environment related activity” means any activity relating to:

- (a) tourism or recreation;
- (b) the carrying on of a business;
- (c) exploring, exploiting, or using the living resources of the sea, 25
of the seabed or of the subsoil of the seabed, whether by way of fishing, pearling, oyster farming, fish farming or otherwise;
- (d) marine archaeology; or
- (e) a prescribed purpose; 30

and includes a scientific activity and a transport activity;

“environment related work”, in relation to a sea installation, means work in relation to installing, constructing, extending or altering the installation but does not include:

- (a) work involved in repairing or maintaining the installation; 35
or
- (b) work relating to disassembling the installation or to detaching or removing it from its location;

“exemption certificate” means a certificate given under section 38;

“external affected Territory” means an affected Territory other than the Northern Territory; 40

“floating”, in relation to a structure, includes moving through or under waters;

“installation levy” means the levy under the Levy Act;

“installed in an adjacent area”, in relation to a sea installation, has the meaning given by section 5;

“issue”, in relation to a licence, includes grant and give;

5 “law of the Commonwealth” does not include a law of a State or Territory applying in relation to sea installations under section 45 or 46;

“Levy Act” means the *Sea Installations Levy Act 1987*;

10 “licence” includes a permit (other than a permit granted under section 15), an authority and permission;

“matter” includes act, omission, circumstance and thing;

“modify” includes add to, omit from and substitute;

“natural mineral resources” means the minerals (including petroleum) and other non-living resources of the seabed and its subsoil;

15 “off-shore industry fixed structure” has the meaning given by subsection (2);

“off-shore industry mobile unit” has the meaning given by subsections (3) and (4);

20 “operating agreement”, in relation to a sea installation, means an agreement between the owner of the installation and another person under which the other person, or the owner and the other person, may determine the activities for which the installation is used;

25 “operator”, in relation to a sea installation, means a person who has entered into an operating agreement with the owner of the installation;

“permit” means a permit to operate a sea installation granted under section 15 and, in relation to a sea installation, means the permit to operate the installation;

30 “petroleum” has the same meaning as in the Petroleum Act;

“Petroleum Act” means the *Petroleum (Submerged Lands) Act 1967*;

“representative”, means:

35 (a) in relation to the Commonwealth—the Minister or a person nominated by the Minister to represent the Commonwealth for the purposes of this Act;

(b) in relation to a State—a person nominated by the Premier of the State to represent the State for the purposes of this Act; or

40 (c) in relation to the Northern Territory—a person nominated by the Chief Minister of the Territory to represent the Territory for the purposes of this Act;

“scientific activity” includes an activity relating to scientific research;

“sea installation” means:

- (a) any man-made structure that, when in, or brought into, physical contact with the seabed or when floating, can be used for an environment related activity;
- (b) any partly constructed structure that, when completed, is intended to be, or could be, a structure referred to in paragraph (a); or
- (c) the remains of a structure that has been a structure referred to in paragraph (a) or (b);

but does not include:

- (d) an off-shore industry fixed structure;
- (e) an off-shore industry mobile unit;
- (f) a structure belonging to an arm of the Defence Force or to the naval, military or air forces of a foreign country; or
- (g) a prescribed structure or a structure in a class of prescribed structures;

“ship” means a vessel designed for use in navigation by water;

“structure” includes a ship, an aircraft and any other vessel;

“transport activity” means:

- (a) the mooring of ships or aircraft; or
- (b) the landing of aircraft;

“unauthorised installation” means:

- (a) a sea installation kept installed in an adjacent area otherwise than in accordance with a permit or an exemption certificate; or
- (b) an abandoned sea installation the whole or part of which is in an adjacent area;

but does not include an installation to which section 72 applies unless and until an offence under that section has been committed in relation to the installation;

“work”, in relation to a sea installation, includes work in relation to installing or constructing the installation.

(2) A reference in this Act to an off-shore industry fixed structure is a reference to a structure (including a pipeline) that:

- (a) is not able to move or be moved as an entity from one place to another; and
- (b) is, or is to be, used off-shore wholly or principally in, or in any operations or activities associated with, or incidental to, exploring or exploiting natural mineral resources.

(3) A reference in this Act to an off-shore industry mobile unit is a reference to:

- (a) a vessel that is, or is to be, used wholly in:
 - (i) exploring or exploiting natural mineral resources by drilling the seabed or its subsoil with equipment on, or forming part

of, the vessel or by obtaining substantial quantities of material from the seabed or its subsoil with equipment of that kind; or

- 5 (ii) operations or activities associated with, or incidental to, activities of the kind referred to in subparagraph (i); or
- (b) a structure (not being a vessel) that:
- (i) is able to float or be floated;
- (ii) is able to move or be moved as an entity from one place to another; and
- 10 (iii) is, or is to be, used off-shore wholly or principally in:
- (A) exploring or exploiting natural mineral resources by drilling the seabed or its subsoil with equipment on, or forming part of, the structure or by obtaining substantial quantities of material from the seabed or its subsoil with equipment of that kind; or
- 15 (B) operations or activities associated with, or incidental to, activities of the kind referred to in sub-subparagraph (A).

(4) The reference in subparagraph (3) (a) (ii) to a vessel that is, or is to be, used wholly in operations or activities associated with, or incidental to, activities of the kind referred to in subparagraph (3) (a) (i) includes a reference to a vessel that is, or is to be, used wholly in manoeuvring an off-shore industry fixed structure or an off-shore industry mobile unit, or in operations relating to the attachment, within the meaning of the *Customs Act 1901*, of such a structure or unit to the Australian seabed.

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Adjacent areas

4. (1) For the purposes of this Act, but subject to subsection (2), the adjacent area in respect of a State or the Northern Territory is so much of the area described in Schedule 2 to the Petroleum Act under the heading that refers to that State or Territory as comprises waters of the sea that:

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- (a) are outside the outer limits of the territorial sea of Australia; and
- (b) are within either:
- (i) the outer limits of the continental shelf; or
- (ii) the Australian fishing zone.

(2) If at any time the breadth of the territorial sea of Australia is determined or declared to be greater than 3 nautical miles, subsection (1) continues to have effect as if the breadth of the territorial sea of Australia had continued to be 3 nautical miles.

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(3) For the purposes of this Act, the Coral Sea area is so much of the area to the east of the adjacent area in respect of Queensland as comprises waters of the sea that are within either:

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- (a) the outer limits of the continental shelf; or
- (b) the Australian fishing zone;

other than any part of that area that is to the south of the parallel of Latitude 25° South or that is on the landward side of the coastline of any island at mean low water.

(4) This Act applies in relation to the Coral Sea area as if that area were part of the adjacent area in respect of Queensland and references in this Act to the adjacent area in respect of a State shall, in relation to Queensland, be read as including references to the Coral Sea area. 5

(5) For the purposes of this Act, the adjacent area in respect of the Territory of Ashmore and Cartier Islands is so much of the area described in Schedule 2 to the Petroleum Act under the heading that refers to that Territory as comprises land and water within either: 10

- (a) the outer limits of the continental shelf; or
- (b) the Australian fishing zone.

(6) For the purposes of this Act, the adjacent area in respect of an external affected Territory (other than the Coral Sea Islands Territory and the Territory of Ashmore and Cartier Islands) is the area the boundaries of which are: 15

- (a) the coastline at mean low water of the Territory; and
- (b) the outer limit of the waters that are either:
 - (i) the superjacent waters of the continental shelf adjacent to the coast of the Territory; or 20
 - (ii) the waters (if any) of the Australian fishing zone adjacent to the coast of the Territory.

(7) For the purposes of subsections (3), (5) and (6), the continental shelf does not include any area of seabed and subsoil that, under an agreement in force between Australia and another country, is not an area over which Australia exercises sovereign rights. 25

(8) For the purposes of this Act, the space above or below an adjacent area shall be deemed to be in that area.

Installation of sea installations 30

5. (1) Subject to subsection (3), for the purposes of this Act, a sea installation shall be taken to be installed in an adjacent area if:

- (a) the installation is in, or is brought into, physical contact with a part of the seabed in the adjacent area; or
- (b) the installation is in, or is brought into, physical contact with another sea installation that is to be taken to be installed in the adjacent area under paragraph (a). 35

(2) For the purposes of this Act, a sea installation shall be taken to be installed in an adjacent area if the whole or part of the installation:

- (a) is in that adjacent area on a particular day; 40
- (b) has been in a particular locality:
 - (i) that is circular and has a radius of 20 nautical miles; and

(ii) the whole or part of which is in that adjacent area;
for longer than:

(iii) 30 consecutive days; or

(iv) 40 days in a period of 60 consecutive days; and

5 (c) has been in that adjacent area or that locality at any time within the 60 days immediately before the day referred to in paragraph (a).

(3) Where a sea installation, being a ship or an aircraft:

10 (a) is brought into physical contact with a part of the seabed in an adjacent area; or

(b) is in, or is brought into, physical contact with another sea installation that is to be taken to be installed in an adjacent area;

for less than:

15 (c) in the case of a ship, or an aircraft, registered under the law of a foreign country—30 days; or

(d) in any other case—5 days;

it shall not be taken to be installed in that adjacent area under subsection (1).

20 (4) A sea installation shall not be taken to be installed in an adjacent area for the purposes of this Act unless it is to be taken to be so installed under subsection (1) or (2).

(5) For the purposes of this Act, a sea installation shall be taken to be brought into physical contact with a part of the seabed if the installation is connected with the part by a cable or other device.

25 **Attachments to sea installations**

6. (1) Where:

(a) a sea installation is in, or is brought into, physical contact with another sea installation installed in an adjacent area; and

(b) the contact:

30 (i) is in accordance with a permit; and

(ii) is not for the purpose of work on that other installation;

the first-mentioned installation shall be taken to be part of that other installation.

35 (2) For the purposes of this Act, a structure, other than a sea installation, attached to a sea installation shall be taken to be part of that installation.

Extension to external Territories

7. This Act extends to all the external Territories.

Act to bind Crown

8. (1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Northern Territory and of Norfolk Island.

(2) Nothing in this Act renders the Crown in right of the Commonwealth, of a State or of a Territory liable to be prosecuted for an offence.

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Application of Act

9. This Act applies to all natural persons, whether Australian citizens or not, and whether resident in the Commonwealth or an external Territory or not, and to all bodies corporate, whether incorporated or carrying on business in the Commonwealth or an external Territory or not.

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Saving of other laws

10. This Act and the regulations shall be read as being in addition to, and not in derogation of or in substitution for, any other law of the Commonwealth or of an external Territory, whether passed or made before or after the commencement of this Act.

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Act to apply subject to international obligations

11. This Act has effect subject to the obligations of Australia under international law, including obligations under any agreement between Australia and any other country or countries.

PART II—PROHIBITIONS RELATING TO SEA INSTALLATIONS

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Installation of sea installations without permit prohibited

12. (1) Subject to Part IV, a person shall not cause a sea installation to be installed in an adjacent area otherwise than in accordance with a permit.

Penalty:

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- (a) if the person is a natural person—\$100,000; or
- (b) if the person is a body corporate—\$200,000.

(2) In a prosecution of a person for an offence against subsection (1), it is a defence if it is established that the relevant installation was caused to be installed because of factors beyond the control of the person.

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(3) Subsection (2) shall not be taken to limit by implication any defence that would, but for that subsection, be available to a person charged with an offence against subsection (1).

Use of sea installations without permit prohibited

13. Subject to Part IV, the owner or operator of a sea installation installed in an adjacent area shall not use the installation, or allow the installation to be used, for any environment related activity otherwise than in accordance with a permit.

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Penalty:

- (a) if the person is a natural person—\$100,000; or
- (b) if the person is a body corporate—\$200,000.

Certain work on sea installations without permit prohibited

5 **14.** Subject to Part IV, the owner or operator of a sea installation installed in an adjacent area shall not carry out environment related work, or allow such work to be carried out, on the installation otherwise than in accordance with a permit.

Penalty:

- 10 (a) if the person is a natural person—\$100,000; or
- (b) if the person is a body corporate—\$200,000.

PART III—PERMITS TO OPERATE SEA INSTALLATIONS

Division 1—Grant of Permits

Permit to operate sea installation

15 **15.** (1) Subject to this Act, the Minister may grant, or refuse to grant, a permit to operate a sea installation in an adjacent area to a person who has made an application for the permit in accordance with section 18.

(2) Subject to this Act, a permit to operate a sea installation:

- 20 (a) authorises the holder of the permit to cause the installation to be installed in the manner, and at the location, specified in the permit and to keep it so installed for a period so specified;
- (b) authorises the installation to be used for environment related activities specified in the permit; and
- (c) authorises:
- 25 (i) the carrying out on the installation of environment related work specified in the permit; and
- (ii) the installation, during, and for the purpose of, work on the installation, of another sea installation (if any) specified in the permit.

30 (3) Without limiting the generality of subsection (1), a permit may be granted under that subsection in respect of a ship registered under the law of a foreign country.

Eligibility for permit

16. A permit to operate a sea installation shall only be granted to:

- 35 (a) where there is no operator of the installation—the owner of the installation; or
- (b) where there is an operator of the installation—the owner and the operator as the holders in common of the permit.

Permit not to be granted in certain circumstances

17. (1) The Minister shall not grant a permit to a person to operate a sea installation in the adjacent area of a State or the Northern Territory unless the Minister has given a representative of the State or Territory an opportunity to discuss the application with a representative of the Commonwealth. 5

(2) The Minister shall not grant a permit to a person to operate a sea installation in the adjacent area of a State or affected Territory if the Minister considers that the installation or use of the installation would, either because of this Act or otherwise, be contrary to another law of the Commonwealth. 10

(3) The Minister shall not grant a permit that would authorise a sea installation to be located partly in, and partly outside, the adjacent area of a State or of an affected Territory.

Application for permit 15

18. (1) Subject to this Act, a person may make an application to the Minister for the grant of a permit to operate a sea installation.

(2) An application for a permit to operate a sea installation shall:

- (a) be in writing in the appropriate approved form;
- (b) include such information as is required by the form; and 20
- (c) be signed as required by the form.

(3) An application for a permit to operate a sea installation shall be accompanied by evidence of the fact that the applicant will be the owner or operator of the installation on its installation.

(4) An application for a permit to operate a sea installation shall be accompanied by: 25

- (a) copies of construction plans of the installation;
- (b) copies of any reports obtained by the applicant relating to the location or construction of the installation; and
- (c) any prescribed documents, or documents in a prescribed class of documents, relating to the installation. 30

(5) Where an application is made and the Minister requires further information for the purpose of dealing with it, the Minister may, by notice in writing served on the applicant, require the applicant to give to the Minister a statement in writing setting out that information and, if a notice is so served, the Minister is not required to continue to deal with the application until the statement is given. 35

(6) Where an application is made, the Minister shall consider and dispose of the application within:

- (a) where a notice is not served under subsection (5) in relation to the application—60 days after the making of the application; or 40

5 (b) where a statement is given under subsection (5) in relation to the application—such number of days after the making of the application as is equal to the sum of 60 and the number of days between the giving of the notice under subsection (5) in relation to the application and the giving of that statement.

(7) Where, in relation to an application, the Minister refuses to grant a permit, the Minister shall give the applicant notice of the refusal setting out the reasons for it.

Form of permit

10 19. (1) Subject to subsection (2), a permit shall be in writing in the approved form.

(2) A permit to operate a sea installation shall:

(a) specify the matters required to be specified under subsection 15 (2);

15 (b) state whether the installation will be used wholly or principally for:
(i) scientific activities;
(ii) transport activities; or
(iii) other activities; and
(c) set out such other particulars as are prescribed.

Operation of permit

20 20. A permit:

(a) comes into force on the day on which it is granted; and

(b) subject to this Act, remains in force for the period specified in it commencing on the day on which it was granted, being:

25 (i) a period of 15 years;
(ii) the period specified in the application; or
(iii) a period ascertained in accordance with the regulations;
whichever is the shortest.

Division 2—Conditions of Permits

Conditions of all permits

30 21. (1) It is a condition of a permit to operate a sea installation that the holder of the permit will take all reasonable steps to ensure that journeys are not made to or from the installation that would involve the contravention of section 58A of the *Customs Act 1901*.

35 (2) It is a condition of a permit to operate a sea installation that any activities in relation to the use of, or work on, the installation will not interfere with:

(a) navigation, fishing or the conservation of the resources of the sea or seabed; or

40 (b) any activity being lawfully carried on by persons other than the holder of the permit;

more than is necessary for the reasonable exercise of the rights, and the compliance with the obligations, of the holder or of another person under this Act or under the permit.

Conditions of particular permits

22. A permit to operate a sea installation is subject to such conditions as the Minister considers appropriate which, without limiting the generality of the foregoing, may be, or include: 5

- (a) conditions relating to the design, construction and safety standards of the installation;
- (b) conditions relating to procedures designed to enable the Minister to monitor matters relating to the installation; 10
- (c) conditions relating to the insurances in relation to the installation or an installation used in work on the installation; or
- (d) a condition that certain licences or other documents identified in the permit are to be produced to the Minister on the occurrence of a specified event or at a specified time. 15

Division 3—Renewal of Permits

Renewal of permit

23. (1) Subject to this Act, the Minister may renew, or refuse to renew, a permit where the holder of the permit has made an application for the renewal in accordance with section 25. 20

(2) A permit may be renewed notwithstanding that it has been renewed before.

(3) The Minister shall not renew a permit if the Minister is satisfied that, if it were not in force, it would not be granted. 25

Permit not to be renewed without consultation

24. The Minister shall not renew a permit to operate a sea installation in the adjacent area of a State or the Northern Territory unless the Minister has given a representative of the State or Territory an opportunity to discuss the renewal with a representative of the Commonwealth. 30

Application for renewal of permit

25. (1) Subject to this Act, the holder of a permit may make an application, in writing in the appropriate approved form, to the Minister for the renewal of the permit.

(2) An application for the renewal of a permit shall be made within the last third of the period for which the permit was issued or last renewed, as the case requires, but not later than 6 months before the end of that period. 35

(3) Where an application is made and the Minister requires further information for the purpose of dealing with the application, the Minister may, by notice in writing served on the applicant, require the applicant to 40

give to the Minister a statement in writing setting out that information and, if a notice is so served, the Minister is not required to continue to deal further with the application until the statement is given.

5 (4) Where an application is made, the Minister shall consider and dispose of the application within:

(a) where a notice is not served under subsection (3) in relation to the application—60 days after the making of the application; or

10 (b) where a statement is given under subsection (3) in relation to the application—such number of days after the making of the application as is equal to the sum of 60 and the number of days between the giving of the notice under subsection (3) in relation to the application and the giving of that statement.

15 (5) Where, in relation to an application, the Minister refuses to renew a permit, the Minister shall give the applicant notice of the refusal setting out the reasons for it.

Form and operation of renewal of permit

26. (1) The renewal of a permit shall be effected by the Minister causing particulars of the renewal to be endorsed on the permit.

20 (2) The renewal of a permit shall come into force on the day on which, if it were not renewed, it would expire.

(3) Where a permit is renewed, it remains in force for a period specified in it, being:

(a) a period of 15 years;

(b) the period specified in the application for renewal; or

25 (c) a period ascertained in accordance with the regulations; whichever is the shortest.

Division 4—Variation of Permits

Variation of permit

30 27. (1) Subject to this Act, the Minister may vary a permit where the Minister considers it necessary or desirable to do so.

(2) Subject to this Act, the Minister may vary, or refuse to vary, a permit where the holder of the permit has made an application under section 30 for the variation.

35 (3) Where a natural person who is the holder of a permit dies, the Minister shall vary the permit by substituting for that holder the holder's legal personal representative.

(4) Division 3 does not prevent the variation under this Division of a permit on or after a renewal of the permit.

Permit not to be varied in certain circumstances

28. (1) The Minister shall not vary a permit that permits the operation of a sea installation in the adjacent area of a State or the Northern Territory unless the Minister has given a representative of the State or Territory an opportunity to discuss the variation with a representative of the Commonwealth. 5

(2) The Minister shall not vary a permit in such a way that it would authorise the sea installation to which it relates to be installed in the adjacent area of a State or the Northern Territory unless the Minister has given a representative of the State or Territory an opportunity to discuss the variation with a representative of the Commonwealth. 10

(3) The Minister shall not vary a permit to operate a sea installation in the adjacent area of a State or Territory if the Minister considers that the variation would result in the installation, operation or use of the installation in accordance with the permit as varied being, either because of this Act or otherwise, contrary to another law of the Commonwealth or a law applying under section 45 or 46. 15

(4) The Minister shall not vary a permit so that a sea installation is located partly in, and partly outside, the adjacent area of a State or of an affected Territory. 20

Variations by Minister

29. (1) Where the Minister decides to vary a permit under subsection 27 (1), the Minister shall give the holder of the permit notice in writing of particulars of the proposed variation setting out the reasons for it.

- (2) The Minister shall not vary a permit under subsection 27 (1): 25
 - (a) unless and until notice of the decision to vary the permit has been given; and
 - (b) until:
 - (i) the expiration of 20 days after the giving of the notice; or
 - (ii) where the holder of the permit applies to the Administrative Appeals Tribunal for the review of the decision to vary the permit, that review has been finally disposed of; 30
- whichever occurs last.

Application to vary permit

30. (1) The holder of a permit may make an application, in writing in the appropriate approved form, to the Minister for the variation of the permit. 35

(2) Where an application is made and the Minister requires further information for the purpose of dealing with the application, the Minister may, by notice in writing served on the applicant, require the applicant to give to the Minister a statement in writing setting out that information and, 40

if a notice is so served, the Minister is not required to continue to deal with the application until the statement is given.

(3) Where an application is made, the Minister shall consider and dispose of the application within:

- 5 (a) where a notice is not served under subsection (2) in relation to the application—60 days after the making of the application; or
- (b) where a statement is given under subsection (2) in relation to the application—such number of days after the making of the application as is equal to the sum of 60 and the number of days between the giving of the notice under subsection (2) in relation to the application and the giving of that statement.
- 10

(4) Where, in relation to an application, the Minister refuses to vary a permit, the Minister shall give the applicant notice of the refusal setting out the reasons for it.

15 **Form and operation of variation of permit**

31. (1) Variation of a permit shall be effected by the Minister causing:

- (a) particulars of the variation to be endorsed on the permit; or
- (b) a written statement of particulars of the variation to be attached to the permit.

20 (2) The variation of a permit comes into force on the day specified in the variation, not being a day earlier than the day on which the variation is effected in accordance with subsection (1).

(3) Where the Minister is entitled to vary a permit, the holder of the permit shall give it to the Minister for the time necessary for the variation to be effected.

25

Division 5—Suspension and Revocation of Permits

Suspension of permit

32. (1) Where the Minister considers that the holder of a permit has contravened the permit, the Minister:

- 30 (a) may suspend the permit by notifying the holder of its suspension and giving the holder particulars of the grounds of the suspension; and
- (b) where the permit is suspended, may give the holder directions in writing to take all necessary action to comply with the permit.

35 (2) Where the Minister suspends a permit, the Minister shall investigate the matter in respect of which it was suspended.

(3) Where the Minister has investigated the matter in respect of which the permit was suspended and has not found any grounds for revoking it, the Minister shall forthwith remove the suspension.

40 (4) Notwithstanding subsection (3), a suspension of a permit ceases to have effect:

- (a) where a direction was given in relation to its suspension—on compliance with the direction; or
- (b) where such a direction was not given—at the end of a period of 10 days commencing on the day on which the permit was suspended.

(5) While a permit to operate a sea installation is suspended: 5

- (a) the installation shall not be used for any environment related activity; and
- (b) where the suspension relates to environment related work on the installation, that work shall not be carried out.

Revocation of permit

10

33. (1) Subject to subsection 27 (3), the Minister shall revoke a permit to operate a sea installation if the holder of the permit ceases to be the owner or operator of the installation.

(2) The Minister may revoke a permit if the holder of the permit is convicted of an offence because of the contravention by the holder of this Act or the regulations. 15

(3) The Minister may revoke a permit if the holder of the permit:

- (a) contravenes the permit; or
- (b) fails to pay any amount which is payable under this Act or the Levy Act. 20

(4) Where the Minister has revoked a permit, the Minister shall, as soon as practicable, give the holder of the permit notice of the revocation setting out the reasons for it.

(5) Where a permit has been revoked, its holder may be convicted of an offence because of a contravention of the permit notwithstanding the revocation. 25

Division 6—Miscellaneous

Publication in *Gazette*

34. (1) Where an application for the grant, renewal or variation of a permit is made: 30

- (a) the Minister shall cause particulars of the application to be published in the *Gazette* as soon as it is practicable to do so; and
- (b) the applicant shall cause particulars of the application to be published in a newspaper circulating widely in the State or affected Territory in whose adjacent area the installation to which the application relates would be installed after the grant, renewal or variation of the permit, as the case may be; 35

and the permit shall not be granted, renewed or varied, as the case may be, unless and until paragraphs (a) and (b) have been complied with.

(2) The Minister shall cause particulars of the grant, renewal, variation, expiration without renewal, or revocation, of a permit to be published in the *Gazette* as soon as it is practicable to do so.

Securities etc.

5 **35. (1)** The Minister may, by notice in writing served on an applicant for a permit, require the applicant to give security, in an amount determined by the Minister, by bond, guarantee or cash deposit, or by all or any of those methods:

- 10 (a) to comply with this Act and the regulations;
 (b) not to contravene the permit; and
 (c) to meet any liability to the Commonwealth that the applicant could incur under section 51 or any other provision of this Act;

15 and, where the applicant is so required, the applicant is not entitled to be granted the permit unless the applicant gives security in accordance with the requirement.

(2) The Minister may, by notice in writing served on an applicant for, or the holder of, a permit, require the applicant or holder to insure against any specified liability to the Commonwealth that the holder or applicant could incur under section 51 or otherwise because of holding the permit.

20 Trust Account for money paid as security

36. (1) An account is hereby established to be known as the Sea Installations Trust Account.

(2) The account is a Trust Account for the purposes of section 62A of the *Audit Act 1901*.

25 **(3)** Money paid as a security under section 35 by way of a cash deposit shall be paid into the account.

30 **(4)** Where the Minister determines, in writing signed by the Minister, that the amount standing to the credit of the account that is the sum of the money paid by a person as a security under section 35 and of interest on that money exceeds the amount required for the purposes of the security, the amount of the excess shall be paid to that person.

Permits not evidence of compliance with law

35 **37.** The grant of a permit is not evidence, for the purposes of this Act or of any other law of the Commonwealth or of any law of a Territory, of compliance by the holder with this Act or with any other law of the Commonwealth or with any law of a Territory.

PART IV—EXEMPTION CERTIFICATES

Exemption certificate

40 **38. (1)** Subject to this Part, the Minister may give, or refuse to give, a certificate that a specified sea installation may be installed at a specified

location in an adjacent area without a permit where a person has made an application under section 40 for the issue of the certificate.

(2) The Minister shall not give a certificate that a sea installation may be installed at a location unless the Minister is satisfied that:

- (a) the installation, when so installed, will only be used for particular scientific activities or particular activities relating to marine archaeology; and 5
- (b) requiring a permit to operate the installation would impose an unreasonable burden on the carrying out of those activities.

(3) A certificate is subject to such conditions as the Minister considers appropriate. 10

Exemption certificate not to be granted without consultation

39. The Minister shall not grant an exemption certificate that a sea installation may be installed in the adjacent area of a State or the Northern Territory unless the Minister has given a representative of the State or Territory an opportunity to discuss the application with a representative of the Commonwealth. 15

Application for exemption certificate

40. (1) A person may make an application, in writing in the appropriate approved form, to the Minister for an exemption certificate. 20

(2) An application for an exemption certificate in relation to a sea installation shall set out such particulars as are required by the form.

(3) An application for an exemption certificate in relation to a sea installation shall be accompanied by evidence of the fact that the applicant will be the owner or operator of the installation on its installation. 25

(4) Where an application is made and the Minister requires further information for the purpose of dealing with it, the Minister may, by notice in writing served on the applicant, require the applicant to give to the Minister a statement in writing setting out that information and, if a notice is so served, the Minister is not required to deal with the application until the statement is given. 30

(5) The Minister shall deal with an application within 28 days after:

- (a) if no requirement has been made to the applicant under subsection (4)—receiving the application; or
- (b) if any such requirement has been made to the applicant—receiving a statement or statements in writing containing all the further information required to be given. 35

(6) Where, in relation to an application, the Minister refuses to give an exemption certificate, the Minister shall give the applicant notice of the refusal setting out the reasons for it. 40

Form of exemption certificate

41. An exemption certificate in relation to a sea installation shall:

- (a) identify the installation and its location;
- (b) specify the particular activities for which the installation may be used;
- (c) specify the period, commencing on the day on which the notice is given, for which the certificate is, subject to this Act, to remain in force;
- (d) set out the conditions to which the certificate is subject; and
- (e) set out such other particulars as are prescribed.

Termination of exemption certificate

42. (1) An exemption certificate in relation to a sea installation ceases to be in force if:

- (a) the period specified under paragraph 41 (c) in the certificate ends;
- (b) the owner or operator of the installation uses it, or allows it to be used, for an activity that is not a part of, or incidental to the carrying out of, the particular activities specified under paragraph 41 (b) in the certificate; or
- (c) the Minister gives to the owner or operator of the installation a notice under subsection (2).

(2) Where the Minister has reasonable grounds for believing that a condition to which an exemption certificate is subject has been contravened, the Minister may give to the owner or operator of the sea installation to which the certificate relates a written notice to the effect that the certificate has ceased to be in force.

Effect of exemption certificates

43. Where an exemption certificate is in force in relation to a sea installation:

- (a) section 12 does not apply in relation to installing the installation at the location specified in the certificate;
- (b) section 13 does not apply in relation to the use of the installation for the activities specified in the certificate; and
- (c) section 14 does not apply in relation to the carrying out of any environment related work specified in the certificate.

PART V—APPLICATION OF LAWS AND JURISDICTION OF COURTS IN RELATION TO SEA INSTALLATIONS

Application of Commonwealth Acts in adjacent areas

44. (1) Subject to subsection (2), the provisions of the Acts specified in the Schedule apply, as provided by this section, in relation to sea installations installed, or being installed, in adjacent areas and so apply as if those areas were part of the Commonwealth.

(2) The regulations may revoke the application, or the application in a specified adjacent area, of an Act, or part of an Act, specified in the Schedule.

(3) Subject to this Act, the regulations may provide that a specified Act, or a specified part of a specified Act, applies, as provided by this section, in relation to sea installations installed, or being installed, in adjacent areas or specified adjacent areas and so applies as if those areas were part of the Commonwealth. 5

(4) Without limiting the operation of subsections (1) and (3), an Act or part of an Act applying in relation to an adjacent area under those subsections, applies: 10

(a) in relation to:

(i) an act or omission that takes place on or in the vicinity of; and

(ii) a matter that exists or arises in relation to; 15
a sea installation installed, or being installed, in the adjacent area or a ship, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for any reason relating to such a sea installation;

(b) in relation to a person who: 20

(i) is on such a sea installation;

(ii) is in the adjacent area for a reason of the kind referred to in paragraph (a); or

(iii) is on or in the vicinity of a ship, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for a reason of the kind referred to in paragraph (a); and 25

(c) in relation to a person in respect of the person carrying on any operation or doing any work in the adjacent area for a reason of the kind referred to in paragraph (a). 30

(5) This section does not limit the operation of any law apart from this section.

Application of laws in areas adjacent to States

45. (1) Subject to this Act and the regulations, the laws, whether written or unwritten, in force in a State for the time being (other than laws of the Commonwealth) and any instrument having effect under any of those laws, apply, as provided by, and by force of, this section, in relation to sea installations installed, or being installed, in the adjacent area of the State and so apply as if that area were part of that State and of the Commonwealth. 40

(2) The laws referred to in subsection (1) do not include laws that are criminal laws within the meaning of the *Crimes at Sea Act 1979*, but nothing in this Act derogates from the operation of that Act.

(3) A law shall be taken to be a law in force in a State notwithstanding that it applies to part only of the State.

(4) Without limiting the operation of subsection (1), a law or instrument referred to in that subsection relating to a State applies:

- 5 (a) in relation to:
 - (i) an act or omission that takes place on or in the vicinity of;
and
 - (ii) a matter that exists or arises in relation to;
10 a sea installation installed, or being installed, in the adjacent area of the State or a ship, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for any reason relating to such a sea installation;
- (b) in relation to a person who:
 - 15 (i) is on such a sea installation;
 - (ii) is in the adjacent area for a reason of the kind referred to in paragraph (a); or
 - (iii) is on or in the vicinity of a ship, aircraft, structure or
20 installation, or equipment or other property, that is in the adjacent area for a reason of the kind referred to in paragraph (a); and
- (c) in relation to a person in respect of the person carrying on any operation or doing any work in the adjacent area for a reason of the kind referred to in paragraph (a).

(5) This section does not:

- 25 (a) give to a law of a State an operation, as law of the Commonwealth, that it would not have, as law of the State, if the adjacent area of the State were within so much of the part of the area described in Schedule 2 to the Petroleum Act under the heading that refers to that State as is on the landward side of the adjacent area;
- 30 (b) extend to the provisions of any law or instrument in so far as those provisions, as applied by this Act, would be inconsistent with this Act or another law of the Commonwealth;
- (c) apply so as to impose any tax;
- 35 (d) apply so as to confer or purport to confer any part of the judicial power of the Commonwealth on a court, tribunal, authority or officer of a State; or
- (e) apply so as to purport to confer on a court of a State any power that cannot, under the Constitution, be conferred by the Parliament on such a court.

40 (6) This section does not limit the operation that any law or instrument has apart from this section.

(7) The regulations may provide that such of the provisions of a law or instrument referred to in subsection (1) as are specified in the regulations

do not apply by reason of this section or so apply subject to such modifications as are specified in the regulations.

(8) Notwithstanding anything in this section or in section 47, the regulations that may be made for the purposes of subsection (7) include regulations having the effect that provisions as modified by the regulations make provision for and in relation to investing a court of a State with federal jurisdiction.

Application of laws in areas adjacent to Territories

46. (1) Subject to this Act, the laws, whether written or unwritten, in force in an affected Territory for the time being (other than laws of the Commonwealth), and any instrument having effect under any of those laws, apply, as provided by, and by force of, this section, in relation to all matters relating to sea installations installed, or being installed, in the adjacent area of the Territory and so apply as if that area were part of that Territory and, in the case of the Northern Territory, were part of the Commonwealth.

(2) The laws referred to in subsection (1) do not include laws that are criminal laws within the meaning of the *Crimes at Sea Act 1979*, but nothing in this Act derogates from the operation of that Act.

(3) A law shall be taken to be a law in force in a Territory notwithstanding that it applies to part only of that Territory.

(4) Without limiting the operation of subsection (1), a law or instrument referred to in that subsection relating to a Territory applies:

(a) in relation to:

(i) an act or omission that takes place on or in the vicinity of; and

(ii) a matter that exists or arises in relation to;

a sea installation installed, or being installed, in the adjacent area of the Territory or a ship, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for any reason relating to such a sea installation;

(b) in relation to a person who:

(i) is on such a sea installation;

(ii) is in the adjacent area for a reason of the kind referred to in paragraph (a); or

(iii) is on or in the vicinity of a ship, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for a reason of the kind referred to in paragraph (a); and

(c) in relation to a person in respect of the person carrying on any operation or doing any work in the adjacent area for a reason of the kind referred to in paragraph (a).

(5) This section does not:

- (a) give to a law of a Territory an operation, as law of the Commonwealth, that it would not have, as law of the Territory, if the adjacent area of the Territory were within so much of the part of the area described in Schedule 2 of the Petroleum Act under the heading that refers to that Territory as is on the landward side of the adjacent area;
- (b) extend to the provisions of any law or instrument in so far as those provisions, as applied by this Act, would be inconsistent with this Act or another law of the Commonwealth;
- (c) apply so as to impose any tax;
- (d) apply so as to appropriate any public money of a Territory; or
- (e) apply so as to confer or purport to confer any part of the judicial power of the Commonwealth on a court, tribunal, authority or officer of a Territory.

(6) This section does not limit the operation that any law or instrument has apart from this section.

(7) The regulations may provide that such of the provisions of a law or instrument referred to in subsection (1) as are specified in the regulations do not apply by reason of this section or so apply subject to such modifications as are specified in the regulations.

Jurisdiction of courts

47. (1) Except as otherwise prescribed, the several courts of a State are invested with federal jurisdiction in all matters arising under the laws and instruments having effect under section 45 in the adjacent area of the State.

(2) Jurisdiction is conferred, so far as the Constitution permits, on the several courts having jurisdiction in an affected Territory in all matters arising under the laws and instruments having effect under section 46 in the adjacent area of the Territory.

(3) Subject to this section:

- (a) the several courts of the States are vested with Federal jurisdiction; and
- (b) jurisdiction is conferred, so far as the Constitution permits, on the several courts of the affected Territories;

with respect to matters arising under this Act or the regulations other than matters arising under section 45 or 46.

(4) Jurisdiction vested in or conferred on courts by this section is vested or conferred within the limits (other than limits having effect by reference to localities) of their several jurisdictions, whether those limits are as to subject-matter or otherwise.

Rules of courts

48. Where a court of a State or of an affected Territory has jurisdiction because of this Act, the power of the court to make rules relating to the practice and procedure of the court may be exercised for the purposes of that jurisdiction.

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**PART VI—OFFENCES AND PROCEDURES RELATING TO SEA
INSTALLATIONS**

Maintenance of sea installations etc.

49. (1) Subject to subsection (2), a person who holds a permit to operate a sea installation shall maintain in good condition and repair the sea installation and all equipment and other property in an adjacent area used in connection with that installation.

10

(2) Subsection (1) does not apply to a person in relation to any structure, equipment or other property that was not brought into an adjacent area by or with the authority of the person.

15

Penalty:

- (a) if the offender is a natural person—\$10,000; or
- (b) if the offender is a body corporate—\$20,000.

Directions for removal of sea installations etc.

50. (1) The Minister may, by notice in writing served on the owner or operator of an unauthorised installation, direct that owner or operator, as the case may be, to do either or both of the following things within a period specified in the notice:

20

- (a) to remove or cause to be removed from an adjacent area that installation and all property brought into that area by that person or any other person for the purpose of the installation of, the use of, or work on, that installation or to make arrangements that are satisfactory to the Minister with respect to that installation and property;
- (b) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in an adjacent area caused by that person or any other person in the installation of, the use of, or work on, that installation.

25

30

(2) The Minister may, by notice in writing served on the holder of a permit to operate a sea installation, direct the holder to do either or both of the following things within a period specified in the notice:

35

- (a) to remove or cause to be removed from an adjacent area any property brought into that area for the purpose of the installation of, the use of, or work on, that installation, or to make arrangements that are satisfactory to the Minister with respect to that property;

40

- (b) to make good, to the satisfaction of the Minister, any damage to the seabed or subsoil in an adjacent area caused in the installation of, the use of, or the carrying out of work on, that installation.

5 (3) A person to whom a direction is given under subsection (1) or (2) shall comply with the direction.

Penalty:

- (a) if the person is a natural person—\$10,000; or
(b) if the person is a body corporate—\$20,000.

Forfeiture

10 51. (1) Where:

- (a) a direction has been given to a person under section 50 for the removal of a sea installation or property; and
(b) the person has not complied with the direction;

15 the Minister may, by notice in writing published in the *Gazette*, declare that the installation or property is forfeited to the Commonwealth, and, where the Minister does so, the declaration has effect accordingly.

(2) Where a person is convicted by a court:

- (a) of an offence against section 12, 13, 14 or 72; or
20 (b) of an offence arising out of section 5 or 7 of the *Crimes Act 1914* in relation to an offence referred to in paragraph (a);

the court may, in addition to imposing a penalty, make an order for the forfeiture to the Commonwealth of the sea installation involved in the commission of the offence.

25 (3) Where the Commonwealth incurs expense in removing or disposing of a sea installation or property forfeited under subsection (1) or (2), the amount of that expense is a debt due to the Commonwealth by the person who did not comply with the direction or the person who was convicted, as the case may be, and, if it is not met by enforcing the security given under subsection 35 (1), may be recovered by action in a court having jurisdiction
30 under section 47.

Safety zones

52. (1) Subject to subsection (2), for the purpose of protecting a sea installation installed, or being installed, in an adjacent area, the Minister may, by notice in writing published in the *Gazette*, prohibit:

- 35 (a) all vessels;
(b) all vessels other than specified vessels; or
(c) all vessels other than specified classes of vessels;

from entering or remaining in a specified safety zone surrounding the installation without the consent in writing of the Minister.

40 (2) A safety zone specified in a notice may extend to a distance of 500 metres around the sea installation specified in the notice measured from each point of the outer edge of the installation.

(3) Where a vessel enters or remains in a safety zone in contravention of the notice, the owner and the person in charge of the vessel are each guilty of an offence against this section and are punishable, upon conviction, by a fine not exceeding:

- (a) where the person convicted is a natural person—a fine not exceeding \$150,000 or imprisonment for a term not exceeding 10 years, or both; or 5
- (b) where the person convicted is a body corporate—a fine not exceeding \$300,000.

(4) It is a defence to a charge of an offence of entering or remaining in a safety zone if it is established that the entering or remaining: 10

- (a) occurred because of factors beyond the person's control;
- (b) was necessary to secure the safety of, or appeared to be the only way of averting a threat to, human life; or
- (c) was necessary to secure, or appeared to be the only way of averting a threat to, the safety of a ship at sea or of a sea installation. 15

(5) Subsection (4) shall not be taken to limit by implication any defence that would, but for that subsection, be available to a person charged with an offence against subsection (3).

Injunctions 20

53. (1) Where, on the application of the Minister, a court having jurisdiction under section 47 is satisfied that a person has engaged, or is proposing to engage, in conduct that constitutes or would constitute:

- (a) a contravention of section 12, 13 or 14;
- (b) attempting to contravene such a section; 25
- (c) aiding, abetting, counselling or procuring a person to contravene such a section;
- (d) inducing, or attempting to induce, whether by threats, promises or otherwise, a person to contravene such a section;
- (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of such a section; or 30
- (f) conspiring with others to contravene such a section;

the court may grant an injunction in such terms as the court determines to be appropriate.

(2) Where in the opinion of the court it is desirable to grant an interim injunction pending determination of an application under subsection (1), the court may do so. 35

(3) The court may rescind or vary an injunction granted under subsection (1) or (2).

(4) The power of the court to grant an injunction restraining a person from engaging in conduct may be exercised: 40

- (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind;
- (b) whether or not the person has previously engaged in conduct of that kind; and
- 5 (c) whether or not there is a serious and immediate threat of injury to the environment if the person engages in conduct of that kind.

(5) The power of the court to grant an injunction requiring a person to do an act or thing may be exercised:

- 10 (a) whether or not it appears to the court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing;
- (b) whether or not the person has previously refused or failed to do that act or thing; and
- 15 (c) whether or not there is a serious and immediate threat of injury to the environment if the person refuses or fails to do that act or thing.

PART VII—ADMINISTRATION

Appointment of inspectors

54. The Minister may, in writing, appoint:

- 20 (a) a specified person; or
 - (b) persons in a specified class of persons;
- to be an inspector, or inspectors, for the purposes of this Act.

Identity cards

25 55. (1) The Minister may cause to be issued to an inspector, other than a member of a police force, an identity card in a form approved by the Minister.

(2) Where a person in possession of an identity card issued to the person ceases to be an inspector, the person shall forthwith return the identity card to the Minister.

Penalty: \$100.

30 Powers of inspectors

56. (1) Subject to subsection (3), an inspector may board any sea installation installed, or being installed, in an adjacent area and enter into any part of the installation for the purpose of ascertaining whether or not there has been a contravention of this Act or of a permit.

35 (2) Where an inspector (other than a member of a police force) boards a sea installation, the inspector shall produce his or her identity card for inspection by the person in charge of the installation and, if the inspector fails to do so, the inspector is not authorised to remain on board that installation.

(3) Where a part of a sea installation is used by a person for accommodation, an inspector shall not, except with the person's consent, enter that part while the person is in it.

Personation

57. A person who, by words or conduct, falsely represents that he or she is an inspector is guilty of an offence punishable, on conviction, by a fine not exceeding \$5,000 or imprisonment not exceeding 2 years, or both. 5

False statements

58. (1) A person who, in relation to an application for, or an application for the renewal or variation of, a permit or an application for an exemption certificate, knowingly or recklessly: 10

(a) makes a statement that is false or misleading in a material particular; or

(b) gives to an inspector or other person doing duty in relation to this Act a document that contains information that is false or misleading in a material particular; 15

is guilty of an offence punishable, on conviction, by:

(c) if the first-mentioned person is a natural person—a fine not exceeding \$5,000 or imprisonment for a period not exceeding 2 years, or both; or 20

(d) if the first-mentioned person is a body corporate—a fine not exceeding \$20,000.

(2) A person who, otherwise than in relation to an application for, or an application for the renewal or variation of, a permit, or an application for an exemption certificate knowingly or recklessly: 25

(a) makes to an inspector doing duty in relation to this Act a statement that is false or misleading in a material particular; or

(b) gives to an inspector doing duty in relation to this Act a document that contains information that is false or misleading in a material particular; 30

is guilty of an offence punishable, on conviction, by a fine not exceeding:

(c) if the person is a natural person—\$2,000; or

(d) if the person is a body corporate—\$5,000.

Indictable offences

59. (1) An offence against this Act is an indictable offence. 35

(2) Notwithstanding that an offence against this Act is an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

(3) Where, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an offence against this Act (other than subsection 58 (2)), the penalty that the court may impose is: 40

- (a) if the person is a natural person—a fine not exceeding \$5,000 or imprisonment for a period not exceeding 12 months, or both; or
- (b) if the person is a body corporate—a fine not exceeding \$10,000.

Offence by body corporate

5 **60. (1)** Where, in proceedings for an offence against this Act in respect of any conduct engaged in by a body corporate, it is necessary to establish the state of mind of the body, it is sufficient to show that a director, servant or agent of the body, being a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

(2) Any conduct engaged in on behalf of a body corporate:

- (a) by a director, servant or agent of the body within the scope of his or her actual or apparent authority; or
- 15 (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body, where the giving of such direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent;

20 shall be deemed, for the purposes of a provision of this Act that creates an offence, to have been engaged in by the body.

(3) A reference in subsection (1) to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the intention, opinion, belief or purpose.

25 **PART VIII—INSTALLATION LEVY COLLECTION**

Time for payment of installation levy

61. (1) Subject to subsection (2), installation levy imposed in respect of a sea installation on a day is due and payable:

- 30 (a) where the last determination made on or before that day under section 64 in relation to the installation was made at least 14 days before that day—on that day; or
- (b) in any other case—14 days after the making of that last determination.

(2) Where:

- 35 (a) an application has been made to the Administrative Appeals Tribunal for the review of the last determination under section 64 in relation to a sea installation made on or before a day on which installation levy was imposed in respect of the installation; and
- 40 (b) that application was made, but not disposed of, before the day on which, but for this subsection, that levy would have been due and payable;

that levy is due and payable 4 days after the review is finally disposed of.

Penalty for non-payment

62. Where the liability of the holder of a permit to pay installation levy is not discharged on or before the day when the levy becomes due and payable, there is payable by the holder to the Commonwealth by way of penalty, in addition to the levy, an amount calculated at the rate of 30% per annum upon so much of the levy as from time to time remains unpaid, to be calculated from the day when the levy becomes due and payable. 5

Recovery of levy and penalties

63. The following amounts may be recovered by the Commonwealth as debts due to the Commonwealth: 10

- (a) installation levy that is due and payable;
- (b) amounts that are payable under section 62.

Valuation of sea installations

64. (1) Where a sea installation in respect of which a permit is in force is installed in an adjacent area, the Commissioner shall determine, and forthwith notify the holder of the permit of, the amount that, having regard to sound valuation principles, is the market value of the installation. 15

(2) Where the Commissioner considers that there has been a significant increase or decrease in the market value of a sea installation in respect of which a determination has been made under subsection (1) or this subsection and in respect of which a permit is in force, the Commissioner shall determine, and forthwith notify the holder of the permit of, the amount that, in accordance with sound valuation principles, is the market value of the installation. 20

Boarding sea installations for valuation 25

65. (1) Subject to subsection (3), an officer within the meaning of section 16 of the *Income Tax Assessment Act 1936* may board any sea installation installed, or being installed, in an adjacent area and enter into any part of the installation for the purposes of section 64.

(2) Where an officer boards a sea installation, the officer shall produce evidence that he or she has been authorised by the Commissioner to board the installation for the purposes of section 64 and, if the officer fails to do so, the officer is not authorised to remain on board the installation. 30

(3) Where a part of a sea installation is used by a person for accommodation, an officer shall not, except with the person's consent, enter that part while the person is in it. 35

PART IX—MISCELLANEOUS**Fees**

66. (1) The regulations may prescribe fees, or a method of ascertaining fees, to be paid in respect of applications for permits, applications for the renewal of permits or applications for the variation of permits. 40

(2) A fee prescribed in respect of an application shall be paid when the application is made or at such other time (if any) as is prescribed and, if the fee is not so paid, the application shall be deemed not to be duly made.

5 (3) The Minister may waive the payment of any fee payable in respect of an application and, if the Minister does so, subsection (2) does not apply in relation to that application.

Recompense of expenses incurred by States etc.

10 67. (1) The Minister may enter into arrangements with a State or the Northern Territory for the payment by the Commonwealth to the State or Territory of money in recompense for expenses incurred by the State or Territory because of the operation of section 45 or 46.

(2) Payments under arrangements referred to in subsection (1) shall be made out of money appropriated by the Parliament for the purpose.

Delegation

15 68. (1) The Minister may, either generally or otherwise as provided in the instrument of delegation, in writing, delegate to:

(a) the holder of an office established by an Act;

(b) the holder of an office established by a law of a State or of a Territory;

20 (c) an officer or employee of the Australian Public Service; or

(d) an officer or employee of the Public Service of a State or Territory;

all or any of the powers of the Minister under this Act, other than:

(e) the powers of the Minister under sections 15, 23, 27, 32, 33, 50 and 51; and

25 (f) this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of the power by the Minister.

30 **Application for review**

69. (1) Applications may be made to the Administrative Appeals Tribunal for review of:

(a) a decision of the Minister under section 15 to grant, or refuse to grant, a permit;

35 (b) a decision of the Minister for the purposes of section 22;

(c) a decision of the Minister under section 23 to renew, or refuse to renew, a permit;

(d) a decision of the Minister under subsection 27 (1) to vary a permit;

40 (e) a decision of the Minister under subsection 27 (2) to vary, or refuse to vary, a permit;

(f) a decision of the Minister for the purposes of subsection 32 (1);

- (g) a decision of the Minister under subsection 33 (2);
- (h) a decision of the Minister under subsection 33 (3);
- (j) a determination of the Minister of the amount of security for the purposes of subsection 35 (1);
- (k) a decision of the Minister under section 38 to refuse to give an exemption certificate; 5
- (m) a decision of the Minister for the purposes of subsection 50 (1);
- (n) a decision of the Minister for the purposes of subsection 50 (2); or
- (p) a determination of the Commissioner under section 64.

(2) In subsection (1), "decision" has the same meaning as in the *Administrative Appeals Tribunal Act 1975*. 10

Statement to accompany notice of decisions

70. (1) Where the Minister or the Commissioner makes a decision of a kind referred to in subsection 69 (1) and gives to a person whose interests are affected by the decision notice in writing of the making of the decision, that notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates by or on behalf of the person or persons whose interests are affected by the decision. 15 20

(2) Any contravention of subsection (1) in relation to a decision does not affect the validity of the decision.

Regulations

71. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters: 25

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular:

- (c) prohibiting or regulating activities on sea installations installed or being installed in an adjacent area; 30
- (d) prescribing matters to ensure the safety of persons on such sea installations;
- (e) prescribing procedures to be observed in emergencies on such sea installations; 35
- (f) controlling the disposal of wastes on such sea installations;
- (g) prescribing matters relating to ships travelling between such sea installations and other places; and
- (h) prohibiting or regulating trade or other activities in the vicinity of such sea installations. 40

Transitional—certain sea installations to be detached

72. If:

(a) on the commencement of this Act, a sea installation is being kept installed in an adjacent area; and

(b) that installation remains installed in that area, otherwise than in accordance with a permit, or an exemption certificate, at the end of:

(i) where an application for a permit or an exemption certificate that would authorise that installation to be kept installed in that area is made within 2 months after the commencement of this Act—3 months after the expiration of those 2 months or after the final disposal of that application, whichever occurs last; or

(ii) in any other case—5 months after the commencement of this Act;

the owner of the installation is guilty of an offence against this section punishable, on conviction, by a fine not exceeding:

(c) if the owner is a natural person—\$100,000; or

(d) if the owner is a body corporate—\$200,000.

SCHEDULE

Section 44

ACTS APPLYING IN ADJACENT AREAS

Air Accident (Commonwealth Government Liability) Act 1963
Air Navigation Act 1920
Air Navigation (Charges) Act 1952
Broadcasting Act 1942
Civil Aviation (Carriers' Liability) Act 1959
Civil Aviation (Damage by Aircraft) Act 1958
Civil Aviation (Offenders on International Aircraft) Act 1970
Crimes (Aircraft) Act 1963
Crimes (Biological Weapons) Act 1976
Crimes (Currency) Act 1981
Crimes (Foreign Incursions and Recruitment) Act 1978
Crimes (Hijacking of Aircraft) Act 1972
Crimes (Internationally Protected Persons) Act 1976
Defence (Visiting Forces) Act 1963
Extradition (Commonwealth Countries) Act 1966
Extradition (Foreign States) Act 1966
Fringe Benefits Tax Assessment Act 1986
Health Insurance Act 1973
Human Rights Commission Act 1981
Income Tax Assessment Act 1936
Marriage Act 1961
National Crimes Commission Act 1982
National Health Act 1953
Postal Services Act 1975
Public Order (Protection of Persons and Property) Act 1979
Racial Discrimination Act 1975
Radiocommunications Act 1983
Sex Discrimination Act 1984
Telecommunications Act 1975
Therapeutic Goods Act 1966
Trading with the Enemy Act 1939
Tradesmens' Rights Regulations Act 1946

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