

PETROLEUM BILL

Received from the House of Assembly and read a first time.

The Hon. K.T. GRIFFIN (Attorney-General): I move:
That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

INTRODUCTION

This Bill seeks to replace the *Petroleum Act 1940* for governing onshore petroleum exploration and development in South Australia. The intent of this Bill is to improve the confidence of all stakeholders in the ability of the resource industries, to which this Bill relates, to conduct their activities in a sustainable manner acceptable to the community.

The key objectives of this Bill are:

- To create an effective, efficient and flexible regulatory system for the exploration, recovery and commercial utilisation of petroleum and other resources to which this Bill applies, such as geothermal energy, and for the construction and operation of transmission pipelines for transporting petroleum and any other substances to which this Bill applies.
- To minimise environmental damage and protect the public from risks inherent in the activities covered by this Bill.
- To establish appropriate consultative processes involving people affected by the activities covered by this Bill.

The *Petroleum Act 1940* has not undergone a major review since it was proclaimed, although a number of amendments have been made from time to time. Over the past few years the regulatory philosophy underlying the *Petroleum Act 1940* has undergone extensive review. The need for this review was initiated through the recognition of advances in regulatory theory, increased rate of change of technology, changes to community expectations, in particular to environmental issues, and through competition policy reforms.

REGULATORY PRINCIPLES

To achieve its intent, this Bill establishes a new legislative regime grounded on six key principles, namely, certainty, openness, transparency, flexibility, practicality and efficiency. These principles are reflected in the 1993 Australian Manufacturing Council publication on best practice environmental regulation and through the 1995 recommendation of the council of the Organisation for Economic Cooperation and Development (OECD) on regulatory reform.

PUBLIC CONSULTATION ON BILL

The review of the *Petroleum Act 1940* was carried out through extensive public consultation, providing all stakeholders with the opportunity to have input into the establishment of this Bill and

understanding of its underlying principles and philosophy. This consultation was undertaken through the public release of an Issues Paper in 1996, a Green Paper in 1997, an exposure draft of the Bill at the end of 1998 and a specific discussion paper on geothermal energy in April 1999. Subsequent to each release, many submissions were received from industry and non-industry stakeholders which were considered and in most cases accommodated in the final Bill. Throughout each phase of consultation a number of meetings were undertaken with various stakeholders to discuss their submissions in detail.

KEY FEATURES OF BILL

The major improvements over the *Petroleum Act 1940* which this Bill achieves are:

- A more effective means for allocating and managing the rights to explore for and develop petroleum and other natural resources so as to promote and maximise competition.
 - An extension to the resources administered by the existing Act to include geothermal energy, coal seam methane and underground gas storage.
 - Greater security of title of petroleum rights through improved registration procedures and greater flexibility in the types of licences that can be granted.
 - A regulatory regime designed to more effectively and efficiently set and achieve environment and public safety protection and security of natural gas supply objectives.
 - Effective public consultation processes for the establishment of environmental objectives.
 - Effective public reporting to provide all stakeholders with sufficient information on industry performance and government decision-making.
 - Compulsory acquisition powers in relation to land where it is necessary to take such action to ensure the construction and operation of pipelines.
 - A flexible regulatory approach which allows the selection of the most appropriate level of regulatory intervention and enforcement in order to ensure compliance with the regulatory objectives.
 - An appropriate royalty return to the community of South Australia for the exploitation of its natural resources.
- More specifically, this Bill makes these improvements through the following key provisions:

More Effective Allocation of Title Rights

This Bill seeks to ensure that title to regulated resources is granted in an open and fair manner and that the granting of rights to one regulated resource such as petroleum does not compromise the rights to another regulated resource such as geothermal energy.

Geothermal Energy Rights

Rights for geothermal energy have been included and are separated from the rights for other regulated resources. This allows for rights for geothermal energy and other regulated resources to be granted over the same area. Such overlapping titles mitigate any anti-competitive behaviour where for example one title holder, whose sole interest may be to exploit petroleum resources, denies other interested parties of access to geothermal energy resources. Concern over the potential for this type of anti-competitive behaviour was raised by a number of submissions made on the exposure draft of the *Petroleum Bill*.

Exploration & Production Acreage

This Bill makes provisions for the granting of smaller exploration tenements over shorter terms than under the existing Act. This facilitates greater competition for exploration acreage within any given basin by opening areas up to a greater number of interested parties and by the faster turnover of exploration acreage. These provisions are consistent with the key recommendations of the CoAG/ANZMEC Upstream Issues Working Group in relation to ensuring greater competition for acreage through appropriately sized blocks, greater transparency of administration and faster turnover of acreage in light of basin maturity and prospectivity.

Reinforcing this recommendation is also the provision in this Bill for confining the area of production licenses to twice the size of the area underlain by proven and probable reserves of petroleum. The existing Act provides that significantly larger areas can be awarded in certain circumstances, including areas which are more appropriately made available for exploration or held under Retention Licence.

Commerciality Test

This Bill attempts to provide greater objectivity in the granting of Production Licences (Part 6). Under the provisions of the existing legislation the potential for subjective interpretation of what constitutes sufficient quantity and quality of petroleum production

in the granting of a Production Licence can create uncertainty in the grant or refusal of a licence. This can also potentially delay granting of new exploration licences in highly prospective areas. The Bill addresses this issue but does not detract from the court's final determination powers of the granting of such rights.

Improved Security of Title

One of the major fundamental requirements in any free market society is the need for the establishment of secure property rights to allow individuals and corporations to effectively and efficiently operate and trade within such a society. As under the existing Act, this Bill provides for the allocation of secure title through its provisions for the granting of licences which give exclusive rights to:

- (a) Explore for regulated resources (Exploration Licence, Part 4).
- (b) Use, produce or extract a regulated resource (Production Licence, Part 6).
- (c) Construct and operate a transmission pipeline (Transmission Pipelines, Part 8).

However, improvements to security of title provided for under this Bill are as follows:

Improved Title Registration Procedures

As with the allocation of other property rights, licences proposed under this Bill provide essential sovereignty to industry to carry out activities with certainty and security to effectively exploit the relevant resource. The general thrust of allocating secure title under this Bill remains consistent with that provided for under the existing Act but with added improvement to the title registration procedures (Part 13) for any dealings such as transactions or agreements made in relation to the interests and rights conferred by a licence. By requiring such dealings to be approved and registered before legally taking affect, rather than simply taking affect through approval only, provides for greater security of title than in the existing Act.

Associated Facility Licence

In some cases a holder of an exploration or production licence may be denied surface access to the area relating to the licence due to the environmental sensitivity of the area or as a result of the existence of infrastructure or facilities of existing land users. In these cases, the ability to access the regulated resource and therefore the security of title for the resource could be severely infringed. To alleviate the potential for this situation, without infringing on either the values of the sensitive environment or the legal rights of the existing land users, this Bill introduces a new licence known as an Associated Facilities Licence (AFL). An AFL gives the right to the licensee to access or process the regulated resources within the licence area from an area of land covered by the AFL which will be located outside the licence area containing the regulated resource.

Retention Licence

A Retention Licence provides an exploration licensee with security of title over currently non-commercial discoveries for a reasonable period of time until they become commercial. Such a licence provides added security and certainty for the resource industries covered by this Bill.

More Flexible Licensing Regimes

Experience has shown that it is more efficient and appropriate to have a number of different types of licences available and appropriate to the level of activities undertaken. Therefore, in addition to Exploration and Production Licences and the Associated Facility and Retention Licences discussed above, this Bill offers the following types of licences which enable licensees to undertake necessary incidental activities.

- Preliminary Survey Licence, authorises a licensee to survey or evaluate land in preparation of carrying out activities. Such a licence allows licensees to more optimally apply for Associated Facility and Pipeline Licences.
- Speculative Survey Licence, gives a licensee who is not in the business of discovering and producing resources but is in the business of acquiring and selling exploration data to bona fide explorers, the right to acquire such data. This type of licence leads to greater acquisition of exploration data and therefore greater exploration investment.

Improved Environmental & Public Safety Outcomes

The Bill requires that practical and measurable environmental objectives are established and approved by the Minister for all regulated activities governed by this Bill. This Bill proposes the adoption of a broad definition of environment which includes its natural, economic, social and cultural aspects. This definition has been prepared taking into account the principles of ecological sustainable development and the definition used in the *Environment Protection Act 1993*.

To ensure better understanding by other stakeholders of the environmental objectives, this Bill provides for the requirement that the environmental objectives and the criteria upon which their achievement will be assessed will be established through a process of stakeholder consultation.

Subsequent to the completion of the stakeholder consultation process, a Statement of Environmental Objectives (SEO) will be prepared and approved by the Minister (Part 12). The SEO upon approval, becomes a publicly available document open for the use and scrutiny of all stakeholders. The statement of environmental objectives must include:

- The environmental objectives that must be achieved by the regulated activities; and
- The criteria to be used to measure and assess the achievement of the environmental objectives.

It is these key features of the statement of environmental objectives that provide certainty to all stakeholders on what is required of the licensee in terms of its environmental performance. Also by requiring measurement criteria, ensures that each objective is measurable and practical in terms of being achieved. These objectives and measurement criteria will be reviewed every three years.

Stakeholder Consultation

This Bill has an effective and efficient stakeholder consultation process. This process is one of the major improvements made to the existing Act and one of the key features of this Bill.

- 1) On the basis of an activity's environmental impact report and publicly declared criteria the Minister will determine the level of environmental significance of a proposed activity. Subject to the level of environmental significance determined, the Minister will then classify the activity as either low, medium or high impact.
- 2) For low impact activities the Statement of Environmental Objectives (SEO) for such an activity will be established and approved through a consultation process with all government agencies which have an interest. Broader stakeholder consultation (ie. public) will not be required for low impact activities because as such activities will be carried out in areas where the environmental consequences are well understood and manageable to a degree where the consequences can be either avoided or confined to be small or of very short term.
- 3) In the case of a medium impact activity, the SEO will be established and approved through a public consultation process, similar to the Public Environmental Report (PER) process under the *Development Act 1993*. Basically, this involves a 30 business day public review and submission period on the environmental impact report and the proposed SEO.
- 4) Where an activity is classified as high impact, it will be referred to the Department of Transport and Urban Planning for Environment Impact Statement assessment (EIS) under Part 8 of the *Development Act 1993*.

Effective Public Reporting and Transparency

The environmental performance of licensees—measured and reported against the environmental objectives and measurement criteria outlined in the approved statement of environmental objectives—will be made available for public scrutiny on an environmental register. This public register is a requirement under this Bill and it is to be established and maintained by the Department responsible for this legislation. Public disclosure of such information which is not provided for under the *Petroleum Act 1940* is considered essential for establishing community confidence in both the industry and the regulatory process.

Licence Awarding

This Bill provides for a more transparent process for awarding licences than is provided for under the existing Act. It achieves this through the following provisions:

- (a) Gazetted notices inviting exploration licence applications in certain defined cases, which will also state the criteria upon which licence applications will be evaluated.
- (b) Gazetted statement outlining the basis upon which the successful exploration licence applicant was selected where invitations were sought, and details of the successful applicant's work program.
- (c) Notifying unsuccessful exploration licence applicants of the reasons for the rejection of their application.
- (d) Gazetted of any variation or reduction made to any exploration work program granted through the competitive tender process.

Activity Approval and Environmental Assessment

In relation to activity environmental assessments and approvals the following will also be publicly disclosed on the environmental register:

- the criteria upon which the Minister will determine and classify the level of environmental impact of a proposed activity;
- the details of the Minister's classification of each activity proposal; and
- copies of every activity environmental impact report.

Security of Natural Gas Supply

In light of the recent adverse effects on the public interest resulting from the Longford gas plant incident in Victoria, this Bill introduces provisions to clarify licensee accountability for security of gas supply.

Access to Land for Pipelines

This Bill makes provisions for the Minister to approve the compulsory acquisition of land under the *Land Acquisition Act 1969* where the land is needed for the construction of pipelines.

Flexible Regulatory Approach

To accommodate for varying levels of internal commitment by companies in complying with the regulatory requirements, this Bill introduces a flexible degree of regulatory intervention. The degree of regulatory intervention is selected on an activity and individual company basis. The level of intervention chosen will be dependant on the degree to which a company demonstrates its competence in achieving compliance through the implementation of effective internal management systems and processes.

Low Supervision Activities

Activities for which a licensee demonstrates a high level compliance culture—ability to comply with the legislation—will be classified as low supervision. For these activities the regulatory role will basically involve establishing the environmental objectives in consultation with other stakeholders; monitoring the achievement of the objectives; facilitating the reporting of company performance against those objectives to other stakeholders; and enforcement of company compliance when needed.

High Supervision Activities

Activities where a licensee cannot demonstrate a high level of compliance will be classified as high supervision. For high supervision activities in addition to establishing, monitoring and enforcing company performance against the environmental objectives, the regulator will also need to assess and monitor on an activity basis the likelihood of the licensee achieving the regulatory objectives and take appropriate corrective action if required.

As a result of classifying activities as either low or high supervision, the most cost effective level of regulatory intervention needed to ensure compliance can be selected on a company by company basis. To reflect the lower costs to the regulator needed to enforce compliance of low supervision activities, the Bill allows for up to a 50 per cent reduction on annual licence fees for such activities. It must be stressed however, that regardless of the level of supervision, the primary regulatory focus is on the achievement of the objectives as documented in the statement of environmental objectives, and only in the case of high supervision activities does the regulatory focus also extend to the practices and procedures adopted by the company to achieve the objectives.

Administrative Penalty System

The new regulatory practice embodied in this Bill provides for industry to report on its performance and to provide geological and geophysical data it has obtained. It is crucial to the efficient operation of the new regulatory system that these reports are made. Many of the reports are crucial in assessing the safety of the environment and the public. To ensure that such crucial administrative acts are treated by the industry with the required degree of diligence the Bill proposes to establish a new type of penalty, called an administrative penalty.

This type of penalty does not require prosecution through the courts. In concept, these penalties are similar to the fine expiation system, and are only levied where there is a clear cut default such as failing to provide information or reports within specified time frames. The penalty for a particular provision will be set by regulation. A penalty will not exceed \$10 000 or, in the case of a daily penalty, \$1 000 per day. A daily penalty may be applied in cases where a contravention is of a continuing nature.

The imposition of an administrative penalty is reviewable through a right of appeal to the Administrative and Disciplinary Division of the District Court under Part 15 of the Bill.

Fair Royalty Return to Community

The Bill seeks to ensure that a fair return is realised by the community from the exploitation of its natural resources. Contrary to the proposal in the exposure draft of the *Petroleum Bill (1998)*, it is considered that it is currently not an opportune time to raise the royalty rate applied to the upstream petroleum industry in South Australia. This conclusion was reached for the following reasons:

- Strong opposition from industry to the proposed increase, citing the potential detrimental effect such an increase would have on exploration investment in South Australia.
- The potential for putting South Australia at a competitive disadvantage to other states in relation to upstream petroleum industry investment where other states continue to adopt a 10 per cent royalty rate.
- The impact on gas consumers resulting from the flow on effect of the royalty increase to the gas price.
- The potential for additional costs associated with Native Title to be incurred by new explorers and producers.
- Restructuring within the gas industry brought about by competition reform initiatives.

Geothermal Royalty Rates

Geothermal energy is also to be administered under this Bill and will require extensive technical and economic assessment to establish its feasibility as a viable energy source. Therefore to provide an opportunity for the commercial development of this energy resource it was decided that the royalty rate for geothermal energy in this Bill be set at 2.5 per cent.

CONCLUSIONS

In conclusion, this Bill creates a regulatory framework very much in line with the OECD regulatory reform agenda and designed to provide for ecologically and economically sustainable development of the upstream petroleum industry. The Bill, being the culmination of extensive community consultation through the release of the Issues Paper, Green Paper plus in 1998 an exposure draft of the Bill, also reflects the sentiments and concerns of stakeholders to a significant degree.

Community support for the petroleum and other industries to which this Bill pertains is central to ensuring an attractive business environment for responsible natural resource exploration and development to enhance the future wealth and well being of all South Australians.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Objects of Act

The objects of the measure include to create an effective regulatory system for the recovery of petroleum and other resources, to encourage and maintain an appropriate level of competition in the relevant industries, to create an effective regulatory system for the construction and operation of transmission pipelines and to minimise environmental damage from various activities within the ambit of the Act.

Clause 4: Interpretation

This clause sets out the various definitions required for the purposes of the measure.

Clause 5: Rights of the Crown

The property in petroleum and other regulated resources is vested (or continues to be vested) in the Crown. Property will pass to a person who lawfully produces petroleum or some other regulated substance.

Clause 6: Administration

The Minister will have the general administration of the Act.

Clause 7: Delegation

The Minister will be able to delegate a power or function of the Minister under the Act. A delegation does not prevent the exercise of a delegated power or function by the delegator. Notice of a delegation or authorised subdelegation, or of any variation or revocation, will be published in the *Gazette*.

Clause 8: Appointment of authorised officers

The Minister will appoint authorised officers under the Act.

Clause 9: Identity cards

Each authorised officer will have an identity card issued by the Minister.

Clause 10: Regulated activities

The Act will control regulated activities, which are defined by this clause as being exploration, operations to establish the nature and extent of a discovery and the commercial feasibility of production

and appropriate production techniques, actual production, the utilisation of a natural reservoir for storage purposes, production of geothermal energy, the construction of a transmission pipeline, or the operation of a transmission pipeline.

Clause 11: Requirement for licence

A licence is required to engage in a regulated activity.

Clause 12: General authority to grant licence

The power to grant a licence will be vested in the Minister.

Clause 13: Licence classes

There will be seven classes of licence, being preliminary survey, speculative survey, exploration, retention, production, pipeline and associated facility.

Clause 14: Preliminary survey licence

A preliminary survey licence authorises the licensee to carry out a survey, environmental evaluation or other form of assessment preparatory to carrying out a regulated activity on land. The rights under this form of licence are not exclusive.

Clause 15: Term of preliminary survey licence

The term of a preliminary survey licence is one year and the licence may be renewed from time to time up to a maximum aggregate term of five years.

Clause 16: Designation of highly prospective regions

The Minister will be able to designate parts of the State as highly prospective regions. A designation will be able to be made in relation to specified regulated resources.

Clause 17: Speculative survey licence

A speculative survey licence authorises the licensee to carry out specified exploratory operations in the licence. The rights under this form of licence are not exclusive.

Clause 18: Area of speculative survey licence

A speculative survey licence may be granted for one or more separate areas. However, the total area covered by a licence cannot exceed 10 000km².

Clause 19: Term of speculative survey licence

The term of a speculative survey licence is one year and the licence may be renewed from time to time.

Clause 20: Consultation preceding grant or renewal of speculative survey licence

An applicant for a speculative survey licence that will include an area within an existing licence will be required to consult with the existing licensee.

Clause 21: Exploration licence

An exploration licence will be granted to carry out exploratory operations, and operations to establish the nature and extent of a discovery and the feasibility and appropriate method of production. The holder of a licence will, subject to the Act, have an entitlement to a retention licence or a production licence for a regulated resource discovered in the licence area.

Clause 22: Call for tenders

The Minister will be required to call for tenders for an exploration licence in certain specified cases. A call for tenders must state the criteria by reference to which applications are to be evaluated.

Clause 23: Criteria to be considered for granting exploration licence

On an application for the grant of an exploration licence, the Minister will be required to have regard to the applicant's proposed work program, the applicant's technical and financial resources, and any stated criteria if applications have been invited by public advertisement.

Clause 24: Areas for which licence may be granted

An exploration licence may be granted for one or more separate areas.

Clause 25: Work program to be carried out by exploration licensee

The holder of an exploration licence will be required to carry out a work program approved by the Minister.

Clause 26: Term and renewal of exploration licence

The term of an exploration licence is five years. A licence may be granted on terms under which the licence may be renewed for a further one or two terms, but a licence granted for a highly prospective region cannot be renewed more than once. A specified area of a licence must be relinquished on a renewal.

Clause 27: Production of regulated resource under exploration licence

The holder of an exploration licence will be able to produce a regulated resource from a well in order to establish the nature and extent of a discovery. However, Ministerial approval will be required if production from a well is to exceed 10 days in aggregate.

Clause 28: Nature and purpose of retention licence

A retention licence is to protect certain interests of a licensee in order to allow the proper evaluation of the production potential of a resource, or the carrying out of work necessary to bring a discovery to commercial production.

Clause 29: Retention licence

This clause describes the authority conferred by a retention licence.

Clause 30: Grant of retention licence

This clause sets out the matters that must be satisfied before a retention licence can be granted. The existence of a discovery will need to be demonstrated by the drilling of at least one well. Commercial production must be more likely than not within 15 years.

Clause 31: Area of retention licence

The area of a retention licence must not exceed twice the area under which the discovery is likely to extend and must not exceed 100 km².

Clause 32: Term of retention licence

The term of a retention licence is five years. A retention licence may be renewed from time to time, but only while the Minister remains satisfied that production is more likely than not to become commercially feasible within the next 15 years.

Clause 33: Work program to be carried out by retention licensee

A retention licence may include a mandatory condition requiring the carrying out of a work program.

Clause 34: Production licence

A production licence authorises production operations, the processing of substances recovered in the licence area, operations for the use of a natural resource for storage of a regulated substance, and operations for the extraction or release of geothermal energy. A production licence also authorises (subject to its terms) a licensee to carry out other regulated activities within the licence area.

Clause 35: Grant of production licence

This clause sets out the matters that must be satisfied before a production licence can be granted. An applicant must be the holder (or former holder) of an exploration or retention licence over the relevant area. Production must be commercially feasible, or more likely than not to become commercially feasible within the next 24 months. If no person is entitled to the grant of a licence under the general criteria, the Minister will be entitled to grant a licence to an applicant if satisfied that a regulated resource has been discovered in the relevant area and production is commercially feasible, or is more likely than not to be commercially feasible within the next 24 months.

Clause 36: Power to require holder of exploration licence or retention licence to apply for production licence

The Minister will be able to require the holder of an exploration licence or a retention licence to progress to a production licence if the Minister considers that production is commercially feasible. If application for a production licence is not made within a specified time, the Minister may grant a production licence to someone else.

Clause 37: Area of production licence

The area of a production licence must not exceed twice the area under which the discovery is more likely than not to extend and not more than 100 km².

Clause 38: Work program to be carried out by production licensee

The holder of a production licence may be required to carry out a work program approved by the Minister.

Clause 39: Requirement to proceed with production

The holder of a production licence must proceed with production with due diligence and in accordance with the conditions of the licence.

Clause 40: Term of production licence

The term of a production licence is unlimited.

Clause 41: Cancellation or conversion of production licence where commercially productive operations are in abeyance

The Minister will be able to convert a production licence into a retention licence, or cancel a production licence, if productive operations have not been carried out on a commercial basis under the licence for 24 months or more. However, the Minister will be required to give a licensee a reasonable opportunity to make submissions about the matter before taking action under this provision.

Clause 42: Unitisation of production

This clause sets out a scheme for unitisation where a natural reservoir extends beyond the area of a production licence into an area covered by an exploration, retention or production licence held by another person.

Clauses 43, 44 and 45

These clauses set out provisions relating to the imposition, calculation and payment of royalty.

Clause 46: Rights conferred by pipeline licence

A pipeline licence will authorise the licensee to operate the transmission pipeline to which it relates. A licence may also authorise construction. A pipeline licence must be held by a body corporate.

Clause 47: Term and renewal of pipeline licence

The term of a pipeline licence is 21 years or a lesser term agreed between the licensee and the Minister.

Clause 48: Alteration of pipeline

A pipeline will only be able to be modified in certain cases.

Clause 49: Ministerial power to require access to pipeline

The Minister will be able to require the holder of a pipeline licence to convey a regulated substance for another person on terms and conditions agreed between the parties or, in default of agreement, by the Minister. This access scheme will not apply in a case where access is governed by another law.

Clause 50: Acquisition of land by holder of pipeline licence

The holder of a pipeline licence must have or obtain pipeline land reasonably required for the purposes of the pipeline.

Clause 51: Pipeline easements

An easement for a pipeline is an easement in gross that does not depend on the existence of a dominant tenement.

Clause 52: Compulsory acquisition of land for pipeline

The Minister will be able to authorise the holder of a pipeline licence to acquire land compulsorily under the *Land Acquisition Act 1969* if the Minister is satisfied that the holder of the licence reasonably requires the land (apart from the interest conferred by the licence) and that the holder has been unable to acquire the land by agreement after making reasonable attempts to attempt to do so.

Clause 53: Pipeline to be chattel

A pipeline will be taken to be a chattel (ie., not forming part of the land).

Clause 54: Inseparability of dealings with pipeline and pipeline land

A pipeline will not be able to be dealt with separately from the pipeline land, unless the Minister consents.

Clause 55: Resumption of pipeline

The Minister may proceed to resume a pipeline and pipeline land if the pipeline is not used for the transportation of a regulated substance for a continuous period of three years. The Minister must give notice of an intended resumption to all interested persons.

Clauses 56, 57, 58 and 59

These clauses provide for the granting of associated facilities licences. An associated facility licence authorises the holder of the licence to establish and operate certain facilities on land outside the area of the primary licence and may confer various rights of access. A licence may, in an appropriate case, be granted over the area comprised within the area of another licence.

Clause 60: Right of entry to land

A licensee may enter land to carry out an authorised activity, or to gain access to adjacent land on which the licensee proposes to carry out authorised activities.

Clause 61: Notice of entry on land

A licensee must give at least 21 days notice before entering land under the Act. Once notice of entry has been given, a further notice for re-entry is not necessary unless the activities to be carried out differ significantly, in nature or extent, from previously notified activities.

Clause 62: Disputed entry

An owner who has a right to exclusive possession of land (other than a lessee under a pastoral lease) may object to a proposed entry by notice of objection given within 14 days after the licensee's notice of entry. The Minister may attempt to mediate between the parties to arrive at a mutually satisfactory outcome. The Warden's Court has jurisdiction to resolve any outstanding dispute.

Clause 63: Landowner's right to compensation

The owner of land is entitled to compensation for deprivation or impairment of the use of enjoyment of land, damage to land that is not made good by a licensee, damage to or disturbance of any business or activity lawfully conducted on land, and any consequential loss. Compensation is not to be related to the value or possible value of regulated resources contained in the land.

Clause 64: Right to require acquisition of land

If the owner's use and enjoyment of land is substantially impaired by the activities of the licensee, the owner may apply to the relevant court (see clause 4) for an order transferring the land to the licensee

and requiring the payment of the market value of the land and compensation for disturbance.

Clause 65: Application for licence

This clause sets out the requirements for making an application for a licence, or for the renewal of a licence, under the Act.

Clause 66: Preconditions of grant or renewal of licence

A licence may be granted on condition that an executed licence is returned to the Minister within a specified period. The Minister may require than an applicant give security (of a kind and amount acceptable to the Minister) for the satisfaction of obligations arising under the Act or a licence.

Clauses 67, 68, 69, 70 and 71

Under these clauses a scheme will be established under which exploration, retention and production licences will be granted either in relation to a source of geothermal energy, or in relation to all regulated resources (see clause 4) other than geothermal energy. Two licences will then be compatible if one licence relates to a source of geothermal energy and another does not. Compatible licences may be granted in relation to the same area; licences that are not compatible may not be granted in relation to the same area.

Clause 72: Mandatory conditions

A licence will include any conditions designated by the measure as mandatory conditions.

Clause 73: Mandatory condition as to use of information etc.

It will be a mandatory condition that a licensee authorises the Minister to use information and records provided under the Act, and to disclose information and records as authorised by the regulations.

Clause 74: Classification of activities to be conducted under licence

Regulated activities are to be classified as activities requiring high level official supervision or activities requiring low level official supervision. It will be a mandatory condition that the Minister's written approval is required for activities requiring high level official supervision and that notification is required of activities requiring low level official supervision in accordance with the requirements of the conditions or the regulations.

Clause 75: Discretionary conditions

The Minister will also be able to impose other conditions in relation to a licence.

Clause 76: Non-compliance with licence conditions

It will be an offence to fail to comply with a condition.

Clause 77: Annual fee

An annual fee must be paid by a licensee. The fee will be calculated in accordance with a prescribed scale.

Clause 78: Access to natural reservoir

This clause sets out a scheme to enable access to a natural reservoir for the storage of a regulated resource.

Clause 79: Grant, resumption etc. of Crown and pastoral land

Unalienated Crown land may be granted to the holder of a licence on the recommendation of the appropriate Minister.

Clause 80: Multiple licensees

The multiple holders of a licence are jointly and severally liable for the obligations of the licensee under the Act.

Clause 81: Consolidation of licence areas

Adjacent licence areas may be consolidated unto a single licence area.

Clause 82: Division of licence areas

A licence area may be divided into separate areas and made subject to separate licences.

Clauses 83, 84 and 85

These clauses set out various recording and reporting requirements.

Clause 86: Activities to be carried out with due care and in accordance with good industry practice

A licensee has a general duty to carry out regulated activities with due care for the health and safety of persons, the environment and, where relevant, the security of natural gas supply, and in accordance with good practice as recognised in the relevant industry.

Clause 87: Ministerial direction

The Minister will be able to require a licensee to carry out an obligation under the Act or the licence, or to cease activities that are contrary to the Act or the licence.

Clauses 88, 89 and 90

A licence may be surrendered, suspended or cancelled in certain circumstances.

Clause 91: Notice to be published in the Gazette

Notice of the grant, surrender, suspension or cancellation of a licence will be published in the *Gazette*.

Clause 92: Obligation not to interfere with regulated activities
It will be an offence to interfere with regulated activities conducted under a licence (except as authorised by the measure).

Clause 93: Safety net
The Minister will be able to enter into an agreement to give a licensee a preferential right to the grant of a new licence if the licence is found to be invalid due to circumstances beyond the control of the licensee.

Clause 94: Object of this Part
The object of the environmental protection provisions is to ensure that any adverse effects on the environment from regulated activities are properly managed to reduce environmental damage and to eliminate risk of significant long term environmental damage.

Clause 95: Requirement for statement of objectives
Any regulated activities must be the subject of a statement of environmental objectives under this Act.

Clause 96: Environmental impact report
An environmental impact report will be required to be prepared in accordance with the regulations.

Clause 97: Classification of regulated activities
Activities to which a report relates will be classified as low, medium or high impact activities. The classification will be made on the basis of the report and established criteria.

Clauses 98, 99, 100, 101, 102, 103 and 104
A statement of environmental objectives must be prepared on the basis of an environmental impact report or an EIS. A statement will include a statement of the criteria to be applied to determine if the objectives are being met and conditions and requirements to be complied with in order to achieve the objectives. A scheme for public consultation on a statement will apply if the activities are medium impact activities. A licensee will be required to comply with a statement of environmental objectives relevant to the activities carried out under the licence.

Clause 105: Environmental register
An environmental register will be maintained for the purposes of the Act.

Clause 106: Environmental register to be available for inspection
The register will be available for public inspection.

Clauses 107, 108, 109 and 110
The Minister will be able to direct a licensee to take action to prevent or minimise environmental damage. An urgent direction may be given by an authorised officer. The rehabilitation of land may also be required. A right of review will vest in the ERD Court.

Clause 111, 112 and 113
Certain dealings will require registration. These dealings will not be able to take effect until approved by the Minister and registered.

Clauses 114, 115, 116 and 117
The Minister will maintain registers for the purposes of this Act.

Clauses 118, 119, 120, 121 and 122
An authorised officer will be able to carry out various investigations and exercise various powers for the purposes of the Act. Various records may be required to be produced. The Minister will be able to publish a report setting out the results of an authorised investigation.

Clause 123: Decisions etc. subject to review and appeal
Various decisions and other acts will be reviewable under the Act.

Clause 124: Application for reconsideration
An application for review will be made to the Minister.

Clause 125: Constitution of advisory committee
The Minister will, on receiving an application, but subject to this clause, constitute an advisory committee to advise on whether the decision or act should be altered or revoked.

Clause 126: Minister's decision on application for reconsideration
The Minister must consider any advice of an advisory committee but is not bound by that advice.

Clause 127: Right of appeal
A right of appeal will lie to the District Court against a decision of the Minister on an application for review.

Clause 128: Giving of notices
Notices may be given under the Act personally or by post, or by fax transmission or E-mail.

Clause 129: Verification of information
The Minister may require that information given to the Minister under the Act be verified by a signed declaration.

Clause 130: Saving of powers with respect to Crown land etc.
The measure does not limit the power of the Crown to otherwise deal with or dispose of land. However, any such action will be subject to rights earlier conferred under the Act.

Clause 131: Immunity from liability
No personal liability will attach to the Minister or an authorised officer.

Clause 132: Proof of administrative acts
The Minister may prove an act by certificate.

Clause 133: Extension of time limits
The Minister may extend a time limit under the Act.

Clause 134: Secrecy
A person involved in the administration of the Act must observe various obligations with respect to the disclosure of confidential information.

Clause 135: Administrative penalties
This clause establishes an administrative penalty scheme for the purposes of certain provisions of the Act.

Clause 136: Preservation of rights under Cooper Basin (Ratification) Act 1975
The legislation will not affect rights conferred by the Cooper Basin (Ratification) Act 1975.

Clause 137: Regulations
The Governor will be able to make various regulations.

SCHEDULE

The *Petroleum Act 1940* is to be repealed. Licences under that Act will continue under the new Act.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.