

EXHIBIT/P-00039

RSNL1990 CHAPTER C-2

CANADA-NEWFOUNDLAND AND LABRADOR ATLANTIC ACCORD IMPLEMENTATION NEWFOUNDLAND AND LABRADOR ACT

Amended:

1992 c15; 1992 c47; 1999 c22 s5; 2001 cN-3.1 s2; 2005 c19

CHAPTER C-2

AN ACT TO IMPLEMENT AN AGREEMENT BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF NEWFOUNDLAND AND LABRADOR ON OFFSHORE PETROLEUM RESOURCE MANAGEMENT AND REVENUE SHARING

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WHEREAS the Government of Canada and the Government of Newfoundland and Labrador have entered into the Atlantic Accord and have agreed that neither government will introduce amendments to this Act or regulations made under this Act without the consent of both governments:

Short title

1. This Act may be cited as the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*.

1986 c37 s1; [2001 cN-3.1 s2](#)

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Definitions

2. In this Act

(a) "Atlantic Accord" means the memorandum of agreement between the Government of Canada and the government of the province on offshore oil and gas resource management and revenue sharing dated February 11, 1985, and includes amendments to the memorandum of agreement;

(b) "board" means the Canada-Newfoundland and Labrador Offshore Petroleum Board established by the joint operation of section 9 of this Act and section 9 of the federal Act;

(c) "Canada-Newfoundland and Labrador benefits plan" means a plan submitted under subsection 45(2);

(d) "chief executive officer" means the chief executive officer of the board appointed under section 24;

(e) "development plan" means a plan submitted under subsection 135(2) for the purpose of obtaining approval of the general approach of developing a pool or field as proposed in the plan;

(f) "federal Act" means the *Canada-Newfoundland Atlantic Accord Implementation Act*;

(g) "federal government" means the Governor General in Council;

(h) "federal minister" means the Minister of Energy, Mines and Resources of Canada or another minister of the Crown in right of Canada that may be designated under the laws of Canada as the minister responsible for the federal Act;

(i) "field"

(i) means a general surface area underlain or appearing to be underlain by 1 or more pools, and

(ii) includes the subsurface regions vertically beneath the general surface area referred to in subparagraph (i);

(j) "former regulations" means the Canada Oil and Gas Land Regulations made under the *Public Lands Grants Act* (Canada) and the *Territorial Lands Act* (Canada) and includes orders made under those regulations;

(k) "fundamental decision" means a decision made by the board respecting the exercise of a power or the performance of a duty under this Act that expressly provides for the exercise of the power or the performance of the duty subject to sections 31 to 40;

(l) "gas" means natural gas and includes all substances, other than oil, that are produced in association with natural gas;

(m) "government" means the federal government, the provincial government or both, as the context requires;

(n) "minister" means the federal minister, the provincial minister or both, as the context requires;

(o) "offshore area" means those submarine areas lying seaward of the low water mark of the province and extending, at any point, as far as

(i) a prescribed line, or

(ii) where no line is prescribed at that location, the outer edge of the continental margin or a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is the greater;

(p) "oil" means

(i) crude oil regardless of gravity produced at a well-head in liquid form, and

(ii) other hydrocarbons, except coal and gas, and hydrocarbons that may be extracted or recovered from deposits of oil sand, bitumen, bituminous sand, oil shale or from other types of deposits on the seabed or subsoil of the seabed of the offshore area;

(q) "petroleum" means oil or gas;

(r) "pool" means a natural underground reservoir containing or appearing to contain an accumulation of petroleum that is

separated or appears to be separated from other such accumulations;

(s) "provincial government" means the Lieutenant-Governor in Council; and

(t) "provincial minister" means the minister of the Crown in right of the province who the Lieutenant-Governor in Council may by order designate as the provincial minister for the purpose of this Act.

1986 c37 s2; [2001 cN-3.1 s2](#)

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Construction

3. This Act shall not be interpreted as providing a basis for a claim by or on behalf of Canada in respect of an interest in or legislative jurisdiction over an offshore area or a living or non-living resource of an offshore area within the jurisdiction of the province.

1986 c37 s3

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Precedence over other Acts

4. (1) In case of an inconsistency or conflict between

(a) this Act or regulations made under this Act; and

(b) any other Act of the legislature that applies to the offshore area or regulations made under that Act,

this Act and the regulations made under this Act take precedence.

(2) Notwithstanding subsection (1), this Act and regulations made under this Act shall be read and applied in conjunction with the *Labrador Inuit Land Claims Agreement Act* and, where a provision of this Act or regulations made under this Act is inconsistent or conflicts with a provision, term or condition of the *Labrador Inuit Land Claims Agreement Act*, the provision, term or condition of the *Labrador Inuit Land Claims Agreement Act* shall have precedence over the provision of this Act or a regulation made under this Act.

1986 c37 s4; [1992 c15 s1](#); [2005 c19 s1](#)

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Regulations re offshore area

5. (1) Subject to the approval of the provincial minister, the Governor General in Council may make regulations prescribing lines enclosing areas adjacent to the province for the purpose of paragraph 2(o).

(2) The federal minister may issue charts setting out the offshore area or a portion of the offshore area that may be set out consistent with the nature and scale of the chart.

(3) In a legal or other proceeding, a chart purporting to be issued under the authority of the federal minister is conclusive proof of the limits of the offshore area or portion of the offshore area set out in the chart without proof of the signature or official character of the person purporting to have issued the chart.

1986 c37 s5

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Disputes between neighbouring provinces

6. (1) In this section, "agreement" means an agreement between the Government of Canada and the government of a province

respecting resource management and revenue sharing in relation to activities respecting the exploration for or the production of petroleum carried out in an area to which the *Oil and Gas Production and Conservation Act* (Canada) applies.

(2) Where a dispute between the province and another province that is a party to an agreement arises in relation to a line or portion of a line prescribed or to be prescribed for the purpose of the definition "offshore area" in paragraph 2(o) and the Government of Canada is unable, by means of negotiation, to bring about a resolution of the dispute within a reasonable time, the dispute shall, at the time that the federal minister considers appropriate, be referred to an impartial person, tribunal or body and settled by means of the procedure determined in accordance with subsection (3).

(3) For the purpose of this section, the person, tribunal or body to which a dispute is to be referred, the constitution and membership of a tribunal or body and the procedures for the settlement of a dispute shall be determined by the federal minister after consultation with the provinces concerned in the dispute.

(4) Where the procedure for the settlement of a dispute under this section involves arbitration, the arbitrator shall apply the principles of international law governing maritime boundary delimitation, with the modifications that the circumstances require.

(5) Notwithstanding section 7 of the federal Act, where a dispute is settled under this section and a regulation under subsection 5(1) prescribing the line in relation to which the dispute arose is made in accordance with the settlement, the regulation is not subject to the procedure set out in section 7 of the federal Act with respect to the portion of the line to which the dispute related.

1986 c37 s6

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Approval of federal minister before making of regulations

7. Before a regulation is made under subsection 41(7), section 63, subsection 66(2), sections 114, 118, 121 and 145, subsection 155(4) and section 199, the provincial minister shall consult the federal minister with respect to the proposed regulation and a regulation shall not be made without the approval of the federal minister.

1986 c37 s7

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Application

8. (1) This Act applies within the offshore area.

(2) Subject to section 96, the *Canada Petroleum Resources Act* and the *Canada Oil and Gas Operations Act* and regulations made under those Acts do not apply within the offshore area.

1986 c37 s8; [1992 c15 s2](#)

PART I JOINT MANAGEMENT

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Jointly established board

9. (1) There is established, by the joint operation of this Act and the federal Act, a board, to be known as the Canada-Newfoundland and Labrador Offshore Petroleum Board.

(2) The board shall be treated as having been established under a law of the province.

(3) The board has the legal powers and capacities of a corporation incorporated under the *Canada Business Corporations Act* (Canada), including those set out in section 20 of the *Interpretation Act*.

- (4) The board may only be dissolved by the joint operation of an Act of the Parliament of Canada and an Act of the Legislature.

1986 c37 s9; [2001 cN-3.1 s2](#)

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Members of board

- 10.** (1) The board shall consist of 7 members.
- (2) Three members of the board are to be appointed by the federal government, 3 by the provincial government and the chairperson of the board is to be appointed by both the federal government and the provincial government.
- (3) One or 2 members of the board may be designated to be vice-chairpersons of the board if they are so designated by both the federal government and the provincial government.
- (4) The designation of a vice-chairperson of the board under subsection (3) is effective after both governments have each made the designation.
- (5) Each government may appoint 1 alternate member to act as a member of the board in the absence of a member of the board appointed by that government.
- (6) Notwithstanding subsection (2) or (5), a member or alternate member of the board may be appointed by both the federal government and the provincial government.

1986 c37 s10

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Qualifications of members

- 11.** (1) A member of the board shall not, during the term of office of that member on the board, be employed in the public service of Canada or be an employee of the province.
- (2) In this section, "public service of Canada " has the same meaning as in the federal Act.

1986 c37 s11

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Consultation and appointment of chairperson

- 12.** (1) Consultation between the 2 governments with respect to the selection of the chairperson of the board shall be considered to begin
- (a) 6 months before the expiration of the term of office of the incumbent chairperson; or
- (b) where applicable, on the date of receipt by the board of notice of the death, resignation or termination of appointment of the incumbent chairperson,
- whichever occurs earlier.
- (2) Where the 2 governments fail to agree on the appointment of the chairperson of the board within 3 months after the beginning of consultation between the governments, the chairperson shall be selected by a panel, consisting of 3 members and constituted in accordance with this section, unless, prior to the selection of the chairperson by the panel, the 2 governments agree on the appointment.
- (3) One member of the panel shall be appointed by each government within 30 days after the 3 months referred to in subsection

(2).

(4) The chairperson of the panel shall be appointed

(a) jointly by the 2 members of the panel appointed under subsection (3) within 30 days after the later of the 2 appointments made under that subsection; or

(b) where the 2 members of the panel fail to agree on the appointment of the chairperson of the panel within the 30 day period referred to in paragraph (a), by the Chief Justice of Newfoundland and Labrador within 30 days after the expiration of that period.

(5) The chairperson of the board shall be selected by the panel within 60 days after the appointment of the chairperson of the panel.

(6) The decision of the panel selecting a chairperson of the board is final and binding on both governments.

1986 c37 s12; [2001 cN-3.1 s2](#)

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Terms and conditions of appointments

13. (1) The salary and other terms and conditions of the appointment of the chairperson of the board or other members or alternate members appointed by both governments, including the effective date of the appointment, shall be fixed by an order of the federal government and an order of the provincial government after agreement has been reached by both governments on the salary and other terms and conditions.

(2) The salary and other terms and conditions of the appointment of a member appointed by either the federal government or the provincial government shall be agreed on by both governments.

1986 c37 s13

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Absence or incapacity of chairperson

14. The board shall designate a member to act as chairperson of the board during an absence or incapacity of the chairperson or vacancy in the office of chairperson, and that person, while acting as chairperson, has and may exercise the powers and perform the duties and functions of the chairperson.

1986 c37 s14

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Term of office

15. (1) The 1st chairperson of the board shall be appointed for a term of 7 years.

(2) The 1st 3 members of the board to be appointed by each government shall be appointed for terms of 4, 5 and 6 years, respectively.

(3) On the expiration of the initial terms of office referred to in subsections (1) and (2), the chairperson and members of the board shall be appointed for terms of 6 years.

(4) A member of the board, including the chairperson, shall hold office during good behaviour, but may be removed for cause

(a) where that member is appointed by either government, by that government; or

- (b) where that member is appointed by both governments, by both governments.
- (5) On the expiration of a term of office, the chairperson or a member of the board is eligible for reappointment.

1986 c37 s15

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Conflict of interest and insurance

16. (1) Members of the board, including the chairperson, and the chief executive officer appointed under subsection 24(1) shall be subject to conflict of interest guidelines established jointly by the federal minister and provincial minister and are not subject to conflict of interest guidelines established by the provincial government.

(2) The board shall purchase and maintain insurance for the benefit of a person who is a present or former member, officer or employee of the board, and the heirs and legal representatives of that person, against any liability incurred by that person in the capacity of such a member, officer or employee, except where the liability relates to a failure to act honestly and in good faith with regard to the best interests of the board.

(3) For greater certainty, the expenditures of the board associated with purchasing and maintaining the insurance referred to in subsection (2) shall form part of the budget or revised budget of the board in respect of a fiscal year.

(4) Notwithstanding subsection (2), where the board has established to the satisfaction of the provincial minister the impossibility of purchasing and maintaining the insurance referred to in subsection (2), the government of the province shall indemnify a person who is a present or former member, officer or employee of the board, or the heirs or legal representatives of that person, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred in respect of a civil, criminal or administrative action or proceeding to which that person is a party by reason of being or having been such a member, officer or employee, where that person

(a) acted honestly and in good faith with a view to the best interests of the board; and

(b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, believed, on reasonable grounds, that the conduct in issue was lawful.

(5) Where the board has purchased and maintained insurance referred to in subsection (2), the government of the province shall indemnify a person referred to in that subsection, or the heirs or legal representatives of that person, for any liability incurred by that person in accordance with this section to the extent that the insurance purchased for the benefit of that person does not cover that liability.

(6) The government of the province is not obliged to indemnify anyone under subsection (4) against an amount paid to settle an action unless the amount so paid was approved by the government of the province.

(7) Where the Government of Canada has indemnified a person referred to in subsection (4), or the heirs or legal representatives of that person, under section 16 of the federal Act, the government of the province may pay to the Government of Canada 1/2 of the amount so indemnified.

(8) An amount payable in respect of indemnification under this section may be paid out of the Consolidated Revenue Fund.

1986 c37 s16; 1987 c25 s1

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Functions of board

17. (1) The board shall perform the duties and functions that are conferred or imposed on the board under the Atlantic Accord or this Act.

(2) The board may make recommendations to both governments with respect to proposed amendments to this Act, the federal Act and regulations made under those Acts.

1986 c37 s17

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Access to information by governments

18. (1) The federal minister and the provincial minister are entitled to access to information or documentation relating to petroleum resource activities in the offshore area that is provided for the purposes of this Act or a regulation made under this Act and that information or documentation shall, on the request of either minister, be disclosed to that minister without requiring the consent of the party who provided the information or documentation.

(2) Notwithstanding section 28, section 115 applies, with the modifications that the circumstances require, in respect of a disclosure of information or documentation or the production or giving of evidence relating to information or documentation by a minister as if the references in that section to the administration or enforcement of a Part of this Act included references to the administration or enforcement of the federal Act or a Part of the federal Act.

1986 c37 s18

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Meetings of board

19. A meeting of the board shall be held

(a) once a month unless the members of the board unanimously agree to defer a meeting; and

(b) at other times

(i) at the call of the chairperson of the board,

(ii) on the request of 2 members of the board, or

(iii) on the request of the federal minister or the provincial minister to review a matter referred to it by that minister.

1986 c37 s19

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Quorum and majority vote

20. (1) Four members constitute a quorum of the board.

(2) Where, in the absence of unanimous agreement, a vote is required to be taken in respect of a decision of the board, the decision shall be made on the basis of a majority vote of the members of the board.

1986 c37 s20

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Location of offices and staff

21. The principal office and staff of the board shall be located in the province.

1986 c37 s21

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Storage of information

22. The board shall establish, maintain and operate a facility in the province for the storage and curatorship of all geophysical records and geological and hydrocarbon samples relating to the offshore area.

1986 c37 s22

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By-laws and guidelines

- 23.** Subject to the Atlantic Accord, the board may
- (a) make by-laws respecting
 - (i) the members, officers and employees of the board,
 - (ii) the attendance and participation, including voting rights, at meetings of the board of alternate members of the board appointed under subsection 10(5),
 - (iii) the manner of appointing the officers and employees of the board on the basis of merit, including the holding of open competitions for appointing the officers and employees,
 - (iv) the procedures to be followed in the performance of the duties and functions of the board,
 - (v) the conduct of meetings of the board,
 - (vi) the manner of dealing with matters and business before the board, and
 - (vii) generally, the carrying on of the work of the board and the management of internal affairs of the board; and
 - (b) establish conflict of interest guidelines respecting persons employed by the board under subsection 25(1).

1986 c37 s23

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Chief executive officer

- 24.** (1) There shall be a chief executive officer of the board who,
- (a) where both the federal government and the provincial government appoint the chairperson as chief executive officer, is chairperson of the board; or
 - (b) "in other cases, is to be appointed by the board by means of an open competition.
- (2) The appointment of a chief executive officer under paragraph (1)(b) is subject to the approval of both governments.
- (3) Where either government fails to make an appointment under paragraph (1)(a) or to approve the appointment of a chief executive officer under paragraph (1)(b), the chief executive officer shall be appointed by both the federal government and the provincial government after having been selected in accordance with section 12 and that section applies, with the modifications that the circumstances require, to the selection of the chief executive officer.
- (4) Subsection 13(1) applies, with the modifications that the circumstances require, to the appointment of the chief executive officer under paragraph (1)(a) or subsection (3).
- (5) The board shall designate a person to act as chief executive officer during an absence or incapacity of that officer or vacancy in the office of chief executive officer and that person, while acting as chief executive officer, has and may exercise the powers and perform the duties and functions of that office.

1986 c37 s24

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Staff of the board

25. (1) The board may, on the recommendation of the chief executive officer, employ other officers and employees that are necessary to properly perform the duties and functions of the board under this Act and the Atlantic Accord.

(2) A person employed under subsection (1) shall be appointed on the basis of merit.

(3) Except as provided in subsections (4) and (5), a person employed under subsection (1) is considered not to be employed in the public service of Canada or of the province.

(4) Notwithstanding the *Public Service Commission Act*, for the purpose of being eligible to enter competitions under that Act and for the purpose of section 12 of that Act, a person who, immediately before becoming employed by the board, was employed in the public service of the province shall be considered to be a person employed in the public service in the province in a position of an occupational nature and at a level equivalent to the position in which that person is employed by the board.

(5) Notwithstanding the *Public Service Commission Act*, for the purpose of being eligible to enter competitions under that Act and for the purpose of section 12 of that Act, a person who, immediately before becoming employed by the board, was not employed in the public service of the province shall, 2 years after becoming employed by the board, be considered to be a person employed in the public service of the province in a position of an occupational nature and at a level equivalent to the position in which that person is employed by the board.

1986 c37 s25

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Auditor

26. The board shall appoint an auditor of the board, for the term that is set by the board, for the purposes of auditing the financial statements of the board.

1986 c37 s26

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Budget and appropriation

27. (1) The chief executive officer shall, in respect of each financial year, prepare a budget for the board sufficient to permit the board to properly exercise its powers and perform its duties and functions.

(2) Following approval of the budget by the board, the budget shall be submitted to the federal minister and the provincial minister, at the time that may be specified by each minister, for their consideration and approval.

(3) Where it appears that the actual aggregate of the expenditures of the board in respect of a financial year is likely to be substantially greater or less than that estimated in its budget in respect of that financial year, the board shall submit to both ministers for their consideration and approval a revised budget in respect of that financial year containing the particulars that may be requested by either minister.

(4) The provincial government shall pay 1/2 of the aggregate of the expenditures set out in the budget or revised budget, where applicable, submitted and approved under this section in respect of each financial year.

(5) Subject to another Act of the Legislature that appropriates money for the payment required by subsection (4), the sums required for that payment shall be paid out of the Consolidated Revenue Fund as required.

1986 c37 s27

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Access to books and accounts

- 28.** Both the federal minister and the provincial minister are entitled to have access to the books and accounts of the board.

1986 c37 s28

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Annual report

- 29.** (1) The board shall, in respect of each financial year, prepare a report and submit it to the federal minister and the provincial minister not later than 90 days after the expiration of that financial year.

(2) Each annual report submitted under subsection (1) shall contain an audited financial statement and a description of the activities of the board during the financial year covered by the report.

(3) The provincial minister shall lay the report referred to in this section before the House of Assembly within the 1st 15 days during which the House of Assembly is sitting after the day the report is submitted to the provincial minister.

(4) Where it is not possible to lay the report before the House of Assembly within 30 days after the day the report is submitted to the provincial minister, the provincial minister shall publish that report within that 30 day period.

1986 c37 s29

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Board's decision final

- 30.** The exercise of a power or the performance of a duty by the board under this Act is final and not subject to the review or approval of either government or either minister.

1986 c37 s30

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Notice of fundamental decisions and advice by ministers

- 31.** (1) Where a fundamental decision is made by the board, the board shall, immediately after making the decision, give written notice of that decision to the federal minister and the provincial minister.

(2) Within 30 days after receipt of a notice of a fundamental decision under subsection (1), the federal minister and the provincial minister shall each advise, in writing, the board and each other whether that minister approves or disapproves that decision and where the board does not receive the advice within those 30 days, the board shall be considered, for the purposes of section 32, to be advised, in writing, on the expiration of that period, of the approval of that decision by that minister.

1986 c37 s31

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Conditions for implementation

- 32.** (1) A fundamental decision shall not be implemented unless the board is advised, in writing, that

(a) both the federal minister and the provincial minister approve that decision; or

(b) in another case, the minister having authority in relation to that decision, as determined under section 34, approves that

decision and, where the other minister has exercised the power to suspend the approval of that decision under section 39,

- (i) the period of suspension referred to in that section has expired, or
- (ii) agreement is reached between both ministers to approve that decision,

whichever occurs first.

(2) Where the conditions referred to in subsection (1) have been satisfied in respect of a fundamental decision, that decision shall be implemented immediately by the board.

1986 c37 s32

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Definitions re ss.34 to 37

33. In this section and sections 34 to 37

(a) "security of supply", in respect of any period, means the anticipation of self-sufficiency during each of the 5 calendar years in that period, taking into account the aggregate of anticipated additions to productive capacity and anticipated adjustments to refining capacity;

(b) "self-sufficiency" means a volume of suitable crude oil and equivalent substances available from domestic Canadian hydrocarbon producing capacity that is adequate to supply the total feedstock requirements of Canadian refineries necessary to satisfy the total refined product requirements of Canada, excluding those feedstock requirements necessary to produce specialty refined products; and

(c) "suitable crude oil and equivalent substances" mean those substances that are appropriate for processing in Canadian refineries and that are potentially deliverable to Canadian refineries.

1986 c37 s33

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Self-sufficiency and security of supply

34. (1) Where, in respect of a period referred to in subsection 35(2) or (3), a determination is made that self-sufficiency and security of supply do not exist, the federal minister has authority in relation to a fundamental decision, other than a fundamental decision referred to in subsection (2), made during that period.

(2) The provincial minister has authority in relation to a fundamental decision referred to in paragraph 135(4)(a).

(3) Notwithstanding subsection (2), where the approval or disapproval by the provincial minister of a fundamental decision referred to in paragraph 135(4)(a) would unreasonably delay the attainment of self-sufficiency or security of supply, the federal minister may substitute for the approval or disapproval of the provincial minister the approval or disapproval of the federal minister, and where the federal minister does so, that minister shall, for the purposes of this Act, be considered to have authority in relation to that fundamental decision.

(4) Where, in respect of a period referred to in subsection 35(3), a determination is made that self-sufficiency and security of supply exists, the provincial minister has authority in relation to a fundamental decision made during that period.

1986 c37 s34

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Determination binding

35. (1) Where a determination referred to in subsection 34(1) or (4) is made by both governments or by a panel under section 36 or 37 or is considered to have been made under subsection (2), it is final and binding for the duration of the period in respect of which it is made.

(2) For the purpose of section 34, the 1st period shall begin on January 1, 1986 and end on December 31, 1990 and, in respect

of that period, a determination shall be considered to have been made, for all purposes of this Act, that self-sufficiency and security of supply do not exist.

(3) For the purpose of section 34, each period following the period referred to in subsection (2) shall begin on the expiration of the period immediately preceding that period and shall be for a duration of 5 successive calendar years.

1986 c37 s35

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Where no agreement on determinations re self-sufficiency

36. (1) Consultation between the 2 governments with respect to the making of a determination referred to in subsection 34(1) or (4) shall be considered to begin 1 year before the expiration of every period in respect of which such a determination is made.

(2) Where the 2 governments fail to agree on a determination referred to in subsection (1) within the 3 months following the beginning of consultation between the governments, the determination shall be made by a panel consisting of 3 members, constituted in accordance with subsections 12(3) and (4), within 60 days after the appointment of the chairperson of the panel unless, at a time prior to that time, the 2 governments agree on the determination.

1986 c37 s36

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Determination of unreason-able delay

37. (1) Where, within 60 days after an approval or disapproval by the provincial minister under subsection 34(2), the 2 governments fail to agree whether the approval or disapproval would unreasonably delay the attainment of self-sufficiency or security of supply, that determination shall be made by a panel consisting of 3 members constituted in accordance with subsection (2), within 45 days after the appointment of the chairperson of the panel.

(2) For the purposes of subsection (1), 1 member of the panel shall be appointed by each government within 30 days after the 60 days referred to in subsection (1) and the chairperson of the panel shall be appointed in accordance with subsection 12(4) and for that purpose, subsection 12(4) applies, with the modifications that the circumstances require.

1986 c37 s37

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Determination not subject to review

38. Where a determination referred to in section 36 or 37 is made by a panel under that section, that determination is not subject to be reviewed or set aside by a government, court or other body.

1986 c37 s38

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Suspensive vetoes

39. (1) The minister who does not have authority in relation to a fundamental decision, as determined under section 34, may, on giving written notice to the board and the minister who has the authority, suspend, during a period of 90 days, the approval of the fundamental decision by the minister who has that authority.

(2) The period of 90 days referred to in subsection (1) begins on the day the board is advised, in accordance with section 31, of the approval of the fundamental decision by the minister having authority in relation to the fundamental decision.

1986 c37 s39

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Supply shortfall

40. (1) Notwithstanding another provision of this Act, in the event of a sudden domestic or import supply shortfall of suitable crude oil and equivalent substances, the board shall, on request by the federal minister, increase production of suitable crude oil and equivalent substances, consistent with good oil field practice.

(2) Where the Government of Canada has obligations with respect to the allocation of petroleum under the Agreement On An International Energy Program dated November 18, 1974, the board shall, where directed to do so by the federal minister and during the period that those obligations continue, take the measures that are necessary to comply with those obligations and that are fair and equitable in relation to other hydrocarbon producing regions of Canada.

1986 c37 s40

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Regional security of supply

41. (1) For the purposes of this section "shortfall of petroleum deliveries in the province" means deliveries of petroleum that are inadequate to supply, on commercial terms,

(a) the end-use consumption and feedstock requirements of industrial facilities that are in place in the province on April 4, 1987 ;

(b) the feedstock requirements of the refining facilities existing at Come-by-Chance if those facilities were operating at capacity on April 4, 1987 or a refining facility constructed in the province to replace those facilities; or

(c) the feedstock requirements of a refining facility located in the province that was not in place on April 4, 1987, other than a facility referred to in paragraph (b), where the feedstock requirements required to satisfy the demand of industrial capacity, on April 4, 1987, in the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador have been met.

(2) Where there is a shortfall of petroleum deliveries in the province, the provincial minister may, after consulting with the federal minister, give notice to holders of production licences in the offshore area that the facilities in paragraphs (1)(a), (b) and (c) that are specified in the notice have, during the term of the notice, the 1st option to acquire, on commercial terms, petroleum produced in the offshore area unless a sales contract with respect to that petroleum has been entered into before the giving of the notice.

(3) A contract entered into after the giving of the notice referred to in subsection (2) shall be considered to be varied or suspended to the extent necessary to give effect to that notice.

(4) The term of a notice given under subsection (2) is the period during which a shortfall of petroleum deliveries in the province continues to exist.

(5) Where the federal minister or a holder of a production licence to whom a notice has been given under subsection (2) does not agree with the provincial minister that a shortfall of petroleum deliveries in the province exists or continues to exist, the matter shall be referred to arbitration in the manner prescribed.

(6) Where it is determined as a result of arbitration that a shortfall of petroleum deliveries in the province does not exist or continue to exist, the notice given under subsection (2) shall be considered to be revoked and stops having effect on the date on which the determination is made.

(7) The Lieutenant-Governor in Council may make regulations

(a) defining the expression "commercial terms" or providing for arbitration to establish commercial terms in a particular case;

(b) governing, for the purposes of this section, arbitration and the making of arbitration orders and appeals from and enforcement of arbitration orders;

(c) prescribing the manner of exercising a 1st option to acquire that is granted under a notice given under subsection (2); and

- (d) to give effect to the purpose of this section.

1986 c37 s41; [2001 cN-3.1 s2](#)

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Ministerial directives

- 42.** (1) The federal minister and the provincial minister may jointly issue to the board written directives in relation to
- (a) fundamental decisions;
 - (b) decisions made by the board respecting the exercise of a power under paragraph 55(1)(b);
 - (c) public reviews conducted under section 44;
 - (d) Canada/Newfoundland and Labrador benefits plans and any of the provisions of those plans; and
 - (e) studies to be conducted by the board and advice with respect to policy issues to be given by the board to the federal minister and the provincial minister.
- (2) The board shall comply with a directive issued under subsection (1).
- (3) Directives issued under subsection (1) are not subordinate legislation for the purposes of the *Statutes and Subordinate Legislation Act*.
- (4) Where a directive is issued under subsection (1), a notice shall be published in the *Gazette* that the directive has been issued and that the text of it is available for inspection by a person on request made to the board.

1986 c37 s42; [2001 cN-3.1 s2](#)

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Plan for interests

- 43.** (1) During the 1st month of each calendar year, the board shall submit to the federal minister and the provincial minister a plan outlining the anticipated decisions of the board during that calendar year respecting calls for bids with respect to interests to be issued under Part II in relation to the portions of the offshore area and the issuing and terms and conditions of those interests.
- (2) Where the minister having authority in relation to fundamental decisions, as determined under subsection 34(1) or (4), is of the opinion that a plan referred to in subsection (1) or (3) does not provide adequately for the attainment or maintenance of self-sufficiency and security of supply within the meaning of section 33, that minister may reject the plan and, where that minister does so, shall inform the board of the reasons for so doing.
- (3) Where the board is informed of a minister's rejection of its plan and the reasons for the rejection, the board shall, within 60 days after being so informed, prepare a revised plan taking into account those reasons and submit the revised plan to the federal minister and the provincial minister.

1986 c37 s43

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Public review by the board

- 44.** (1) Subject to a directive issued under subsection 42(1), the board shall conduct a public review in relation to a potential development of a pool or field unless the board is of the opinion that the public hearing is not required on a ground the board considers to be in the public interest.

- (2) Where a public review is conducted in relation to a potential development of a pool or field, the board may
- (a) establish terms of reference and a timetable that will permit a comprehensive review of all aspects of the development, including those within the authority of the Parliament of Canada or of the Legislature;
 - (b) appoint 1 or more commissioners and, where there is to be more than 1 commissioner, appoint as commissioners persons nominated by each of the governments in recognition of the authority of ministers of the Crown in right of Canada or of the province under an Act of the Parliament of Canada or of the Legislature, other than this Act or the federal Act, in relation to the development;
 - (c) where the potential development has been proposed to the board by a person, require that person to submit and make available for public distribution a preliminary development plan, an environmental impact statement, a socioeconomic impact statement, a preliminary Canada-Newfoundland and Labrador benefits plan and other plans specified by the board; and
 - (d) require the commissioners to hold public hearings in appropriate locations in the province or elsewhere in Canada and report on those hearings to the board, the federal minister and the provincial minister.
- (3) On the request of the board, the provincial government may, subject to the terms and conditions that it considers necessary, confer on the commissioners appointed under paragraph (2)(b) the powers conferred on commissioners under the *Public Inquiries Act*.
- (4) The commissioners shall make their recommendations respecting a preliminary plan or statement submitted under paragraph (2)(c) within 270 days after their receipt of the plan or statement or a shorter period that may be set by the board.

1986 c37 s44

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Canada- Newfoundland and Labrador benefits plan

- 45.** (1) In this section "Canada-Newfoundland and Labrador benefits plan" means a plan for the employment of Canadians and, in particular, members of the labour force of the province and, subject to paragraph (3)(d), for providing manufacturers, consultants, contractors and service companies in the province and other parts of Canada with a fair opportunity to participate on a competitive basis in the supply of goods and services used in a proposed work or activity referred to in the benefits plan.
- (2) Before the board may approve a development plan under subsection 135(4) or authorize any work or activity under paragraph 134(1)(b), a Canada-Newfoundland and Labrador benefits plan shall be submitted to and approved by the board, unless the board directs that that requirement need not be complied with.
- (3) A Canada-Newfoundland and Labrador benefits plan shall contain provisions intended to ensure that
- (a) before carrying out any work or activity in the offshore area, the corporation or other body submitting the plan shall establish in the province an office where appropriate levels of decision-making are to take place;
 - (b) consistent with the Canadian Charter of Rights and Freedoms, individuals resident in the province shall be given 1st consideration for training and employment in the work program for which the plan was submitted and a collective agreement entered into by the corporation or other body submitting the plan and an organization of employees respecting terms and conditions of employment in the offshore area shall contain provisions consistent with this paragraph;
 - (c) expenditures shall be made for research and development to be carried out in the province and for education and training to be provided in the province; and
 - (d) 1st consideration shall be given to services provided from within the province and to goods manufactured in the province, where those services and goods are competitive in terms of fair market price, quality and delivery.
- (4) The board may require that a Canada-Newfoundland and Labrador benefits plan include provisions to ensure that disadvantaged individuals or groups have access to training and employment opportunities and to enable those individuals or groups or corporations owned or cooperatives operated by them to participate in the supply of goods and services used in a proposed work or activity referred to in the benefits plan.
- (5) In reviewing a Canada-Newfoundland and Labrador benefits plan, the board shall consult with both ministers on the extent to which the plan meets the requirements set out in subsections (1), (3) and (4).
- (6) Subject to a directive issued under subsection 42(1), the board may approve a Canada-Newfoundland and Labrador benefits

plan.

1986 c37 s45; [1992 c15 s3](#); [2001 cN-3.1 s2](#)

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Coordination

46. (1) The board shall, to ensure effective coordination and avoid duplication of work and activities, conclude with the appropriate departments and agencies of the Government of Canada and of the government of the province memoranda of understanding in relation to

- (a) environmental regulation;
- (b) emergency measures;
- (c) coastguard and other marine regulation;
- (d) employment and industrial benefits for Canadians in general and the people of the province in particular and the review and evaluation procedures to be followed by both governments and the board in relation to those benefits;
- (e) occupational health and safety; and
- (f) other matters that are appropriate.

(2) The federal minister and the provincial minister shall be parties to a memorandum of understanding concluded in relation to a matter referred to in paragraph (1)(d).

1986 c37 s46

PART II PETROLEUM RESOURCES

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Interpretation

- 47.** (1) In this Part
- (a) "call for bids" means a call for bids made in accordance with section 57;
 - (b) "commercial discovery" means a discovery of petroleum that has been demonstrated to contain petroleum reserves that justify the investment of capital and effort to bring the discovery to production;
 - (c) "commercial discovery area" means, in relation to a declaration of commercial discovery made under subsection 77(1) or (2), those portions of the offshore area described in the declaration;
 - (d) "Crown reserve area" means portions of the offshore area in respect of which no interest is in force;
 - (e) "former exploration agreement" means an exploration agreement under the Canada Oil and Gas Land Regulations;
 - (f) "former lease" means an oil and gas lease under the Canada Oil and Gas Land Regulations;
 - (g) "former permit" means an exploratory permit under the Canada Oil and Gas Land Regulations;
 - (h) "former special renewal permit" means a special renewal permit under the Canada Oil and Gas Land Regulations;

(i) "holder" and "interest holder" means, in respect of an interest or a share in an interest, the person indicated, in the register maintained under Division VII, as the holder of the interest or the share;

(j) "interest" means a former exploration agreement, former lease, former permit, former special renewal permit, exploration licence, production licence or significant discovery licence;

(k) "interest owner" means the interest holder who holds an interest or the group of interest holders who hold all of the shares in an interest;

(l) "prescribed" means

(i) in the case of a form or the information to be given on a form, prescribed by the board, and

(ii) in other cases, prescribed by regulations made by the Lieutenant-Governor in Council;

(m) "share" means, with respect to an interest, an undivided share in the interest or a share in the interest held in accordance with section 65;

(n) "significant discovery" means a discovery indicated by the 1st well on a geological feature that demonstrates by flow testing the existence of hydrocarbons in that feature and, having regard to geological and engineering factors, suggests the existence of an accumulation of hydrocarbons that has potential for sustained production; and

(o) "significant discovery area" means, in relation to a declaration of significant discovery made under subsection 70(1) or (2), those portions of the offshore area described in the declaration.

(2) Nothing in this Part shall be construed so as to abrogate or derogate from existing aboriginal and treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.

1986 c37 s47

DIVISION I GENERAL

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Giving notice

48. Where a notice is required to be given under this Part or the regulations, it shall be given in the form and manner that may be prescribed and shall contain the information that may be prescribed.

1986 c37 s48

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Binding on the Crown

49. This Part is binding on the Crown in right of Canada or the province.

1986 c37 s49

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Delegation

50. The board may designate a person to exercise the powers and perform the duties and functions under this Part that are specified in the designation and on the designation that person may exercise those powers and shall perform those duties and functions subject to the terms and conditions that are specified in the designation.

1986 c37 s50

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Advisory bodies

51. (1) The board may appoint and fix the terms of reference of the advisory bodies that the board considers appropriate to advise the board with respect to the matters relating to the administration or operation of this Part or Part III that are referred to them by the board.

(2) The members of an advisory body appointed under subsection (1) may be paid for their services the remuneration and expenses that are fixed by the board.

1986 c37 s51

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Representatives

52. (1) Where an interest owner consists of 2 or more holders, the holders shall, in the manner prescribed, appoint 1 of their number to act as representative of the interest owner for the purposes of this Part, but those holders may, with the consent of the board, appoint different representatives for different purposes.

(2) Where an interest owner consisting of 2 or more holders fails to appoint a representative for the purposes of this Part, the board may designate 1 of the holders as the representative of the interest owner for those purposes.

(3) An interest owner is bound by the acts or omissions of the appointed or designated representative of the interest owner with respect to a matter to which the authority of the representative extends.

(4) A representative of an interest owner appointed or designated under this section shall perform the duties in respect of the purposes for which the representative has been appointed or designated, and an operating agreement or other similar arrangement in force in respect of the relevant interest of that interest owner stands varied or amended to the extent necessary to give effect to this subsection.

1986 c37 s52

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No issuing of interests re certain lands

53. (1) Subject to sections 31 to 40, the board may, except in a case referred to in subsection (2), by order, for the purposes and under the conditions that may be set out in the order, prohibit the issuing of interests in respect of the portions of the offshore area that are specified in the order.

(2) The federal minister may, by order, in the case of a disagreement with a government concerning the location of an international boundary and under the conditions that may be set out in the order, prohibit the issuing of interests in respect of the portions of the offshore area that are specified in the order.

1986 c37 s53

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Surrender of interests

54. (1) An interest owner may, in the manner prescribed and subject to the requirements that may be prescribed respecting the minimum geographical area to which an interest may relate, surrender an interest in respect of all or a portion of the offshore area subject to the interest.

(2) Any liability of an interest owner or interest holder to the Crown in right of Canada or in right of the province, either direct or by way of indemnity, that exists at the time of a surrender under subsection (1) is not affected by the surrender.

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Prohibition of activities

- 55.** (1) The board may, in the case of
- (a) an environmental or social problem of a serious nature; or
 - (b) dangerous or extreme weather conditions affecting the health or safety of people or the safety of equipment,

by order, prohibit an interest owner specified in the order from beginning or continuing work or activity on the portions of the offshore area or a part of the offshore area that are subject to the interest of that interest owner.

(2) Notwithstanding subsection (1), an order of the board made in a case referred to in paragraph (1)(a) is subject to sections 31 to 40.

(3) The federal minister may, in the case of a disagreement with a government concerning the location of an international boundary, by order, prohibit an interest owner specified in the order from beginning or continuing work or activity on the portions of the offshore area or a part of the offshore area that is subject to the interest of that interest owner.

(4) Where, because of an order made under subsection (1) or (3), a requirement in relation to an interest cannot be complied with while the order is in force, compliance with the requirement is suspended until the order is revoked.

(5) The term of an interest that is subject to an order under subsection (1) or (3) and the period provided for compliance with a requirement in relation to the interest are extended for a period equal to the period that the order is in force.

(6) Nothing in this section affects the authority of the board to relieve a person from a requirement in relation to an interest or under this Part or the regulations.

DIVISION II GENERAL RULES RELATING TO ISSUING OF INTERESTS

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Authority to issue interests

- 56.** (1) The board may issue interests in respect of a portion of the offshore area in accordance with this Part and the regulations.
- (2) The issuing of an interest by the board is subject to sections 31 to 40 unless the issuing of the interest is mandatory under another provision of this Part.
- (3) The application of an interest may be restricted to the geological formations and to the substances that may be specified in the interest.
- (4) Subsection (3) does not apply to an interest
- (a) that is in force or in respect of which negotiations were completed before April 4, 1987 in relation to a portion of the offshore area; or
 - (b) that immediately succeeds an interest referred to in paragraph (a) in relation to that portion of the offshore area where that portion was not a Crown reserve area on the expiration of the interest referred to in paragraph (a).

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Call for bids

- 57.** (1) The board shall not issue an interest in relation to Crown reserve areas unless
- (a) the board has made a prior call for bids in relation to those Crown reserve areas by publishing a notice in accordance with this section and section 62; and
 - (b) the interest is issued to the person who submitted, in response to the call, the bid selected by the board in accordance with subsection 58(1).
- (2) The making of a call for bids by the board is subject to sections 31 to 40.
- (3) A request received by the board to make a call for bids in relation to particular portions of the offshore area shall be considered by the board in selecting the portions of the offshore area to be specified in a call for bids.
- (4) A call for bids shall specify
- (a) the interest to be issued and the portions of the offshore area to which the interest is to apply;
 - (b) where applicable, the geological formations and substances to which the interest is to apply;
 - (c) the other terms and conditions subject to which the interest is to be issued;
 - (d) terms and conditions that a bid shall satisfy to be considered by the board;
 - (e) the form and manner in which a bid is to be submitted;
 - (f) subject to subsection (5), the closing date for the submission of bids; and
 - (g) the sole criterion that the board will apply in assessing bids submitted in response to the call.
- (5) Unless otherwise prescribed, a call for bids shall be published at least 120 days before the closing date for the submission of bids specified in the call.

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Selection of bids and publication

- 58.** (1) A bid submitted in response to a call for bids shall not be selected unless
- (a) the bid satisfies the terms and conditions and is submitted in the form and manner specified in the call; and
 - (b) the selection is made on the basis of the criterion specified in the call.
- (2) Where the board selects a bid submitted in response to a call for bids, the board shall publish a notice in accordance with section 62 setting out the terms and conditions of that bid.
- (3) Where an interest is to be issued as a result of a call for bids, the terms and conditions of the interest shall be substantially consistent with the terms and conditions in respect of the interest specified in the call.
- (4) The board shall publish a notice in accordance with section 62 setting out the terms and conditions of an interest issued as a

result of a call for bids as soon as practicable after the issuing of the interest.

1986 c37 s58

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Issuing of interest not required

59. (1) The board is not required to issue an interest as a result of a call for bids.

(2) Where the board has not issued an interest with respect to a particular portion of the offshore area specified in a call for bids within 6 months after the closing date specified in the call for the submission of bids, the board shall, before issuing an interest in relation to that portion of the offshore area, make a new call for bids.

1986 c37 s59

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Exception to call for bids

60. (1) Subject to sections 31 to 40, the board may issue an interest, in relation to a Crown reserve area, without making a call for bids where

(a) the portion of the offshore area to which the interest is to apply has, through error or inadvertence, become a Crown reserve area and the interest owner who last held an interest in relation to that portion of the offshore area has, within 1 year after the time it so became a Crown reserve area, requested the board to issue an interest; or

(b) the board is issuing the interest to an interest owner in exchange for the surrender by the interest owner, at the request of the board, of another interest or a share in another interest, in relation to all or a portion of the offshore area subject to that other interest.

(2) Where the board proposes to issue an interest under subsection (1), the board shall, not later than 90 days before issuing the interest, publish a notice in accordance with section 62 setting out the terms and conditions of the proposed interest.

1986 c37 s60

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Interest not vitiated

61. Where an interest has been issued, it is not vitiated by reason only of a failure to comply with a requirement set out in sections 57 to 60 respecting the form and content of, and time and manner of publishing, a notice required by those sections in relation to that interest.

1986 c37 s61

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Manner of publication of notices

62. A notice required to be published by the board under subsection 57(1), subsection 58(2) or (4), subsection 60(2) or subsection 67(2) shall be published in the *Gazette* and in other publications the board considers appropriate and, notwithstanding those subsections, may contain only a summary of the information required to be published and a statement that the full text is available for inspection by a person on request made to the board.

1986 c37 s62

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Regulations

63. The Lieutenant-Governor in Council may, for the purposes of section 57, make regulations of general application in relation to the offshore area or a portion of the offshore area, or in respect of a particular call for bids, prescribing the terms, conditions and criteria to be specified in a call for bids, the manner in which bids are to be submitted and requiring those terms and conditions and criteria and manner to be specified in the call.

1986 c37 s63

DIVISION III EXPLORATION

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Rights under exploration licences

- 64.** An exploration licence confers, with respect to the portions of the offshore area to which the licence applies,
- (a) the right to explore for, and the exclusive right to drill and test for, petroleum;
 - (b) the exclusive right to develop those portions of the offshore area in order to produce petroleum; and
 - (c) the exclusive right, subject to compliance with the other provisions of this Part, to obtain a production licence.

1986 c37 s64

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Shares

65. A share in an exploration licence may, subject to the requirements that may be prescribed, be held with respect to a portion only of the offshore area subject to the exploration licence.

1986 c37 s65

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Terms, conditions and regulations

66. (1) An exploration licence shall contain the terms and conditions that may be prescribed and may contain other terms and conditions, consistent with this Part or the regulations, that may be agreed on by the board, subject to sections 31 to 40, and the interest owner of the licence.

(2) The Lieutenant-Governor in Council may make regulations prescribing terms and conditions required to be included in exploration licences issued in relation to the offshore area or a portion of the offshore area.

1986 c37 s66

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Amendment and consolidation of exploration licence

67. (1) The board, subject to sections 31 to 40, and the interest owner of an exploration licence may, by agreement, amend a provision of the exploration licence in a manner consistent with this Part or the regulations and may, subject to subsection (2), amend the licence to include other portions of the offshore area.

- (2) The board shall not amend an exploration licence to include a portion of the offshore area that, immediately before the

inclusion, were Crown reserve areas unless the board would be able to issue an interest to that interest owner in relation to that area under subsection 60(1) and a notice has been published in accordance with section 62 not later than 90 days before making the amendment, setting out the terms and conditions of the amendment.

(3) Subject to sections 31 to 40, the board may, on the application of the interest owners of 2 or more exploration licences, consolidate those exploration licences into a single exploration licence, subject to the terms and conditions that may be agreed on by the board and those interest owners.

1986 c37 s67

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Effective date of exploration licence

68. (1) The effective date of an exploration licence is the date specified in the licence as the effective date.

(2) Subject to subsection (3) and section 69, the term of an exploration licence shall not exceed 9 years from the effective date of the licence and shall not be extended or renewed.

(3) Subject to section 69, the term of an exploration licence entered into or in respect of which negotiations have been completed before December 20, 1985 may be renegotiated once only for a further term not exceeding 4 years and afterward the term of the exploration licence shall not be renegotiated, extended or renewed.

(4) On the expiration of an exploration licence, the portions of the offshore area to which the exploration licence related and that are not subject to a production licence or a significant discovery licence become Crown reserve areas.

1986 c37 s68

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Continuation of exploration licence where drilling started

69. (1) Where, before the expiration of the term of an exploration licence, the drilling of a well has been started on a portion of the offshore area to which the exploration licence applies, the exploration licence continues in force while the drilling of that well is being pursued diligently and for so long afterward as may be necessary to determine the existence of a significant discovery based on the results of that well.

(2) Where the drilling of a well referred to in subsection (1) is suspended because of dangerous or extreme weather conditions or mechanical or other technical problems encountered in the drilling of the well, the drilling of that well shall, for the purposes of subsection (1), be considered to be being pursued diligently during the period of suspension.

(3) Where the drilling of a well referred to in subsection (1) cannot be completed for mechanical or other technical problems and where, within 90 days after the cessation of drilling operations with respect to that well, or a longer period that the board determines, the drilling of another well is started on a portion of the offshore area that was subject to the exploration licence, the drilling of that other well shall, for the purposes of subsection (1), be considered to have started before the expiration of the term of the exploration licence.

1986 c37 s69

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Declaration of significant discovery

70. (1) Subject to section 120, where a significant discovery has been made on a portion of the offshore area that is subject to an interest or a share in an interest held in accordance with section 65, the board shall, on the application of the interest holder of the interest or the share of the interest made in the form and manner and containing the information that may be prescribed, make a written declaration of significant discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe that the significant discovery may extend.

(2) Where a significant discovery has been made on a portion of the offshore area, the board may, by order subject to section 120, make a declaration of significant discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe the significant discovery may extend.

(3) A declaration made under subsection (1) or (2) shall describe the portions of the offshore area to which the declaration applies.

(4) Subject to subsection (5), where a declaration of significant discovery is made under subsection (1) or (2) and, based on the results of further drilling, there are reasonable grounds to believe that a discovery is not a significant discovery or that the portions of the offshore area to which the significant discovery extends differ from the significant discovery area, the board may, subject to section 120 and as appropriate in the circumstances,

(a) amend the declaration of significant discovery by increasing or decreasing the significant discovery area; or

(b) revoke the declaration.

(5) A declaration of significant discovery shall not be amended to decrease the significant discovery area or revoked earlier than

(a) in the case of a significant discovery area that is subject to a significant discovery licence issued under subsection 72(1), the date on which the exploration licence referred to in that subsection expires; and

(b) in the case of a significant discovery area that is subject to a significant discovery licence issued under subsection 72(2), 3 years after the effective date of the significant discovery licence.

(6) A copy of a declaration of significant discovery and of an amendment or revocation of it made under this section in relation to a portion of the offshore area subject to an interest shall be sent by registered mail to the interest owner of that interest.

1986 c37 s70; 1987 c25 s2

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Rights under significant discovery licence

71. A significant discovery licence confers, with respect to the portions of the offshore area to which the licence applies,

(a) the right to explore for, and the exclusive right to drill and test for, petroleum;

(b) the exclusive right to develop those portions of the offshore area in order to produce petroleum; and

(c) the exclusive right, subject to compliance with the other provisions of this Part, to obtain a production licence.

1986 c37 s71

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Significant discovery licence in relation to lands subject to exploration licences

72. (1) Where a declaration of significant discovery is in force and all or a portion of the significant discovery area is subject to an exploration licence or a share in an exploration licence held in accordance with section 65, the board shall, on application of the interest holder of the exploration licence or the share made in the form and manner and containing the information that may be prescribed, issue to the interest holder a significant discovery licence in respect of all portions of the significant discovery area that are subject to the exploration licence or the share.

(2) Where a declaration of significant discovery is in force and the significant discovery area extends to a Crown reserve area, the board may, after making a call for bids in relation to that Crown reserve area or a portion of it and selecting a bid submitted in response to the call in accordance with subsection 58(1), issue a significant discovery licence to the person who submitted that bid in relation to the Crown reserve area specified in the call.

(3) The making of a call for bids and the issuing of a significant discovery licence by the board under subsection (2) is subject to sections 31 to 40.

(4) A significant discovery licence shall be in the form prescribed and may contain other terms and conditions, consistent with this Part or the regulations, that may be agreed on by the board, subject to sections 31 to 40, and the interest owner of the significant discovery

licence.

1986 c37 s72

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Reduction or increase of area subject to significant discovery licence

73. (1) Where a significant discovery area in relation to a declaration of significant discovery is decreased under an amendment made under subsection 70(4), a significant discovery licence that was issued on the basis of that declaration shall be amended by decreasing accordingly the portions of the offshore area subject to that licence.

(2) Where a significant discovery area in relation to a declaration of significant discovery is increased under an amendment made under subsection 70(4), a significant discovery licence that was issued on the basis of that declaration shall be amended to include all portions of the amended significant discovery area that are subject to an exploration licence held by the interest owner of that significant discovery licence at the time the significant discovery area is so increased.

1986 c37 s73

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Term of licences

74. (1) On the issuing of a significant discovery licence under subsection 72(1) with respect to a significant discovery area, an exploration licence stops having effect in relation to that significant discovery area.

(2) The effective date of a significant discovery licence is the date of application for the licence.

(3) A significant discovery licence continues in force, in relation to each portion of the offshore area to which the licence applies, during the period that the declaration of significant discovery on the basis of which the licence was issued remains in force in relation to that portion.

(4) On the expiration of a significant discovery licence, a portion of the offshore area to which the significant discovery licence related and that is not subject to a production licence becomes a Crown reserve area.

1986 c37 s74

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Drilling orders

75. (1) Subject to sections 31 to 40, the board may, after making a declaration of significant discovery, by order subject to section 120, require the interest owner of an interest in relation to a portion of the significant discovery area to drill a well on a portion of the significant discovery area that is subject to that interest, in accordance with the directions that may be set out in the order, and to start the drilling within 1 year after the making of the order or within the longer period that the board specifies in the order.

(2) Notwithstanding subsection (1), an order may not be made under subsection (1) with respect to an interest owner who has completed a well on the relevant portion of the offshore area within 6 months before the making of the order.

(3) An order may not be made under subsection (1) within the 3 years immediately following the well termination date of the well indicating the relevant significant discovery.

(4) Notwithstanding subsection (1), an order made under subsection (1) may not require an interest owner to drill more than 1 well at a time on the relevant portion of the offshore area.

(5) For the purposes of subsection (3), "well termination date" means the date on which a well has been abandoned, completed or suspended in accordance with applicable drilling regulations.

1986 c37 s75

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Information may be disclosed

76. (1) The board may, notwithstanding section 115, provide information or documentation relating to a significant discovery to an interest owner who requires the information or documentation to help the interest owner in complying with an order made under subsection 75(1).

(2) An interest owner shall not disclose information or documentation provided to that interest owner under subsection (1) except to the extent necessary to enable the interest owner to comply with an order made under subsection 75(1).

1986 c37 s76

DIVISION IV PRODUCTION

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Application for declaration of commercial discovery

77. (1) Subject to section 120, where a commercial discovery has been made on a portion of the offshore area that is subject to an interest or a share in an interest held in accordance with section 65, the board shall, on the application of the interest holder of the interest or the share, made in the form and manner and containing the information that may be prescribed, make a written declaration of commercial discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe that the commercial discovery may extend.

(2) Subject to section 120, where a commercial discovery has been made on a portion of the offshore area, the board may, by order, make a declaration of commercial discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe that the commercial discovery may extend.

(3) Subsections 70(3), (4) and (6) apply, with the modifications that the circumstances require, with respect to a declaration made under subsection (1) or (2).

1986 c37 s77; 1990 c21 s1

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Order to reduce term of interest

78. (1) Subject to sections 31 to 40, the board may, at any time after making a declaration of commercial discovery, give notice to the interest owner of an interest in relation to a portion of the commercial discovery area where commercial production of petroleum has not started before that time stating that, after the period of not less than 6 months that may be specified in the notice, an order may be made reducing the term of that interest.

(2) During the period specified in a notice sent to an interest owner under subsection (1), the board shall provide a reasonable opportunity for the interest owner to make the submissions that the interest owner considers relevant to determining whether the board should make an order reducing the term of the relevant interest.

(3) Subject to sections 31 to 40, where the board is of the opinion that it is in the public interest, the board may, not later than 6 months after the expiration of the period specified in a notice in respect of an interest sent under subsection (1), by order subject to section 120, reduce the term of the interest to 3 years after the date the order is made or a longer period that may be specified in the order.

(4) Where an order is made under subsection (3), an interest in respect of a portion of the offshore area within the area to which the interest that is the subject of the order applied on the date the order was made stops having effect at the end of the period specified in the order.

(5) Notwithstanding subsection (4), where commercial production of petroleum on a portion of the offshore area referred to in subsection (4) starts before the expiration of the period specified in an order made under subsection (3) or the period extended under subsection (6), the order stops having effect and is considered to have been vacated.

(6) Notwithstanding subsection (4) and subject to sections 31 to 40, the board may extend the period specified in an order made under subsection (3) or may revoke the order.

1986 c37 s78

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Rights under production licence

79. (1) A production licence confers, with respect to the portions of the offshore area to which the licence applies,

- (a) the right to explore for, and the exclusive right to drill and test for, petroleum;
- (b) the exclusive right to develop those portions of the offshore area in order to produce petroleum;
- (c) the exclusive right to produce petroleum from those portions of the offshore area; and
- (d) title to the petroleum so produced.

(2) Notwithstanding subsection (1), the board may, subject to the terms and conditions that the board considers appropriate, authorize an interest holder of an interest or a share in the interest to produce petroleum on the portions of the offshore area subject to the interest or share for use in the exploration or drilling for or development of petroleum on a portion of the offshore area.

1986 c37 s79; 1987 c25 s3

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Issuing of production licence

80. (1) Subject to section 86, the board, on application made in the form and manner and containing the information that may be prescribed,

- (a) shall issue a production licence to 1 interest owner, in respect of any 1 commercial discovery area or portion of the commercial discovery area that is subject to an exploration licence or a significant discovery licence held by that interest owner; and
- (b) may, subject to the terms and conditions that may be agreed on by the board and the relevant interest owners and to sections 31 to 40, issue a production licence to
 - (i) 1 interest owner, in respect of 2 or more commercial discovery areas or portions of commercial discovery areas that are subject to an exploration licence or a significant discovery licence held by that interest owner, or
 - (ii) 2 or more interest owners, in respect of 1 or more commercial discovery areas or portions of commercial discovery areas that are subject to an exploration licence or a significant discovery licence held by any of those interest owners.

(2) Where a declaration of commercial discovery is in force and the commercial discovery area extends to a Crown reserve area, the board may, after making a call for bids in relation to that Crown reserve area or a portion of the Crown reserve area and selecting a bid submitted in response to the call in accordance with subsection 58(1), issue a production licence to the person who submitted that bid in relation to the Crown reserve area specified in the call.

(3) The making of a call for bids and the issuing of a production licence by the board under subsection (2) is subject to sections 31 to 40.

(4) A production licence shall be in the form prescribed and may contain the terms and conditions, consistent with this Part or the regulations, that may be agreed on by the board, subject to sections 31 to 40, and the interest owner of the production licence.

1986 c37 s80; [1992 c47 s1](#)

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Consolidation of production licences

81. Subject to sections 31 to 40, the board may, on the application of the interest owners of 2 or more production licences, consolidate those production licences into a single production licence, on the terms and conditions that may be agreed on by the board and those interest owners.

1986 c37 s81

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Reduction and increase of area subject to production licence

82. (1) Where a commercial discovery area in relation to a declaration of commercial discovery is decreased under an amendment made under subsection 70(4) and subsection 77(3), a production licence that was issued on the basis of that declaration shall be amended by decreasing accordingly the portions of the offshore area subject to that licence.

(2) Where a commercial discovery area in relation to a declaration of commercial discovery is increased under an amendment made under subsection 70(4) and subsection 77(3), a production licence that was issued on the basis of that declaration shall be amended to include all portions of the amended commercial discovery area that are subject to an exploration licence or a significant discovery licence held by the interest owner of that production licence at the time the commercial discovery area is so increased.

1986 c37 s82

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Term of production licence

83. (1) A production licence is effective from the date it is issued and shall be issued for a term of 25 years.

(2) Notwithstanding subsection (1), where a declaration of commercial discovery on the basis of which a production licence was issued is, under subsection 70(4) and subsection 77(3), revoked or amended to exclude all portions of the commercial discovery area in relation to which the production licence was issued, the production licence stops being in force.

(3) Where, on the expiration of the term of a production licence, petroleum is being produced commercially, the term is extended for that period afterward during which commercial production of petroleum continues.

(4) Notwithstanding subsection (1) and subject to sections 31 to 40, the board may, by order, on the terms and conditions that may be specified in the order, extend the term of a production licence where

(a) commercial production of petroleum from the portions of the offshore area subject to the licence stops before or on the expiration of the 25 year term of the production licence and the board has reasonable grounds to believe that commercial production from the portions of the offshore area will recommence; or

(b) the board has reasonable grounds to believe that commercial production of petroleum from those portions of the offshore area will, before or after the expiration of the term of the licence, stop during a period and afterward recommence.

1986 c37 s83

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Lapsing of other interests

84. (1) Notwithstanding subsection 74(3), on the issuing of a production licence, an interest in relation to the portions of the offshore area in respect of which the production licence is issued held immediately before the issuing of the production licence stops having effect in relation to those portions of the offshore area, but otherwise continues to have effect according to its terms and the provisions of this Act.

(2) On the expiration of a production licence, the portions of the offshore area in relation to which the production licence was issued become Crown reserve areas.

1986 c37 s84

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Licence for subsurface storage

85. (1) The board may, subject to those terms and conditions the board considers appropriate, issue a licence for the purpose of subsurface storage of petroleum or other substances approved by the board in portions of the offshore area at depths greater than 20 metres.

(2) A portion of the offshore area shall not be used for a purpose referred to in subsection (1) without a licence referred to in that subsection.

1986 c37 s85

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Qualification for production licence

86. A production licence or share in a production licence may not be held by a person other than a corporation incorporated in Canada .

[1992 c47 s2](#)

DIVISION V CANADIAN OWNERSHIP

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Rep. by 1992 c47 s3

87. [Sections 87 to 95 inclusive Rep. by 1992 c47 s3]

[1992 c47 s3](#)

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Rep. by 1992 c47 s3

88. [Sections 87 to 95 inclusive Rep. by 1992 c47 s3]

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89. [Sections 87 to 95 inclusive Rep. by 1992 c47 s3]

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90. [Sections 87 to 95 inclusive Rep. by 1992 c47 s3]

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91. [Sections 87 to 95 inclusive Rep. by 1992 c47 s3]

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92. [Sections 87 to 95 inclusive Rep. by 1992 c47 s3]

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93. [Sections 87 to 95 inclusive Rep. by 1992 c47 s3]

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94. [Sections 87 to 95 inclusive Rep. by 1992 c47 s3]

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95. [Sections 87 to 95 inclusive Rep. by 1992 c47 s3]

[1992 c47 s3](#)

DIVISION VI ENVIRONMENTAL STUDIES RESEARCH FUND

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Fund continued and rates approved by board

96. (1) Part VII of the *Canada Petroleum Resources Act* applies, with the modifications that the circumstances require, within the offshore area.

(2) The rates fixed by the federal minister under section 80 of the *Canada Petroleum Resources Act*, as they apply to the

offshore area, are subject to approval by the board.

(3) Notwithstanding subsection 78(2) of the *Canada Petroleum Resources Act*, 1 of the members of the Environmental Studies Management Board established by subsection 78(1) of that Act is to be appointed by the board on the recommendation of the provincial minister.

(4) The Environmental Studies Management Board shall submit to the board a copy of every annual report and recommendation submitted to the federal minister under paragraph 79(1)(d) or (e) of the *Canada Petroleum Resources Act* at the same time the report or recommendation is submitted to the federal minister.

1987 c25 s5

DIVISION VII TRANSFERS, ASSIGNMENTS AND REGISTRATION

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Interpretation

97. (1) In this Division,

(a) "assignment of security interest" means a notice of the assignment of a security interest or a part of a security interest in respect of which a security notice has been registered under this Division;

(b) "court" means the Trial Division of the Supreme Court of Newfoundland and Labrador and includes a judge of that court;

(c) "deputy registrar" means the person that the board may designate as the deputy registrar for the purpose of this Division;

(d) "discharge" means a notice of the discharge of a security notice or postponement and includes a partial discharge;

(e) "instrument" means a discharge, postponement, security notice, transfer or an assignment of a security interest;

(f) "operator's lien" means a charge on or right in relation to an interest or a share in an interest

(i) that arises under a contract

(A) to which the interest owner or holder of the interest or share is a party,

(B) that provides for the operator appointed under the contract to carry out any work or activity related to the exploration for or the development or production of petroleum in the portions of the offshore area to which the interest or share applies, and

(C) that requires the interest owner or holder to make payments to the operator to cover all or part of the advances made by the operator in respect of the costs and expenses of that work or activity, and

(ii) that secures the payments referred to in clause (i)(C);

(g) "postponement" means a document evidencing the postponement of a security notice or operator's lien;

(h) "registrar" means the person that the board may designate as the registrar for the purpose of this Division;

(i) "secured party" means the person claiming a security interest under a security notice;

(j) "security interest" means a charge on or right in relation to an interest or a share in an interest that, under a written agreement, secures a payment or performance of an obligation, including

(i) the payment of an indebtedness arising from an existing or future loan or advance of money,

(ii) a bond, debenture or other security of a corporation, or

(iii) the performance of the obligations of a guarantor under a guarantee given in respect of all or a part of an indebtedness referred to in subparagraph (i) or all or a part of a bond, debenture or other security of a corporation,

and includes a security given under section 177 of the *Bank Act*, but does not include an operator's lien;

(k) "security notice" means a notice of a security interest; and

(l) "transfer" means a transfer of an interest or a share in an interest.

(2) Where an assignment of security interest is registered under this Division, a reference in this Division to a secured party shall, in respect of the security notice to which the assignment of a security interest relates, be read as a reference to the assignee named in the assignment of security interest.

1986 c37 s97; 1990 c21 s3; 1990 c23 s2; [2001 cN-3.1 s2](#)

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Notice of disposition of an interest

98. Where an interest holder of an interest or a share in an interest enters into an agreement or arrangement that is or may result in a transfer, assignment or other disposition of the interest or a share in the interest, the interest holder shall give notice of the agreement or arrangement to the board, together with a summary of its terms and conditions or, on the request of the board, a copy of the agreement or arrangement.

1986 c37 s98; 1987 c25 s6

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Rep. by 1992 c47 s3

99. [Rep. by 1992 c47 s3]

[1992 c47 s3](#)

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Rep. by 1992 c47 s3

100. [Rep. by 1992 c47 s3]

[1992 c47 s3](#)

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Public register

101. (1) A public register of all interests and instruments registered under this Division shall be established and maintained in accordance with this Division and the regulations.

(2) The registrar and deputy registrar shall exercise those powers and perform the duties and functions in respect of the register and the system of registration established under this Division that may be prescribed.

1986 c37 s100

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Prohibition

102. (1) A document other than an interest or instrument may not be registered under this Division.

(2) An instrument may not be registered under this Division unless it has been submitted for registration in the form prescribed for that instrument, in the manner and containing the information that may be prescribed, and meets the other requirements for the registration of an instrument prescribed by this Division and the regulations.

1986 c37 s101

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Rep. by 1992 c47 s3

103. [Rep. by 1992 c47 s3]

[1992 c47 s3](#)

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Requirements of registering security notice

104. (1) A security notice may not be registered under this Division unless the security notice specifies

- (a) the nature of the security interest claimed;
- (b) the person from whom the security interest was acquired;
- (c) the documents giving rise to the security interest; and
- (d) other particulars that may be prescribed.

(2) An instrument may not be registered under this Division unless a notice of official address for service in respect of that instrument is filed with the registrar in prescribed form.

(3) The official address for service in respect of an instrument may be changed by filing with the registrar another notice of official address for service, in prescribed form.

1986 c37 s103

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Security notice

105. Where a significant discovery licence or production licence is issued at any time in respect of a portion of the offshore area that was not a Crown reserve area immediately before that time, the registration under this Division of a security notice in respect of the interest in force immediately preceding the issuing of that licence and relating to that portion of the offshore area applies in respect of the licence as though the security notice referred to that licence and as though that licence had been issued before the registration of the security notice.

1986 c37 s104

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Registration

106. (1) A document submitted for registration under this Division shall be examined by the registrar and where the registrar determines that the document is an instrument that meets all the requirements for the registration of it prescribed by this Division and the regulations, the registrar shall register the instrument in accordance with this Division and the regulations.

(2) Where the registrar refuses to register a document under this Division, the registrar shall return the document to the person submitting the document for registration and provide that person with the reasons for the refusal.

(3) An instrument is registered under this Division by the endorsement of a memorandum of registration on the instrument specifying the registration number of the instrument and the time and date of registration.

(4) Instruments accepted for registration under this Division shall be registered in the chronological order in which instruments are received by the registrar.

1986 c37 s105

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Registration is considered notice

107. The registration of an instrument under this Division shall be considered to constitute actual notice of the instrument to all persons as of the time of registration of the instrument and, in the case of a security notice, shall be considered to constitute actual notice to all persons who may serve a demand for information in respect of the security notice of the contents of the documents specified in the security notice.

1986 c37 s106

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Priority of rights

108. (1) A particular right, in relation to an interest or a share in an interest, in respect of which an instrument has been registered under this Division has priority over and is valid against another right, in relation to that interest or share,

(a) in respect of which an instrument may be registered under this Division,

(i) where the instrument was not so registered, or

(ii) where the instrument was so registered after that time,

whether that other right was acquired before or after that particular right; or

(b) in respect of which an instrument may not be registered under this Division, acquired after that time.

(2) Notwithstanding subsection (1), where a right in respect of which an instrument may be registered under this Division was acquired before May 20, 1988 and an instrument in respect of that right is registered under this Division not later than 180 days after May 20, 1988, the priority and validity of the right shall be determined as though the instrument was registered under this Division at the time the right was acquired and as though this section was in force at that time.

(3) Notwithstanding subsection (2), no right in respect of which that subsection applies shall have priority over and be valid against another right in respect of which that subsection applies but in respect of which an instrument is not registered within the period referred to in that subsection, where the person claiming the right in respect of which an instrument is registered within that period acquired the right with actual knowledge of the other right.

(4) An instrument in respect of a right to which subsection (2) applies shall not be registered unless it is accompanied by the statutory declaration, in prescribed form, of the person claiming the right, attesting to the time at which the right was acquired.

(5) Notwithstanding subsection (1), an operator's lien, in relation to an interest or share in an interest, shall, without registration of a document evidencing the operator's lien, have priority over and be valid against another right, in relation to that interest or share, in respect of which an instrument may be registered under this Division, whether an instrument in respect of that other right was registered before or after the acquisition of the operator's lien or the operator's lien was acquired before or after that other right, unless the operator's lien is postponed with respect to other rights by the registration under this Division of a postponement in respect of the operator's lien and a discharge in respect of that

postponement has not been registered under this Division.

1986 c37 s107; 1988 c2 s1

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Demand for information

109. (1) A person may, in accordance with this section, serve a demand for information in respect of a security notice that has been registered under this Division in relation to an interest or a share in an interest where that person

- (a) is the holder of that interest or share;
- (b) is specified in the security notice as the person from whom the security interest was acquired;
- (c) is the secured party under another security notice registered under this Division in relation to that interest or share;
- (d) is a member of a class of persons prescribed by the regulations for the purposes of this subsection; or
- (e) obtains leave to do so from the court.

(2) A demand for information, in respect of a security notice, may be served under subsection (1) by serving on the secured party under the security notice a demand notice, in prescribed form, requiring the secured party

(a) to inform the person serving the demand notice, within 15 days after service of the notice, of the place where the documents specified in the security notice or copies of the security notice are located and available for examination, and of the normal business hours during which the examination may be made; and

(b) to make the documents or copies of the documents available for examination at that place during normal business hours, by or on behalf of the person serving the notice, within a reasonable period after the demand notice is served.

(3) A demand for information is served, for the purpose of this section, where it is sent by registered mail or delivered to the official address for service in respect of the security notice according to the records of the registrar.

(4) A demand for information served under subsection (1) may be complied with by mailing or delivering to the person serving the demand notice a true copy of the documents referred to in the demand notice.

(5) Where a secured party fails without reasonable excuse to comply with a demand for information in respect of a security notice in relation to an interest or share in an interest served on the secured party in accordance with this section, the court may, on application by the person who served the demand notice, make an order requiring the secured party to comply with the demand for information within the time and in the manner specified in the order.

(6) Where a secured party fails to comply with an order of a court made under subsection (5), the court may, on the application of the person who applied for the order,

- (a) make another order the court considers necessary to ensure compliance with the order made under subsection (5); or
- (b) make an order directing the registrar to cancel the registration of the security notice.

(7) In this section, "document" includes an amendment to the document.

1986 c37 s108

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Notice to take proceedings

110. (1) A person who may serve a demand for information in respect of a security notice in relation to an interest or a share in

an interest under subsection 109(1) may

(a) serve on the secured party under the security notice a notice to take proceedings, in prescribed form, directing that secured party to apply to the court within 60 days after the day on which the notice to take proceedings is served, for an order substantiating the security interest claimed in the security notice; or

(b) start proceedings in the court, requiring the secured party to show cause why the registration of the security notice should not be cancelled.

(2) The court may, by order, on the unilateral application of a person who proposes to serve a notice to take proceedings under subsection (1), shorten the 60 day period referred to in paragraph (1)(a) and, if the order is made,

(a) paragraph (1)(a) shall, in relation to that notice to take proceedings, be considered to refer to the shorter period; and

(b) a certified copy of the order shall be served with that notice to take proceedings.

(3) The court may, on the application of a secured party served with a notice to take proceedings, extend the period for applying to the court referred to in paragraph (1)(a), whether or not that period has been shortened under subsection (2).

(4) A notice to take proceedings is served for the purpose of this section if it is sent by registered mail or delivered to the secured party at the official address for service in respect of the security notice according to the records of the registrar.

(5) The registration of a security notice shall be cancelled on submission to the registrar of a statutory declaration showing that

(a) a notice to take proceedings was served in accordance with this section; and

(b) no application was started in accordance with the notice to take proceedings or within the period extended under subsection (3) or an application so made was dismissed by the court or discontinued.

(6) Where the registration of a security notice in respect of a security interest is cancelled under subsection (5) or (7), the secured party under the security notice may not submit for registration under this Division another security notice in respect of that security interest without leave of the court to do so.

(7) The registration of a security notice shall be cancelled where there is submitted to the registrar a certified copy of an order or judgment of a court directing the registrar to do so, whether as a result of proceedings taken under this Division or otherwise.

1986 c37 s109; 1988 c54 s4

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Transfer effective on registration

111. A transfer of an interest or a share in an interest is not effective against the Crown before the registration of the transfer.

1986 c37 s110

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No restriction on rights

112. For greater certainty, the registration of an instrument

(a) does not restrict or affect a right or power of the board or of the ministers under this Part, the regulations or the terms of an interest; and

(b) does not derogate from a proprietary right or a right to dispose of or exploit natural resources that the Crown in right of Canada has under this Act in respect of a portion of the offshore area.

1986 c37 s111

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No action for acts done in performance of official functions

113. An action or other proceedings for damages shall not be started against the registrar or deputy registrar or anyone acting under the authority of the registrar or deputy registrar for an act done or omission in good faith in the exercise of a power or the performance of a duty under this Division.

1986 c37 s112

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Regulations

114. The Lieutenant-Governor in Council may make regulations for carrying out the provisions of this Division and may make regulations

(a) prescribing the powers, duties and functions of the registrar and deputy registrar for the purpose of this Division and the time when, and manner and circumstances in which, they are to be exercised, and providing for the designation by the board of a person or class of persons to exercise the powers and perform the duties and functions that may be specified in the regulations;

(b) governing the books, abstracts and indices to be maintained as the register for the purposes of this Division and the particulars of interests, instruments and portions of the offshore area and the orders and declarations made in relation to interests to be recorded in the books, abstracts and indices;

(c) governing the filing of copies of interests, registered instruments and other documents in the register established under this Division;

(d) governing public access to and searches of the register;

(e) prescribing the dependent rights and classes of dependent rights in respect of which a caution may be registered under this Division;

(f) prescribing fees for the registration of instruments, making copies and certified copies of documents, searches and other services specified in the regulations for the purposes of this Division, and requiring the fees to be paid for those services; and

(g) prescribing other matters or things that are by this Division to be prescribed.

1986 c37 s113

DIVISION VIII ADMINISTRATION AND ENFORCEMENT

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Interpretation

115. (1) In this section

(a) "delineation well" means a well that is so located in relation to another well penetrating an accumulation of petroleum that there is a reasonable expectation that another portion of that accumulation will be penetrated by the first mentioned well and that the drilling is necessary in order to determine the commercial value of the accumulation;

(b) "development well" means a well that is so located in relation to another well penetrating an accumulation of petroleum that it is considered to be a well or part of a well drilled for the purpose of production or observation or for the injection or disposal of fluid into or from

the accumulation;

(c) "engineering research or feasibility study" includes work undertaken to facilitate the design or to analyze the viability of engineering technology, systems or schemes to be used in the exploration for or the development, production or transportation of petroleum in the offshore area;

(d) "environmental study" means work pertaining to the measurement or statistical evaluation of the physical, chemical and biological elements of the lands, oceans or coastal zones, including winds, waves, tides, currents, precipitation, ice cover and movement, icebergs, pollution effects, plants and animals both onshore and offshore, human activity and habitation and related matters;

(e) "experimental project" means work or activity involving the utilization of methods or equipment that are untried or unproven;

(f) "exploratory well" means a well drilled on a geological feature on which a significant discovery has not been made;

(g) "geological work" means work, in the field or laboratory, involving the collection, examination, processing or other analysis of lithological, paleontological or geochemical materials recovered from the seabed or subsoil of a portion of the offshore area and includes the analysis and interpretation of mechanical well logs;

(h) "geophysical work" means work involving the indirect measurement of the physical properties of rocks in order to determine the depth, thickness, structural configuration or history of deposition of rocks and includes the processing, analysis and interpretation of material or data obtained from that work;

(i) "geotechnical work" means work, in the field or laboratory, undertaken to determine the physical properties of materials recovered from the seabed or subsoil of a portion of the offshore area;

(j) "well site seabed survey" means a survey pertaining to the nature of the seabed or subsoil of a portion of the offshore area in the area of the proposed drilling site in respect of a well and to the conditions of those portions of the offshore area that may affect the safety or efficiency of drilling operations; and

(k) "well termination date" means the date on which a well or test hole has been abandoned, completed or suspended in accordance with applicable regulations respecting the drilling for petroleum made under Part III.

(2) Subject to section 18, information or documentation provided for the purposes of this Part or Part III or a regulation made under either Part, whether or not that information or documentation is required to be provided under either Part or a regulation made under either Part, is privileged and shall not knowingly be disclosed without the written consent of the person who provided it except for the purposes of the administration or enforcement of either Part or for the purposes of legal proceedings relating to the administration or enforcement.

(3) A person shall not be required to produce or give evidence relating to information or documentation that is privileged under subsection (2) in connection with legal proceedings, other than proceedings relating to the administration or enforcement of this Part or Part III.

(4) For greater certainty, this section does not apply to a document that has been registered under Division VII.

(5) Subsection (2) does not apply to the following classes of information or documentation obtained as a result of carrying on any work or activity that is authorized under Part III, namely, information or documentation in respect of

(a) an exploratory well, where the information or documentation is obtained as a direct result of drilling the well and if 2 years have passed since the well termination date of that well;

(b) a delineation well, where the information or documentation is obtained as a direct result of drilling the well and if the later of

(i) 2 years since the well termination date of the relevant exploratory well, and

(ii) 90 days since the well termination date of the delineation well,

have passed;

(c) a development well, where the information or documentation is obtained as a direct result of drilling the well and if the later of

- (i) 2 years since the well termination date of the relevant exploratory well, and
- (ii) 60 days since the well termination date of the development well,

have passed;

- (d) geological work or geophysical work performed on or in relation to a portion of the offshore area,

- (i) in the case of a well site seabed survey where the well has been drilled, after the expiration of the period referred to in paragraph (a) or the later period referred to in subparagraph (b)(i) or (ii) or subparagraph (c)(i) or (ii), according to whether paragraph (a), (b) or (c) is applicable in respect of that well, or

- (ii) in another case, after the expiration of 5 years following the date of completion of the work;

- (e) an engineering research or feasibility study or experimental project, including geotechnical work, carried out on or in relation to a portion of the offshore area,

- (i) where it relates to a well and the well has been drilled, after the expiration of the period referred to in paragraph (a) or the later period referred to in subparagraph (b)(i) or (ii) or subparagraph (c)(i) or (ii), according to whether paragraph (a), (b) or (c) is applicable in respect of that well, or

- (ii) in another case, after the expiration of 5 years following the date of completion of the research, study or project or after the reversion of that portion of the offshore area to Crown reserve areas, whichever occurs first;

- (f) a contingency plan formulated in respect of emergencies arising as a result of any work or activity authorized under Part III;

- (g) diving work, weather observations or the status of operational activities or of the development of or production from a pool or field;

- (g.1) accidents, incidents or petroleum spills, to the extent necessary to permit a person or body to produce and to distribute or publish a report for the administration of this Act in respect of the accident, incident or spill;

- (h) a study funded from an account established under subsection 76(1) of the *Canada Petroleum Resources Act*, where the study has been completed; and

- (i) an environmental study, other than a study referred to in paragraph (h),

- (i) where it relates to a well and the well has been drilled, after the expiration of the period referred to in paragraph (a) or the later period referred to in subparagraph (b)(i) or (ii) or subparagraph (c)(i) or (ii), according to whether paragraph (a), (b) or (c) is applicable in respect of that well, or

- (ii) in another case, where 5 years have passed since the completion of the study.

1986 c37 s114; 1987 c25 s7; 1990 c21 s7; [1992 c15 s4](#)

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Rep. by 1992 c15 s5

116. [Rep. by 1992 c15 s5]

[1992 c15 s5](#)

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Operating agreements

117. (1) Where a dispute of a prescribed class arises between 2 or more interest holders of an interest in respect of operations conducted in carrying out any work or activity in the offshore area authorized under Part III and an operating agreement or other similar

arrangement that extends to the work or activity is not in force or was made before March 5, 1982, the matters in dispute may, by order of the board, be submitted to arbitration conducted in accordance with the regulations.

- (2) Subsection (1) applies only in respect of
 - (a) interests in force on March 5, 1982 in relation to a portion of the offshore area; and
 - (b) interests immediately succeeding the interests referred to in paragraph (a) in relation to that portion of the offshore area where that portion of the offshore area was not a Crown reserve area on the expiration of the interests referred to in paragraph (a).
- (3) An order of an arbitrator made under arbitration under subsection (1) is binding on all interest holders specified in the order from the date specified in the order, and the terms and conditions of the order are considered to be terms and conditions of the interest to which the matters relate.

1986 c37 s116

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Regulations

118. (1) Subject to section 7, the Lieutenant-Governor in Council may make regulations for carrying out the purposes and provisions of section 117 and may make regulations

- (a) governing arbitration and the making of arbitration orders;
 - (b) prescribing the classes of disputes that may be submitted to arbitration; and
 - (c) governing appeals from and enforcement of arbitration orders.
- (2) Regulations made under subsection (1) may apply generally to the offshore area or a portion of the offshore area.

1986 c37 s117; [1992 c15 s6](#)

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Notice to comply

119. (1) Where the board has reason to believe that an interest owner or holder is failing or has failed to meet a requirement of or under this Part or Part III or a regulation made under either Part, the board may give notice to that interest owner or holder requiring compliance with the requirement within 90 days after the date of the notice or within a longer period that the board considers appropriate.

(2) Notwithstanding anything in this Part but subject to sections 31 to 40, where an interest owner or holder fails to comply with a notice under subsection (1) within the period specified in the notice and the board considers that the failure to comply warrants cancellation of the interest of the interest owner or holder or a share in the interest held by the holder with respect to a portion only of the offshore area subject to the interest, the board may, by order subject to section 120, cancel that interest or share, and where the interest or share is so cancelled, the portions of the offshore area under that interest or share become Crown reserve areas.

1986 c37 s118

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Oil and Gas Committee

120. (1) In this section, "committee" means the Oil and Gas Committee established by Part III.

(2) The board shall, not less than 30 days before making an order or decision or taking an action in respect of which it is expressly stated in this Part to be subject to this section, give written notice to the persons the board considers to be directly affected by the proposed order, decision or action.

(3) A person receiving a notice under subsection (2) may, in writing, request a hearing within the 30 day period referred to in that subsection and, on receipt of such a request, the board shall direct the committee to appoint a time and place for a hearing and give notice of the time and place to the person who requested the hearing.

(4) A person requesting a hearing under subsection (3) may make representations and introduce witnesses and documents at the hearing.

(5) For the purposes of a hearing requested under subsection (3), the committee has, regarding the attendance, swearing and examination of witnesses and the production and inspection of documents, all the powers, rights and privileges that are vested in a superior court of record.

(6) On the conclusion of the hearing, the committee shall submit to the board its recommendations concerning the proposed order, decision or action of the board, together with the evidence and other material that was before the committee.

(7) Before making an order or decision or taking an action in respect of which a hearing has been held, the board shall consider the recommendations of the committee.

(8) Where an order, decision or action referred to in subsection (2) is made or taken, the board shall notify the person who requested a hearing in respect of the order, decision or action under subsection (3) and, on request by that person, publish or make available to that person the reasons for the order, decision or action.

(9) An order, decision or action referred to in subsection (2) takes effect as of

(a) the day that immediately follows the last day of the 30 day period referred to in that subsection, where no hearing is requested under subsection (3); or

(b) the day that the order or decision is made or the action is taken by the board, where a hearing is requested under subsection (3).

(10) An order, decision or action in respect of which a hearing is held under this section is subject to review and to be set aside by the Trial Division.

1986 c37 s119

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Regulations

121. (1) The Lieutenant-Governor in Council may make regulations for carrying out the provisions of this Part and may make regulations

(a) consistent with the *Canada Lands Surveys Act* authorizing or requiring the survey, division and subdivision of the offshore area and defining and describing the divisions and subdivisions;

(b) prescribing the information and documentation to be provided by interest owners and interest holders for the purpose of this Part, the time when and manner in which that information and documentation is to be provided, authorizing the board to prescribe the form in which it is to be provided and requiring the information and documentation to be provided in accordance with the regulations;

(c) requiring fees and deposits to be paid in respect of interests, prescribing the amounts of those fees and deposits, the time and manner of their payment and providing for the administration of the fees and deposits and the disposition and return of deposits; and

(d) prescribing other matters or things that by this Part are to be prescribed or that are to be done by regulations.

(2) A copy of each regulation that the Lieutenant-Governor in Council proposes to make under subsection (1) shall be published in the *Gazette* and a reasonable opportunity shall be given to interested persons to make representations to the board with respect to each regulation.

(3) Notwithstanding subsection (2), a proposed regulation need not be published more than once under subsection (2) whether or not it is altered or amended after the publication as a result of representations made by interested persons as provided in that subsection.

1986 c37 s120

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Forms

122. (1) The board may prescribe a form or information to be given on a form that is by this Part or the regulations to be prescribed and may include on a form so prescribed a declaration, to be signed by the person completing the form, declaring that the information given by that person on the form is, to the best of his or her knowledge, true, accurate and complete.

(2) A form purporting to be a form prescribed or authorized by the board shall be considered to be a form prescribed by the board under this Part unless called in question by the board or some person acting for the board or the Crown in right of Canada or the province.

(3) Where a form or information to be given on a form is prescribed by the board under this Act, it shall be considered not to be subordinate legislation within the meaning of the *Statutes and Subordinate Legislation Act*.

1986 c37 s121

DIVISION IX TRANSITIONAL, CONSEQUENTIAL AND COMMENCEMENT

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Exploration agreements extent are continued

123. (1) Where an exploration agreement in relation to a portion of the offshore area was entered into or negotiations in respect of an exploration agreement were completed under the *Canada Oil and Gas Act* before April 4, 1987, that exploration agreement shall, for the purposes of this Part, be referred to as an exploration licence and shall, subject to this Part, have effect in accordance with its terms and conditions.

(2) Where a declaration of significant discovery was made under section 45 of the *Canada Oil and Gas Act* and is in force on April 4, 1987, it continues in force as if it were made under section 70 of this Part.

(3) Where, on April 4, 1987, an exploration agreement is in force under section 16 of the *Canada Oil and Gas Act*, it shall be considered to be a significant discovery licence issued under this Part on April 4, 1987 and is subject to this Part.

1986 c37 s122

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Replacement of rights

124. (1) Subject to section 123, the interests provided for under this Part replace all petroleum rights or prospects of petroleum rights acquired or vested in relation to a portion of the offshore area prior to April 4, 1987.

(2) A party shall not have a right to claim or receive compensation, damages, indemnity or other form of relief from the Crown in right of the province or from a servant or agent of the Crown for an acquired, vested or future right or entitlement or a prospect of an acquired, vested or future right or entitlement that is replaced or otherwise affected by this Part, or for a duty or liability imposed on that party by this Part.

1986 c37 s123

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Regulations continue in force

125. (1) The Canada Oil and Gas Land Regulations remain in force to the extent that they are consistent with this Part until they are revoked or replaced by regulations made under this Part.

(2) Notwithstanding subsection 124(1), all interests provided by the Canada Oil and Gas Land Regulations that are in force on

April 4, 1987 continue in force subject to sections 126 to 129.

(3) All rights of Petro-Canada to acquire further interests or shares in interests as a result of the operation of section 33, 120 or 121 of the Canada Oil and Gas Land Regulations are abrogated as of March 5, 1982.

(4) Where a portion of the offshore area becomes a Crown reserve area on or after April 30, 1980, Petro-Canada shall not be entitled to exercise any rights under section 33 of the Canada Oil and Gas Land Regulations with respect to that Crown reserve area.

(5) Where a person acquires, disposes of or otherwise deals in an interest or a share in an interest in respect of which Petro-Canada would, but for the circumstances described in paragraph (a) or (b), have had a right under section 33, 120 or 121 of the Canada Oil and Gas Land Regulations, that acquisition, disposition or dealing is vitiated by reason only of

(a) the failure to give Petro-Canada a notice required under any of those sections; or

(b) the erroneous determination of a Canadian participation rate under those regulations.

(6) Subsection (5) has retrospective application to an acquisition, disposition or dealing that occurred before March 5, 1982.

(7) In this section, "Petro-Canada" means the corporation established by the *Petro-Canada Act*.

1986 c37 s124

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Former permits, former special renewal permits and former exploration agreements

126. (1) Subject to sections 128 and 129, the interest owner of a former permit, former special renewal permit or former exploration agreement shall, on or before the 1st anniversary date of an interest following March 5, 1982 or on or before 6 months following that date, whichever is the later, negotiate an exploration licence with the board subject to sections 31 to 40.

(2) Where an interest owner referred to in subsection (1) does not comply with that subsection, the portion of the offshore area under the relevant interest is considered to be surrendered and becomes a Crown reserve area.

(3) Notwithstanding anything in this Part, an exploration licence under subsection (1) may be extended to include all or a portion of the offshore area under the preceding interest and related portions of the offshore area that, immediately before the extension, were Crown reserve areas.

(4) Where a former special renewal permit or former exploration agreement contains provisions for the drilling of 1 or more wells, the board shall offer to issue an exploration licence to the interest owner for a term equal to the balance of the term of the former special renewal permit or former exploration agreement remaining on March 5, 1982 and having the same drilling provisions.

1986 c37 s125

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Former leases

127. (1) Subject to sections 128 and 129, the interest owner of a former lease shall, on or before the 1st anniversary date of the former lease following March 5, 1982 or on or before 6 months following that date, whichever is the later, negotiate an exploration licence with the board subject to sections 31 to 40.

(2) Where the interest owner referred to in subsection (1) does not comply with that subsection, the portion of the offshore area under the former lease is considered to be surrendered and becomes a Crown reserve area.

(3) Subsection 126(3) applies, with the modifications that the circumstances require, to lands that may be included in an exploration licence under subsection (1).

1986 c37 s126

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Extension of time

128. Where an exploration licence required to be negotiated under section 126 or 127 cannot be negotiated within the period provided in those sections for a reason not attributable to the interest owner, the board shall extend that period to allow for negotiation within a reasonable time.

1986 c37 s127

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Consolidated exploration agreement

129. (1) One or more interest owners of former permits, former special renewal permits, former exploration agreements or former leases may, for the purpose of complying with subsection 126(1) or subsection 127(1), negotiate together a single exploration licence that would consolidate a number or combination of the interests held by those interest owners.

(2) Subject to sections 31 to 40, an exploration licence negotiated under subsection (1) shall contain the terms and conditions that may be agreed on by the board and the interest owners of an exploration licence.

1986 c37 s128

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Crown share abrogated

130. For greater certainty, the reservation to the Crown in right of Canada of a Crown share in an interest granted or entered into under the *Canada Oil and Gas Act* before April 4, 1987 is abrogated as of April 4, 1987.

1986 c37 s129

PART III PETROLEUM OPERATIONS

[1992 c15 s7](#)

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Definitions

- 131.** In this Part
- (a) "chief conservation officer" means the person designated as chief conservation officer under section 136;
 - (a.1) "chief safety officer" means the person designated as the chief safety officer under section 136;
 - (b) "committee" means the Oil and Gas Committee established by section 137;
 - (c) "lease" means an oil and gas lease issued under regulations made in accordance with the *Territorial Lands Act* (Canada) and the *Public Lands Grants Act* (Canada) and includes a production licence issued under Part II;
 - (d) "permit" means an exploratory oil and gas permit issued under regulations made in accordance with the *Territorial Lands Act* (Canada) and the *Public Lands Grants Act* (Canada) and includes an exploration agreement entered into under the Canada Oil and Gas Regulations and an exploration agreement or licence that is subject to Part II;
 - (e) "pipeline" means a pipe or a system or arrangement of pipes by which petroleum or water incidental to the drilling for or

production of petroleum is conveyed from a well-head or other place at which it is produced to another place, or from a place where it is stored, processed or treated to another place, and includes all property used for the purpose of, or in connection with or incidental to, the operation of a pipeline in the gathering, transporting, handling and delivery of petroleum and includes offshore installations or vessels, tanks, surface reservoirs, pumps, racks, storage and loading facilities, compressors, compressor stations, pressure measuring and controlling equipment and fixtures, flow controlling and measuring equipment and fixtures, metering equipment and fixtures, and heating, cooling and dehydrating equipment and fixtures, but does not include a pipe or a system or arrangement of pipes that constitutes a distribution system for the distribution of gas to ultimate consumers; and

(f) "well" means an opening in the ground, not being a seismic shot hole, that is made, to be made or is in the process of being made, by drilling, boring or other method,

- (i) for the production of petroleum,
- (ii) for the purpose of searching for or obtaining petroleum,
- (iii) for the purpose of obtaining water to inject into an underground formation,
- (iv) for the purpose of injecting gas, air, water or other substance into an underground formation, or
- (v) for any purpose, where made through sedimentary rocks to a depth of at least 150 metres.

1986 c37 s130; [1992 c15 s8](#)

PURPOSE

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Purpose

- 131.1** The purpose of this Part is to promote, in respect of the exploration for and exploitation of petroleum,
- (a) safety, particularly by encouraging persons exploring for and exploiting petroleum to maintain a prudent regime for achieving safety;
 - (b) the protection of the environment;
 - (c) the conservation of petroleum resources; and
 - (d) joint production arrangements.

[1992 c15 s9](#)

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Application

132. This Part applies in respect of the exploration and drilling for and the production, conservation, processing and transportation of petroleum in the offshore area.

1986 c37 s131

OIL AND GAS ADMINISTRATION ADVISORY COUNCIL

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Designation

- 132.1** The Provincial Minister may designate 1 of the members of the Oil and Gas Administration Advisory Council established

by the *Canada Oil and Gas Operations Act*.

[1992 c15 s10](#)

OFFSHORE OIL AND GAS TRAINING STANDARDS ADVISORY BOARD

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Minister may approve board

132.2 The Provincial Minister may approve the establishment of the Offshore Oil and Gas Training Standards Advisory Board under the *Canada Oil and Gas Operations Act*.

[1992 c15 s10](#)

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Prohibition

133. A person shall not carry on any work or activity related to the exploration or drilling for or the production, conservation, processing or transportation of petroleum in the offshore area unless

- (a) that person is the holder of an operating licence under paragraph 134(1)(a);
- (b) that person is the holder of an authorization issued, before the commencement of operations, under paragraph 134(1)(b) for each such work or activity; and
- (c) where it is required, that person is authorized or entitled to carry on business in the place where that person proposes to carry on the work or activity.

1986 c37 s132; [1992 c15 s11](#)

DELEGATION

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Delegation of board's powers

133.1 The board may delegate to a person any of the board's powers under section 134, 134.2, 134.3, 135.1, 135.2 or 158, and the person shall exercise those powers in accordance with the terms of the delegation.

[1992 c15 s12](#)

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Licences and authorizations

134. (1) The board may, on application made in the form and containing the information fixed by it, and made in the prescribed manner, issue

- (a) an operating licence; and
- (b) subject to section 45, an authorization with respect to each work or activity proposed to be carried on.

(2) An operating licence expires on March 31 immediately after the day on which it is issued and may be renewed for successive periods not exceeding 1 year each.

(3) An operating licence shall be subject to those requirements that the board determines or that may be prescribed and to the fees and deposits that are prescribed.

(4) An authorization shall be subject to those approvals that the board determines or that may be granted in accordance with the regulations and those requirements and deposits that the board determines or that may be prescribed, including

- (a) requirements relating to liability for loss, damage, costs or expenses;
- (b) requirements for the carrying out of environmental programs or studies; and
- (c) requirements for the payment of expenses incurred by the board in approving the design, construction and operation of production facilities and production platforms, as those terms are defined in the regulations.

(5) The board may suspend or revoke an operating licence or an authorization for failure to comply with, contravention of or default in respect of

- (a) a requirement, approval, fee or deposit subject to which the licence or authorization was issued;
- (b) a requirement undertaken in a declaration referred to in subsection 135.1(1) or (2);
- (c) subsection 135.1(3), 135.2(2) or 158(1.1); or
- (d) applicable regulations.

1986 c37 s133; [1992 c15 s13](#)

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Right of entry

134.1 (1) Subject to subsection (2), a person may, for the purpose of exploring for or exploiting petroleum, enter on and use a portion of the offshore area in order to carry on a work or activity authorized under paragraph 134(1)(b).

(2) Where a person occupies a portion of the offshore area under a lawful right or title, other than an authorization under paragraph 134(1)(b) or an interest as defined in Part II, no person may enter on or use that portion for a purpose referred to in subsection (1) without the consent of the occupier or, where consent has been refused, except in accordance with the terms and conditions imposed by a decision of an arbitrator made in accordance with the regulations.

[1992 c15 s13](#)

SAFETY OF WORKS AND ACTIVITIES

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Safety

134.2 The board shall, before issuing an authorization for a work or activity referred to in paragraph 134(1)(b), consider the safety of the work or activity by reviewing, in consultation with the chief safety officer, the system as a whole and its components, including its structures, facilities, equipment, operating procedures and personnel.

[1992 c15 s13](#)

FINANCIAL RESPONSIBILITY

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Compliance with subsection 156(1)

134.3 The board shall, before issuing an authorization for a work or activity referred to in paragraph 134(1)(b), ensure that the applicant has complied with the requirements of subsection 158(1) in respect of that work or activity.

[1992 c15 s13](#)

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Approval of approach

- 135.** (1) No approval that is
- (a) applicable to an authorization under paragraph 134(1)(b) to carry on work or activity in relation to developing a pool or field; and
 - (b) prescribed by the regulations for the purposes of this subsection

shall be granted, except with the approval of both ministers, unless the board, on application submitted in accordance with subsection (2), has approved a development plan relating to the pool or field under paragraphs (4)(a) and (b).

(2) For the purpose of subsection (1), an application for the approval of a development plan shall be submitted to the board in the form and containing the information fixed by the board, at the time and in the manner that may be prescribed, together with the proposed development plan in the form and containing the information described in subsection (3).

(3) A development plan relating to the proposed development of a pool or field submitted under this section shall be set out in 2 parts, containing

(a) in Part I, a description of the general approach of developing the pool or field, and in particular, information in the detail that may be prescribed, with respect to

- (i) the scope, purpose, location, timing and nature of the proposed development,
- (ii) the production rate, evaluations of the pool or field, estimated amounts of petroleum proposed to be recovered, reserves, recovery methods, production monitoring procedures, costs and environmental factors in connection with the proposed development, and
- (iii) the production system and alternative production systems that could be used for the development of the pool or field; and

(b) in Part II, all technical or other information and proposals, that may be prescribed, necessary for a comprehensive review and evaluation of the proposed development.

(4) After reviewing an application and development plan submitted by a person under this section the board may, subject to the requirements that the board considers appropriate or that may be prescribed, approve

- (a) subject to sections 31 to 40, Part I of the development plan; and
- (b) Part II of the development plan.

(5) Where a development plan has been approved under subsection (4), no amendment of Part I or II of the development plan shall be made unless it is approved by the board in accordance with paragraph (4)(a) or (b).

- (6) Subsections (2) to (5) apply, with the necessary changes, with respect to a proposed amendment to a development plan.

1986 c37 s134; [1992 c15 s14](#); [1999 c22 s5](#)

DECLARATIONS AND CERTIFICATES

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Declaration by applicant and board

135.1 (1) Subject to subsection (2), no authorization under paragraph 134(1)(b) shall be issued unless the board has received, from the applicant for the authorization, a declaration in the form fixed by the board that states that

(a) the equipment and installations that are to be used in the work or activity to be authorized are fit for the purpose for which they are to be used, the operating procedures relating to them are appropriate for those uses, and the personnel who are to be employed in connection with them are qualified and competent for their employment; and

(b) the applicant shall ensure, so long as the work or activity that is authorized continues, that the equipment and installations continue to be fit for the purpose for which they are used, the operating procedures continue to be appropriate for those uses, and the personnel continue to be so qualified and competent.

(2) The board may accept, in respect of equipment that is to be used in a work or activity to be authorized, a declaration from the owner of the equipment instead of a declaration from the applicant for the authorization, and that declaration shall be in a form fixed by the board and shall state that

(a) the equipment is fit for the purpose for which it is to be used, the operating procedures relating to it are appropriate for that use, and the personnel who are to be employed by the owner in connection with it are qualified and competent for their employment; and

(b) the owner shall ensure, so long as the equipment is used in the work or activity that is authorized, that the equipment continues to be fit for the purpose for which it is used, the operating procedures continue to be appropriate for that use, and the personnel continue to be so qualified and competent.

(3) Where the equipment, an installation, the operating procedures or the personnel specified in the declaration changes and no longer conforms to the declaration, the holder of the authorization shall provide the board with a new declaration as soon as possible after the change occurs.

(4) The board or a delegate of the board is not liable to a person by reason only of having issued an authorization in reliance on a declaration made under this section.

[1992 c15 s15](#)

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Certificate

135.2 (1) No authorization under paragraph 134(1)(b) shall be issued with respect to prescribed equipment or an installation, or equipment or an installation of a prescribed class, unless the board has received, from the applicant for the authorization, a certificate issued by a certifying authority in the form fixed by the board.

(2) The holder of an authorization shall ensure that the certificate referred to in subsection (1) remains in force for so long as the equipment or installation to which the certificate relates is used in the work or activity in respect of which the authorization is issued.

(3) A certificate referred to in subsection (1) shall state that the equipment or installation in question

(a) is fit for the purpose for which it is to be used and may be operated safely without posing a threat to persons or to the environment in the location and for the time set out in the certificate; and

(b) is in conformity with all of the requirements and conditions that are imposed for the purpose of this section by subsection 134(4), whether they are imposed by regulation or by the board.

(4) A certificate referred to in subsection (1) is not valid if the certifying authority

(a) has not complied with a prescribed procedure or a procedure that the board may establish; or

(b) is a person or an organization that has participated in the design, construction or installation of the equipment or installation in respect of which the certificate is issued, to an extent greater than that prescribed.

(5) An applicant shall permit the certifying authority to have access to the equipment and installations in respect of which the

certificate is required and to information that relates to them.

(6) For the purpose of this section, "certifying authority" means a prescribed certifying authority.

(7) The board or a delegate of the board is not liable to a person by reason only of having issued an authorization in reliance on a certificate issued under this section.

[1992 c15 s15](#)

CHIEF SAFETY OFFICER AND CHIEF CONSERVATION OFFICER

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Designation

136. The board may, for the purpose of this Act, designate the chief executive officer or another person as the chief safety officer and the same or another person as the chief conservation officer.

1986 c37 s135; [1992 c15 s16](#)

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Orders

136.1 For the purpose of this Act, an order made by a safety officer, the chief safety officer, a conservation officer, the chief conservation officer or the committee is not subordinate legislation as defined in the *Statutes and Subordinate Legislation Act*.

[1992 c15 s16](#)

EXTENDED FORMATION FLOW TESTS

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Title to petroleum

136.2 (1) Subject to subsection (2), title to petroleum produced during an extended formation flow test is conferred on the person who conducts the test in accordance with an authorization under section 134, with every approval and requirement subject to which such an authorization is issued and with an applicable regulation, whether or not the person has a production licence issued under Part II.

(2) Title to petroleum referred to in subsection (1) is conditional on compliance with the terms of the authorization, approval or regulation, including the payment of royalties or other payment instead of royalties.

(3) This section applies only in respect of an extended formation flow test that provides significant information for determining the best recovery system for a reservoir or for determining the limits of a reservoir or the productivity of a well producing petroleum from a reservoir and that does not adversely affect the ultimate recovery from a reservoir.

[1992 c15 s16](#)

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Oil and Gas Committee

137. (1) The board may, for the purpose of this Part and Part III of the federal Act, establish a committee to be known as the Oil and Gas Committee, consisting of not more than 5 members, not more than 3 of whom may be employees in the public service of Canada or of the province.

(2) The members of the committee shall be appointed by the board to hold office for a term of 3 years, and 1 member shall be

designated as chairperson for the term that may be fixed by the board.

- (3) A retiring chairperson or retiring member may be reappointed to the committee in the same or another capacity.

1986 c37 s136

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Qualification of members

138. (1) The board shall appoint as members of the committee at least 2 persons who appear to the board to have specialized, expert or technical knowledge of petroleum.

(2) The members and employees of the board and the chief conservation officer are not eligible to be members of the committee.

(3) The board shall provide the committee with the officers, clerks and employees that may be necessary for the proper conduct of the affairs of the committee, and may provide the committee with the professional or technical assistance for temporary periods or for specific work that the committee may request, but assistance shall not be provided otherwise than from the staff of the board except with the approval of the 2 ministers.

(4) The members of the committee who are not employees of the public service of Canada or of the province shall be paid the remuneration that may be authorized by the board.

(5) The members of the committee are entitled to be paid reasonable travel and living expenses while absent from their ordinary place of residence in the course of their duties.

1986 c37 s137

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Interest in petroleum properties

139. A member of the committee shall not have a monetary interest, directly or indirectly, in property in petroleum to which this Part applies or own shares in a company engaged in a phase of the petroleum industry in Canada in an amount in excess of 5% of the issued shares of a company and a member who owns shares of a company engaged in a phase of the petroleum industry in Canada shall not vote when a question affecting such a company is before the committee.

1986 c37 s138

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Quorum and powers of board

140. (1) A majority of the members, including 1 member who is not an employee in the public service of Canada or of the province, constitutes a quorum of the committee.

(2) The committee may make general rules consistent with this Part regulating its practice and procedure and the places and times of its sittings.

1986 c37 s139

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Jurisdiction

141. (1) Where, under this Part, the committee is charged with a duty to hold an inquiry or to hear an appeal, the committee has full jurisdiction to inquire into, hear and determine the matter of an inquiry or appeal and to make an order, or give direction that under this Part the committee is authorized to make or give or with respect to a matter, act or thing that by this Part may be prohibited or approved by the committee or

required by the committee to be done.

(2) For the purpose of an inquiry, hearing or appeal, or the making of an order under this Part, the committee has, regarding the attendance, swearing and examination of witnesses, the production and inspection of documents, the entry on and inspection of property, the enforcement of its orders and regarding other matters necessary or proper for the exercise of its jurisdiction under this Part, the powers, rights and privileges that are vested in a superior court of record.

(3) The finding or determination of the committee upon a question of fact within its jurisdiction is binding and conclusive.

1986 c37 s140

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Appointing member to hold inquiry

142. (1) The committee may authorize and appoint a member of the committee to inquire into a matter before the committee that may be directed by the committee and to report the evidence and findings on the matter to the committee, and when the report is made to the committee, it may be adopted as a finding of the committee or otherwise dealt with as the committee considers advisable.

(2) Where an inquiry is held by a member under subsection (1), the member has the powers of the committee for the purpose of taking evidence or acquiring information for the purpose of the report to the committee.

1986 c37 s141

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Advisory functions

143. The board may refer to the committee for a report or recommendation a question, matter or thing arising under this Part or relating to the conservation, production, storage, processing or transportation of petroleum.

1986 c37 s142

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Enforcement of committee orders

144. (1) An order made by the committee may, for the purpose of enforcement of the order, be made an order of the Supreme Court of Newfoundland and Labrador and shall be enforced in the same manner as an order of that court.

(2) To make an order of the committee an order of the Supreme Court of Newfoundland and Labrador, the practice and procedure established by that court for making an order of that court may be followed or instead of that practice and procedure the secretary or another officer of the committee may file in the registry of the court a certified copy of the order and the order becomes an order of the court.

(3) Where an order of the committee has been made an order of the Supreme Court, an order of the committee, or of the board under section 183, rescinding or replacing the first mentioned order of the committee, shall be considered to cancel the order of the court and may in the same manner be made an order of the court.

1986 c37 s143; [2001 cN-3.1 s2](#)

DIVISION I
REGULATION OF OPERATIONS

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Regulatory power

145. (1) Subject to section 7, the Lieutenant-Governor in Council may make regulations for the purpose of safety, protection of

the environment as well as for the production and conservation of petroleum resources

- (a) defining "oil" and "gas" for the purpose of Divisions I and II, "installation" and "equipment" for the purpose of section 135.1 and 135.2 and "serious" for the purpose of section 161;
 - (b) concerning the exploration and drilling for, and the production, processing and transportation of, petroleum and works and activities related to that exploration, drilling, production, processing and transportation;
 - (c) authorizing the board, or a person, to make those orders that may be specified in the regulations, and to exercise those powers and perform those duties that may be necessary for
 - (i) the management and control of petroleum production,
 - (ii) the removal of petroleum from the offshore area, and
 - (iii) the design, construction, operation or abandonment of pipeline within the offshore area;
 - (d) concerning arbitration for the purpose of subsection 134.1(2), including the costs of or incurred in relation to those arbitrations;
 - (e) concerning the approvals to be granted as conditions of authorizations issued under paragraph 134(1)(b);
 - (f) concerning certificates for the purpose of section 135.2;
 - (g) prohibiting the introduction into the environment of substances, classes of substances and forms of energy, in prescribed circumstances;
 - (h) authorizing the discharge, emission or escape of petroleum for the purpose of subsection 155(1) in the quantities, at the locations, under the conditions and by the persons that may be specified in the regulations; and
 - (i) prescribing anything that is required to be prescribed for the purpose of this Part.
- (2) A copy of each regulation that the Lieutenant-Governor in Council proposes to make under this Division shall be published in the *Gazette* and a reasonable opportunity shall be given to interested persons to make representations to the provincial minister with respect to each regulation.
- (3) Notwithstanding subsection (2), a proposed regulation need not be published more than once under subsection (2) whether or not it is altered or amended after the publication as a result of representations made by interested persons as provided in that subsection.
- (4) Unless otherwise provided in this Part, regulations made under subsection (1) may incorporate by reference the standards or specifications of a government, person or organization, either as of a fixed time or as amended.

1986 c37 s144; [1992 c15 s18](#)

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Equivalent standards

- 146.** (1) Subject to subsection (2), the chief safety officer and chief conservation officer may authorize
- (a) the use of equipment, methods, measures or standards instead of any required by regulation, where those officers are satisfied that the use of that other equipment and those other methods, measures or standards would provide a level of safety, protection of the environment and conservation equivalent to that provided by compliance with the regulations; or
 - (b) the exemption from a regulatory requirement in respect of equipment, methods, measures or standards, where those officers are satisfied with the level of safety, protection of the environment and conservation achieved without compliance with that requirement.
- (2) The chief safety officer alone may exercise the powers referred to in paragraph (1)(a) or (b) if the regulatory requirement referred to in that paragraph does not relate to protection of the environment or conservation, and the chief conservation officer alone may exercise

those powers if the regulatory requirement does not relate to safety.

- (3) No person contravenes the regulations if that person acts in compliance with an authorization under subsection (1) or (2).

1986 c37 s145; [1992 c15 s19](#)

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Guidelines and interpretation notes

147. (1) The board may issue and publish, in the manner that the board considers appropriate, guidelines and interpretation notes with respect to the application and administration of sections 45, 134 and 135 or regulations made under section 145.

(2) Guidelines and interpretation notes issued under subsection (1) shall be considered not to be subordinate legislation for the purposes of the *Statutes and Subordinate Legislation Act*.

1986 c37 s145.1; 192 c15 s20

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Production orders

148. (1) Where the chief conservation officer, on reasonable grounds, is of the opinion that, with respect to an interest in a portion of the offshore area, the capability exists to commence, continue or increase production of petroleum and that a production order would stop waste, the chief conservation officer may order the commencement, continuation or increase of production of petroleum at the rates and in the quantities that are specified in the order.

(2) Where the chief conservation officer, on reasonable grounds, is of the opinion that an order under this subsection would stop waste, the chief conservation officer may order a decrease or the cessation or suspension of production of petroleum for a period specified in the order.

(3) Subsections 150(2) to (4) and section 152 apply, with the modifications that the circumstances require, to an order under subsection (1) or (2) as if it were an order under subsection 150(1).

(4) A person subject to an order under subsection (1) or (2) shall, on request, give the chief conservation officer or a person designated by the chief conservation officer access to premises, files and records for all reasonable purposes related to the order.

1986 c37 s146; [1992 c15 s21](#)

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Waste prohibited

149. (1) A person who commits waste is guilty of an offence under this Division, but a prosecution may be instituted for such an offence only with the consent of the board.

(2) In this Part "waste", in addition to its ordinary meaning, means waste as understood in the petroleum industry and in particular includes

- (a) the inefficient or excessive use or dissipation of reservoir energy;
- (b) the locating, spacing or drilling of a well within a field or pool or within part of a field or pool or the operating of a well that, having regard to sound engineering and economic principles, results or tends to result in a reduction in the quantity of petroleum ultimately recoverable from a pool;
- (c) the drilling, equipping, completing, operating or producing of a well in a manner that causes or is likely to cause the unnecessary or excessive loss or destruction of petroleum after removal from the reservoir;

- (d) the inefficient storage of petroleum above ground or underground;
- (e) the production of petroleum in excess of available storage, transportation or marketing facilities;
- (f) the escape or flaring of gas that could be economically recovered and processed or economically injected into an underground reservoir; or
- (g) the failure to use suitable artificial, secondary or supplementary recovery methods in a pool when it appears that those methods would result in increasing the quantity of petroleum, ultimately recoverable under sound engineering and economic principles.

1986 c37 s147

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Prevention of waste

150. (1) Where the chief conservation officer on reasonable grounds is of the opinion that waste, other than waste as defined in paragraph 149(2)(f) or (g), is being committed, the chief conservation officer may, subject to subsection (2), order that all operations giving rise to that waste stop until the chief conservation officer is satisfied that the waste has stopped.

(2) Before making an order under subsection (1), the chief conservation officer shall hold an investigation at which interested persons shall be given an opportunity to be heard.

(3) Notwithstanding subsection (2), the chief conservation officer may, without an investigation, make an order under this section requiring all operations to be shut down if in the opinion of the chief conservation officer it is necessary to do so to prevent damage to persons or property or to protect the environment, but as soon as possible after making that order and in any event within 15 days afterward, the chief conservation officer shall hold an investigation at which interested persons shall be given an opportunity to be heard.

(4) At the conclusion of an investigation under subsection (3) the chief conservation officer may set aside, vary or confirm the order made, or make a new order.

1986 c37 s148; [1992 c15 s22](#)

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Giving effect to order

151. (1) For the purpose of giving effect to an order made under section 150, the chief conservation officer may authorize those persons that may be necessary to enter the place where the operations giving rise to the waste are being carried out and take over the management and control of the operations and works connected with the operations.

(2) A person authorized under subsection (1) to take over the management and control of operations shall manage and control those operations and do all things necessary to stop the waste and the cost of the operations shall be borne by the person who holds the permit or the lease and, until paid constitutes a debt recoverable by action in a court as a debt due to the board.

1986 c37 s149

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Appeal to committee

152. (1) A person aggrieved by an order of the chief conservation officer after an investigation under section 150 may appeal to the committee to have the order reviewed.

(2) After hearing the appeal, the committee may

(a) set aside, confirm or vary the order made by the chief conservation officer;

(b) order those works to be undertaken that may be considered necessary to prevent waste, the escape of petroleum or another

contravention of this Division or the regulations; or

- (c) make another or further order that the committee considers appropriate.

1986 c37 s150

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Waste by failure to utilize petroleum, etc.

153. (1) Where the chief conservation officer on reasonable grounds is of the opinion that waste as defined in paragraph 149(2)(f) or (g) is occurring in the recovery of petroleum from a pool, the chief conservation officer may apply to the committee for an order requiring the operators within the pool to show cause at a hearing to be held on a day specified in the order why the committee should not make a direction in respect of the hearing.

(2) On the day specified in the order under subsection (1) the committee shall hold a hearing at which the chief conservation officer, the operators and other interested persons shall be given an opportunity to be heard.

1986 c37 s151

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Order

154. (1) Where, after the hearing mentioned in section 153, the committee is of the opinion that waste as defined in paragraph 149(2)(f) or (g) is occurring in the recovery of petroleum from a pool, the committee may, by order,

(a) direct the introduction of a scheme for the collection, processing, disposition or reinjection of gas produced from the pool;

or

(b) direct repressurizing, recycling or pressure maintenance for the pool or a part of the pool and for, or incidental to that purpose, direct the introduction or injection into that pool, or part of it, of gas, water or other substance,

and the order may further direct that the pool or part of it specified in the order be shut in where the requirements of the order are not met or unless a scheme is approved by the committee and in operation by a date fixed by the order.

(2) Notwithstanding subsection (1), the committee may permit the continued operation of a pool or a part of a pool after the date fixed by an order under subsection (1) where in the opinion of the committee a scheme for the repressurizing, recycling or pressure maintenance or the processing, storage or disposal of gas is in course of preparation, but a continuation of operations is subject to conditions imposed by the committee.

1986 c37 s152

SPILLS AND DEBRIS

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Definitions re petroleum spills

155. (1) In sections 156 to 161, "spill" means a discharge, emission or escape of petroleum, other than one that is authorized under the regulations or another federal law or that constitutes a discharge from a ship to which Part XV or XVI of the *Canada Shipping Act* applies.

(2) In sections 157 and 161, "debris" means an installation or structure that was put in place in the course of any work or activity required to be authorized under paragraph 134(1)(b) and that has been abandoned without the authorization that may be required by or under this Part or any material that has broken away or has been jettisoned or displaced in the course of that work or activity.

- (3) In section 157, "actual loss or damage" includes loss of income, including future income, and, with respect to aboriginal

peoples of Canada, includes loss of hunting, fishing and gathering opportunities.

(4) The Crown in right of the province incurs no liability whatever to a person arising out of the authorization by regulations made by the Lieutenant-Governor in Council of a discharge, an emission or an escape of petroleum.

1986 c37 s153; [1992 c15 s24](#)

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Spills prohibited

156. (1) A person shall not cause or permit a spill on or from a portion of the offshore area.

(2) Where a spill occurs in a portion of the offshore area, a person who at the time of the spill is carrying on any work or activity related to the exploration for or development or production of petroleum in the area of the spill shall, in the manner prescribed by the regulations, report the spill to the chief conservation officer.

(3) Every person required to report a spill under subsection (2) shall, as soon as possible, take all reasonable measures consistent with safety and the protection of the environment to prevent a further spill, to repair or remedy a condition resulting from the spill and to reduce or mitigate danger to life, health, property or the environment that results or may reasonably be expected to result from the spill.

(4) Where the chief conservation officer is satisfied on reasonable grounds that

(a) a spill has occurred in a portion of the offshore area and immediate action is necessary in order to effect reasonable measures referred to in subsection (3); and

(b) the action is not being taken or will not be taken under subsection (3),

the chief conservation officer may take the action or direct that it be taken by those persons that may be necessary.

(5) For the purposes of subsection (4), the chief conservation officer may authorize and direct those persons that may be necessary to enter the place where the spill has occurred and take over the management and control of work or activity being carried on in the area of the spill.

(6) A person authorized and directed to take over the management and control of work or activity under subsection (5) shall manage and control that work or activity and take all reasonable measures in relation to the spill that are referred to in subsection (3).

(7) Costs incurred under subsection (6) shall be borne by the person who obtained an authorization under paragraph 134(1)(b) in respect of the work or activity from which the spill emanated and, until paid, constitute a debt recoverable by action in a court as a debt due to the board.

(7.1) Where a person, other than a person referred to in subsection (7), takes action under subsection (3) or (4), the person may recover from the Crown in right of the province the costs and expenses reasonably incurred by that person in taking the action.

(8) Section 152 applies, with the modifications that the circumstances require, to an action or measure taken or authorized or directed to be taken under subsections (4) to (6) as if it were taken or authorized or directed to be taken by order under subsection 150(1) and as if the order were not subject to an investigation.

(9) A person required, directed or authorized to act under this section is not personally liable either civilly or criminally in respect of an act or omission in the course of complying with this section unless it is shown that the person did not act reasonably in the circumstances.

1986 c37 s154; [1992 c15 s25](#)

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Recovery of loss, etc.

157. (1) Where a discharge, emission or escape of petroleum that is authorized by regulations, or a spill, occurs in a portion of

the offshore area

(a) the person who is required to obtain an authorization under paragraph 134(1)(b) in respect of the work or activity from which the spill or authorized discharge, emission or escape of petroleum emanated is liable, without proof of fault or negligence, up to a prescribed limit of liability, for

(i) all actual loss or damage incurred by a person as a result of the spill or the authorized discharge, emission or escape of petroleum, and

(ii) the costs and expenses reasonably incurred by the board or the Crown in right of Canada or the province or another person in taking an action or measure in relation to the spill or the authorized discharge, emission or escape of petroleum; and

(b) all persons to whose fault or negligence the spill or the authorized discharge, emission or escape of petroleum is attributable or who are by law responsible for others to whose fault or negligence the spill or the authorized discharge, emission or escape of petroleum is attributable are jointly and individually liable, to the extent determined according to the degree of the fault or negligence proved against them, for all actual loss or damage incurred by a person as a result of the spill or the authorized discharge, emission or escape of petroleum.

(2) Where a person incurs actual loss or damage as a result of debris or the board or the Crown in right of Canada or the province reasonably incurs costs or expenses in taking a remedial action in relation to debris,

(a) the person who is required to obtain an authorization under paragraph 134(1)(b) in respect of the work or activity from which the debris originated is liable, without proof of fault or negligence, up to a prescribed limit of liability, for all the actual loss or damage and all the costs or expenses; and

(b) all persons to whose fault or negligence the debris is attributable or who are by law responsible for others to whose fault or negligence the debris is attributable are jointly and individually liable, to the extent determined according to the degree of the fault or negligence proved against them, for all the actual loss or damage and all the costs or expenses.

(2.1) Where subsection (1) or (2) applies, no person shall be liable for more than the greater of the prescribed limit referred to in paragraph (1)(a) or (2)(a) and the amount for which the person would be liable under another law for the same occurrence.

(3) All claims under this section may be sued for and recovered in a court of competent jurisdiction in Canada and shall rank first in favour of persons incurring actual loss or damage, without preference, and second, without preference, to meet costs and expenses described in subsection (1) or (2).

(4) Nothing in this section suspends or limits

(a) a legal liability or remedy for an act or omission by reason only that the act or omission is an offence under this Division or gives rise to liability under this section;

(b) a recourse, indemnity or relief available at law to a person who is liable under this section against another person; or

(c) the operation of an applicable law or rule of law that is consistent with this section.

(5) Proceedings in respect of claims under this section may be instituted within 3 years after the day when the loss, damage, costs or expenses occurred but in no case after 6 years from the day the spill or the discharge, emission or escape of petroleum occurred or, in the case of debris, after the day the installation or structure in question was abandoned or the material in question broke away or was jettisoned or displaced.

1986 c37 s155; [1992 c15 s26](#)

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Financial responsibility

158. (1) An applicant for an authorization under paragraph 134(1)(b) in respect of any work or activity in a portion of the offshore area shall provide proof of financial responsibility in the form of a letter of credit, a guarantee or indemnity bond or in another form satisfactory to the board, in an amount satisfactory to the board.

(1.1) The person who has obtained an authorization under paragraph 134(1)(b) shall ensure that the proof of financial

responsibility remains in force for the duration of the work or activity in respect of which the authorization is issued.

(2) The board may require that money in an amount not exceeding the amount prescribed by the regulations for a case or class of cases, or determined by the board in the absence of regulations, be paid out of the funds available under the letter of credit, guarantee or indemnity bond or other form of financial responsibility provided under subsection (1), in respect of a claim for which proceedings may be instituted under section 157, whether or not the proceedings have been instituted.

(3) Where payment is required under subsection (2), it shall be made in the manner, subject to the conditions and procedures and to or for the benefit of the persons or classes of persons that may be prescribed by the regulations for a case or class of cases, or that may be required by the board in the absence of regulations.

(4) Where a claim is sued for under section 157, there shall be deducted from an award made under the action on that claim an amount received by the claimant under this section in respect of the loss, damage, costs or expenses claimed.

1986 c37 s156; [1992 c15 s27](#)

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Review committee

159. (1) A committee, consisting of members appointed by each government, and by representatives of the petroleum industry and of the fisheries industry, is established by the joint operation of this Act and the federal Act to review and monitor sections 157 and 158 and claims and the payment of claims made under those sections.

(2) The committee referred to in subsection (1) may be dissolved only by the joint operation of an Act of the Parliament of Canada and an Act of the Legislature.

1986 c37 s157

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Fishermen's compensation

160. The board shall promote and monitor compensation policies for fishers sponsored by the fishing industry respecting damages of a non-attributable nature.

1986 c37 s158

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Inquiries

161. (1) Where a spill or debris or an accident or incident related to an activity to which this Division applies occurs or is found in a portion of the offshore area and results in death or injury or danger to public safety or the environment, the board may direct an inquiry to be made and may authorize a person it considers qualified to conduct the inquiry.

(1.1) Where a spill or debris or an accident or incident related to an activity to which this Division applies occurs or is found in a portion of the offshore area and is serious, as defined by regulation, the board shall direct that an inquiry referred to in subsection (1) be made and shall ensure that the person who conducts the inquiry is not employed by the board.

(2) For the purpose of an inquiry under subsection (1), a person authorized by the board under that subsection has and may exercise the powers of a person appointed as a commissioner under the *Public Inquiries Act*.

(3) As soon as possible after the conclusion of an inquiry under subsection (1), the persons authorized to conduct the inquiry shall submit a report to the board, together with the evidence and other material that was before the inquiry.

(4) A report made under subsection (3) shall be published by the board within 30 days after the board has received it.

(5) The board may supply copies of a report published under subsection (4) in the manner or on the terms that the board

considers appropriate.

1986 c37 s159; [1992 c15 s28](#)

DIVISION II PRODUCTION ARRANGEMENTS

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Definitions

- 162.** In this Division
- (a) "pooled spacing unit" means the area that is subject to a pooling agreement or a pooling order;
 - (b) "pooled tract" means the portion of a pooled spacing unit defined as a tract in a pooling agreement or a pooling order;
 - (c) "pooling agreement" means an agreement to pool the interests of owners in a spacing unit and to provide for the operation or the drilling and operation of a well on the spacing unit;
 - (d) "pooling order" means an order made under section 164 or as altered under section 166;
 - (e) "royalty interest" means an interest in, or the right to receive a portion of, petroleum produced and saved from a field or pool or part of a field or pool or the proceeds from the sale of petroleum, but does not include a working interest or the interest of a person whose sole interest is as a purchaser of petroleum from the pool or part of the pool;
 - (f) "royalty owner" means a person, including the Crown, who owns a royalty interest;
 - (g) "spacing unit" means that area allocated to a well for the purpose of drilling for or producing petroleum;
 - (h) "tract participation" means the share of production from a unitized zone that is allocated to a unit tract under a unit agreement or unitization order or the share of production from a pooled spacing unit that is allocated to a pooled tract under a pooling agreement or pooling order;
 - (i) "unit agreement" means an agreement to unitize the interests of owners in a pool or part of a pool exceeding in area a spacing unit, or such an agreement as varied by a unitization order;
 - (j) "unit area" means the area that is subject to a unit agreement;
 - (k) "unit operating agreement" means an agreement, providing for the management and operation of a unit area and a unitized zone, that is entered into by working interest owners who are parties to a unit agreement with respect to that unit area and unitized zone, and includes a unit operating agreement as varied by a unitization order;
 - (l) "unit operation" means those operations conducted under a unit agreement or a unitization order;
 - (m) "unit operator" means a person designated as a unit operator under a unit operating agreement;
 - (n) "unit tract" means the portion of a unit area that is defined as a tract in a unit agreement;
 - (o) "unitization order" means an order of the committee made under section 172;
 - (p) "unitized zone" means a geological formation that is within a unit area and subject to a unit agreement;
 - (q) "working interest" means a right, in whole or in part, to produce and dispose of petroleum from a pool or part of a pool, whether that right is held as an incident of ownership of an estate in fee simple in the petroleum or under a lease, agreement or other instrument, if the right is chargeable with and the holder of the right is obligated to pay or bear, either in cash or out of production, all or a portion of the costs in connection with the drilling for, recovery and disposal of petroleum from the pool or part of the pool; and

- (r) "working interest owner" means a person who owns a working interest.

1986 c37 s160

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Voluntary pooling

163. (1) Where 1 or more working interest owners have leases or separately owned working interests within a spacing unit, the working interest owners and the royalty owners who own all of the interests in the spacing unit may pool their working interests and royalty interests in the spacing unit for the purpose of drilling for or producing petroleum where a copy of the pooling agreement and an amendment to it has been filed with the chief conservation officer.

(2) The board may, on behalf of the Crown, enter into a pooling agreement on the terms and conditions that it considers advisable and, notwithstanding anything in this Part or Part II, the *Public Lands Grants Act* (Canada) or regulations made under those Parts or that Act, the pooling agreement is binding on the Crown.

1986 c37 s161

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Pooling order

164. (1) In the absence of a pooling agreement, a working interest owner in a spacing unit may apply for a pooling order directing the working interest owners and royalty owners within the spacing unit to pool their interests in the spacing unit for the purpose of drilling for and producing, or producing, petroleum from the spacing unit.

(2) An application under subsection (1) shall be made to the board which shall refer the application to the committee for the purpose of holding a hearing to determine whether a pooling order should be made and at the hearing the committee shall give all interested parties an opportunity to be heard.

(3) Before a hearing held under subsection (2), the working interest owner making application shall provide the committee, and the other interested parties that the committee may direct, with a proposed form of pooling agreement and the working interest owners who have interests in the spacing unit to which the proposed pooling agreement relates shall provide the committee with the information that the committee considers necessary.

(4) After a hearing under subsection (2), the committee may order that all working interest owners and royalty owners who have an interest in the spacing unit shall be considered to have entered into a pooling agreement as set out in the pooling order.

(5) A pooling order shall provide

(a) for the drilling and operation of a well on the spacing unit or, where a well that is capable of or that can be made capable of production has been drilled on the spacing unit before the making of the pooling order, for the future production and operation of that well;

(b) for the appointment of a working interest owner as operator to be responsible for the drilling, operation or abandoning of the well whether drilled before or after the making of the pooling order;

(c) for the allocation to each pooled tract of its share of the production of the petroleum from the pooled spacing unit that is not required, consumed or lost in the operation of the well, which allocation shall be on a prorated area basis unless it can be shown to the satisfaction of the committee that the basis is unfair, whereupon the committee may make an allocation on some other more equitable basis;

(d) in the event that no production of petroleum is obtained, for the payment by the applicant of all costs incurred in the drilling and abandoning of the well;

(e) where production has been obtained, for the payment of the actual costs of drilling the well, whether drilled before or after the making of the pooling order, and for the payment of the actual costs of the completion, operation and abandoning of the well; and

(f) for the sale by the operator of petroleum allocated under paragraph (c) to a working interest owner where the working interest owner fails to take in kind and dispose of the production, and for the deduction out of the proceeds by the operator of the expenses reasonably incurred in connection with the sale.

(6) A pooling order may provide for a penalty for a working interest owner who does not, within the time specified in the order, pay the portion of the costs attributable to the working interest owner as the share of the cost of drilling and completion of the well, but the penalty shall not exceed an amount equal to 1/2 of that working interest owner's share of the costs.

(7) Where a working interest owner does not, within the time specified in the pooling order, pay the share of the costs of the drilling, completing, operating and abandoning of the well, that portion of the costs and the penalty are recoverable only out of that share of production from the spacing unit and not in another manner.

1986 c37 s162

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Effect of pooling order

165. Where a pooling order is made, all working interest owners and royalty owners having interests in the pooled spacing unit shall, on the making of the pooling order, be considered to have entered into a pooling agreement as set out in the pooling order and that order shall be considered to be a valid contract between the parties having interests in the pooled spacing unit, and all its terms and provisions, as set out in it or as altered under section 166, are binding on and enforceable against the parties to it, including the Crown.

1986 c37 s163

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Application to alter pooling order

166. (1) The committee shall hear an application to vary, amend or terminate a pooling order where the application is made by the owners of over 25% of the working interests in the pooled spacing unit, calculated on a prorated area basis, and may, in its discretion, order a hearing on the application of a working interest owner or royalty owner.

(2) After a hearing held under subsection (1), the committee may vary or amend the pooling order to supply a deficiency in it or to meet changing conditions and may vary or revoke a provision that the committee considers to be unfair or inequitable or it may terminate the pooling order.

(3) Where a pooling order is varied or amended, no change shall be made that will alter the ratios of tract participations between the pooled tracts as originally set out in the pooling order.

1986 c37 s164

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Prohibition

167. (1) A person shall not produce petroleum within a spacing unit in which there are 2 or more leases or 2 or more separately owned working interests unless a pooling agreement has been entered into in accordance with section 163 or in accordance with a pooling order made under section 164.

(2) Subsection (1) does not prohibit the production of petroleum for testing in quantities approved by the chief conservation officer.

1986 c37 s165

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Unitization

168. (1) One or more working interest owners in a pool or part of a pool exceeding in area a spacing unit, together with the royalty owners, may enter into a unit agreement and operate their interests under the terms of the unit agreement or an amendment to it where a copy of the agreement and an amendment have been filed with the chief conservation officer.

(2) The board may enter into a unit agreement binding on the Crown, on the terms and conditions that it considers advisable,

and the regulations under this Part or Part II or the *Public Lands Grants Act* (Canada) that may be in conflict with the terms and conditions of the unit agreement stand varied or suspended to the extent necessary to give full effect to the terms and conditions of the unit agreement.

(3) Where a unit agreement filed under this section provides that a unit operator shall be the agent of the parties to it with respect to their powers and responsibilities under this Part, the performance or non-performance of the powers and responsibilities by the unit operator shall be considered to be the performance or non-performance by the parties otherwise having those powers and responsibilities under this Part.

1986 c37 s166

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Requiring unitization to prevent waste

169. (1) Notwithstanding anything in this Part, where, in the opinion of the chief conservation officer, the unit operation of a pool or part of a pool would prevent waste, the chief conservation officer may apply to the committee for an order requiring the working interest owners in the pool or part of the pool to enter into a unit agreement and a unit operating agreement in respect of the pool or part of the pool.

(2) Where an application is made by the chief conservation officer under subsection (1), the committee shall hold a hearing at which all interested persons shall be given an opportunity to be heard.

(3) Where, after the hearing mentioned in subsection (2), the committee is of the opinion that unit operation of a pool or part of a pool would prevent waste, the committee may by order require the working interest owners in the pool or part of the pool to enter into a unit agreement and a unit operating agreement in respect of the pool or part of the pool.

(4) Where in the time specified in the order referred to in subsection (3), being not less than 6 months after the date of the making of the order, the working interest owners and royalty owners fail to enter into a unit agreement and a unit operating agreement approved by the committee, all drilling and producing operations within the pool or part of the pool in respect of which the order was given shall stop until the time that a unit agreement and a unit operating agreement have been approved by the committee and filed with the chief conservation officer.

(5) Notwithstanding subsection (4), the committee may permit the continued operation of the pool or part of the pool after the time specified in the order referred to in subsection (3) if it is of opinion that a unit agreement and unit operating agreement are in the course of being entered into, but the continuation of operations shall be subject to conditions prescribed by the committee.

1986 c37 s167

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Who may apply for unitization order

170. (1) One or more working interest owners who are parties to a unit agreement and a unit operating agreement and own in the aggregate 65% or more of the working interests in a unit area may apply for a unitization order with respect to the agreements.

(2) An application under subsection (1) shall be made to the board which shall refer the application to the committee for the purpose of holding a hearing in accordance with section 172.

(3) An application under subsection (1) may be made by the unit operator or proposed unit operator on behalf of the working interest owners referred to in subsection (1).

1986 c37 s168

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Contents of unitization application

171. (1) An application for a unitization order shall contain

(a) a plan showing the unit area that the applicant wishes to be made subject to the order;

- (b) 1 copy each of the unit agreement and the unit operating agreement;
- (c) a statement of the nature of the operations to be carried out; and
- (d) a statement showing
 - (i) with respect to each proposed unit tract, the names and addresses of the working interest owners and royalty owners in that tract, and
 - (ii) the tracts that are entitled to be qualified as unit tracts under the unit agreement.
- (2) The unit agreement referred to in subsection (1) shall include
 - (a) a description of the unit area and the unit tracts included in the agreement;
 - (b) an allocation to each unit tract of a share of the production from the unitized zone not required, consumed or lost in the unit operation;
 - (c) a provision specifying the manner in which and the circumstances under which the unit operation shall terminate; and
 - (d) a provision specifying that the share of the production from a unit area that has been allocated to a unit tract shall be considered to have been produced from that unit tract.
- (3) The unit operating agreement referred to in subsection (1) shall make provision
 - (a) for the contribution or transfer to the unit, and an adjustment among the working interest owners, of the investment in wells and equipment within the unit area;
 - (b) for the charging of the costs and expenses of the unit operation to the working interest owners;
 - (c) for the supervision of the unit operation by the working interest owners through an operating committee composed of their authorized representatives and for the appointment of a unit operator to be responsible, under the direction and supervision of the operating committee, for the carrying out of the unit operation;
 - (d) for the determination of the percentage value of the vote of each working interest owner; and
 - (e) for the determination of the method of voting on a motion before the operating committee and the percentage value of the vote required to carry the motion.

1986 c37 s169

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Hearing on application

- 172.** (1) Where an application made under section 170 is referred by the board to the committee, the committee shall hold a hearing at which all interested persons shall be given an opportunity to be heard.
- (2) Where the committee finds that
 - (a) at the date of the beginning of a hearing referred to in subsection (1)
 - (i) the unit agreement and the unit operating agreement have been executed by 1 or more working interest owners who own in the aggregate 65% or more of the total working interests in the unit area, and
 - (ii) the unit agreement has been executed by 1 or more royalty owners who own in the aggregate 65% or more of the total royalty interests in the unit area; and
 - (b) the unitization order applied for would accomplish the more efficient or more economical production of petroleum from the

unitized zone,

the committee may order

(c) that the unit agreement be a valid contract enuring to the benefit of all the royalty owners and working interest owners in the unit area and binding on and enforceable against all the owners; and

(d) that the unit operating agreement be a valid contract enuring to the benefit of all the working interest owners in the unit area and binding on and enforceable against all the owners,

and, subject to section 173, the unit agreement and the unit operating agreement have the effect given them by the order of the committee.

(3) In a unitization order, the committee may vary the unit agreement or the unit operating agreement by adding provisions or by deleting or amending a provision.

1986 c37 s170

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Effective date of unitization order

173. (1) Subject to subsection (2), a unitization order shall become effective on the day that the committee determines in the order, but that day shall be not less than 30 days after the day on which the order is made.

(2) Notwithstanding subsection (1), where a unit agreement or unit operating agreement is varied by the committee in a unitization order, the effective date prescribed in the order shall be a date not less than 30 days following the day the order is made, but the order becomes ineffective if, before the effective date, the applicant files with the committee a notice withdrawing the application on behalf of the working interest owners or there are filed with the committee written statements objecting to the order and signed

(a) in the case of the unit agreement by

(i) 1 or more working interest owners who own in the aggregate more than 25% of the total working interests in the area and were included within the group owning 65% or more of the total working interests as described in subparagraph 172(2)(a)(i), and

(ii) 1 or more royalty owners who own in the aggregate more than 25% of the total royalty interests in the unit area and were included within the group owning 65% or more of the total royalty interests as described in subparagraph 172(2)(a)(ii); or

(b) in the case of the unit operating agreement, by 1 or more working interest owners who own in the aggregate more than 25% of the total working interests in the unit area and were included within the group owning 65% or more of the total working interests as described in subparagraph 172(2)(a)(i).

(3) Where a unitization order becomes ineffective under subsection (2), the committee shall immediately revoke the order.

1986 c37 s171; [1992 c15 s29](#)

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Technical defects in order

174. A unitization order is not invalid by reason only of the absence of notice or of irregularities in giving notice to an owner in respect of the application for the order or proceedings leading to the making of the order.

1986 c37 s172

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Amending the order

175. (1) A unitization order may be amended upon the application of a working interest owner, but before amending a unitization

order the committee shall hold a hearing at which all interested parties shall have an opportunity to be heard.

(2) Where the committee finds that, at the date of the beginning of a hearing of an application for the amendment of a unitization order, 1 or more working interest owners who own, in the aggregate, 65% or more of the total working interests and 1 or more royalty interest owners who own, in the aggregate, 65% or more of the total royalty interests in the unit area have consented to the proposed amendment, the committee may amend the unitization order in accordance with the amendment proposed.

1986 c37 s173

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Protection of tract participation ratios

176. An amendment shall not be made under section 175 that will alter the ratios between the tract participations of those tracts that were qualified for inclusion in the unit area before the beginning of the hearing, and, for the purposes of this section, the tract participations shall be those indicated in the unit agreement when it became subject to a unitization order.

1986 c37 s174

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Production prohibited except in accord with unitization order

177. After the date on which a unitization order comes into effect and while the order remains in force, a person shall not carry on operations within the unit area for the purpose of drilling for or producing petroleum from the unitized zone, except in accordance with the unit agreement and the unit operating agreement.

1986 c37 s175

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How percentages of interests to be determined

178. The percentages of interests referred to in subsection 171(1), subsection 172(2), subsection 173(2) and subsection 175(2) shall be determined

- (a) as to royalty interests, on a prorated area basis; and
- (b) as to working interests, on the basis of tract participations shown in the unit agreement.

1986 c37 s176

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Pooled spacing unit included

179. (1) A pooled spacing unit that has been pooled under a pooling order and on which a well has been drilled may be included in a unit area as a single unit tract and the committee may make the amendments to the pooling order that it considers necessary to remove a conflict between the pooling order and the unit agreement, or the unit operating agreement or the unitization order.

(2) Where a pooled spacing unit is included in a unit area under subsection (1), the provisions of the unit agreement, the unit operating agreement and the unitization order prevail over the provisions of the pooling order in the event of a conflict, but

(a) the share of the unit production that is allocated to the pooled spacing unit shall in turn be allocated to the separately owned tracts in the pooled spacing unit on the same basis and in the same proportion as production actually obtained from the pooled spacing unit would have been shared under the pooling order;

- (b) the costs and expenses of the unit operation that are allocated to the pooled spacing unit shall be shared and borne by the

owners of the working interests in it on the same basis and in the same proportion as would apply under the pooling order; and

(c) the credits allocated under a unit operating agreement to a pooled spacing unit for adjustment of investment for wells and equipment shall be shared by the owners of the working interests in the same proportion as would apply to the sharing of production under the pooling order.

1986 c37 s177

DIVISION III
APPEALS AND ADMINISTRATION

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Orders and decisions final

180. (1) Except as provided in this Division, a decision or order of the committee is final and conclusive.

(2) A minute or other record of the committee or a document issued by the committee, in the form of a decision or order, shall for the purposes of this section be considered to be a decision or order of the committee.

1986 c37 s178

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Stated case for Supreme Court

181. (1) The committee may of its own motion, or at the request of the board, state a written case for the opinion of the Trial Division on a question that in the opinion of the committee is a question of law or of the jurisdiction of the committee.

(2) The Trial Division shall hear and determine the case stated, and remit the matter to the committee with the opinion of the court.

1986 c37 s179

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Board may review orders of committee

182. The board may, in its discretion, either on petition of an interested person, or of its own motion, vary or rescind a decision or order of the committee made under this Part, whether the order is made between parties or otherwise and an order that the board makes becomes a decision or order of the committee and, subject to section 183, is binding on the committee and on all parties.

1986 c37 s180

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Appeal to Supreme Court

183. (1) An appeal lies from a decision or order of the committee to the Trial Division on a question of law, on leave for appeal being obtained from that court, in accordance with the practice of that court, on application made within 1 month after the making of the decision or order sought to be appealed from or within the further time that that court may allow.

(2) Where leave to appeal is granted under subsection (1), an order of the committee in respect of which the appeal is made shall be stayed until the matter of the appeal is determined.

(3) After the hearing of the appeal the court shall certify its opinion to the committee and the committee shall make an order necessary to comply with that opinion.

(4) An order made by the committee under subsection (3), unless that order has already been dealt with by the board under section 182, shall be subject to that section.

1986 c37 s181

SAFETY AND CONSERVATION OFFICERS

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Officers

184. The safety officers and conservation officers necessary for the administration and enforcement of this Part and the regulations shall be appointed by the board.

1986 c37 s182; [1992 c15 s30](#)

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Powers of officers

185. A safety officer, the chief safety officer, a conservation officer or the chief conservation officer may at a reasonable time

(a) enter a place, including lands, buildings, installations, vessels, vehicles and aircraft, used for any work or activity in respect of which this Part applies, for the purpose of carrying out inspections, examinations, tests or inquiries or of directing that the person in charge of the place carry them out, and the officer may be accompanied by another person that the officer believes is necessary to help carry out the inspection, examination, test or inquiry;

(b) take photographs or make drawings of a place or thing referred to in this section;

(c) order that a place or thing referred to in this section not be interfered with for a specified period;

(d) require the production, for inspection or copying, of books, records, documents, licences or permits required by this Part or the regulations;

(e) take samples or particulars and carry out, or have carried out, reasonable tests or examinations; and

(f) require the person in charge of the place, or another person in the place who has knowledge relevant to an inspection, examination, test or inquiry, to furnish information, either orally or in writing, in the form requested.

1986 c37 s183; [1992 c15 s30](#)

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Certificate to be produced

186. The board shall provide every safety officer and conservation officer and the chief safety officer and the chief conservation officer with a certificate of appointment or designation and, on entering a place under the authority of this Part, the officer shall, if so required, produce the certificate to the person in charge of the place.

1986 c37 s184; [1992 c15 s30](#)

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Assistance to officers

187. The owner, the person in charge of a place referred to in section 185 and every person found there shall give a safety officer, the chief safety officer, a conservation officer or the chief conservation officer all reasonable assistance to enable the officer to carry out

duties and functions under this Part or the regulations.

1986 c37 s185; [1992 c15 s30](#)

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Obstruction of officers

188. No person shall obstruct or hinder or make a false or misleading statement, either orally or in writing, to a safety officer, the chief safety officer, a conservation officer or the chief conservation officer who is engaged in carrying out duties and functions under this Part or the regulations.

1986 c37 s186; [1992 c15 s30](#)

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Power of safety officer

189. (1) Where a safety officer or the chief safety officer, on reasonable grounds, is of the opinion that continuation of an operation in relation to the exploration or drilling for or the production, conservation, processing or transportation of petroleum in a portion of the offshore area is likely to result in serious bodily injury, the safety officer or chief safety officer may order that the operation cease or be continued only in accordance with the terms of the order.

(2) The safety officer or chief safety officer who makes an order under subsection (1) shall affix at or near the scene of the operation a notice of the order in prescribed form.

(3) An order made by a safety officer under subsection (1) expires 72 hours after it is made unless it is confirmed before that time by order of the chief safety officer.

(4) A safety officer who makes an order under subsection (1) shall immediately so advise the chief safety officer, and the chief safety officer may modify or revoke the order.

(5) The person carrying out the operation to which an order under subsection (1) makes reference or a person having a pecuniary interest in that operation may by notice in writing request the chief safety officer to refer it to a Provincial Court judge for review, and the chief safety officer shall refer the order to a provincial court judge having jurisdiction in the area closest to that in which the operation is being carried on.

(6) A Provincial Court judge to whom an order is referred under this section shall inquire into the need for the order and for that purpose has all the powers of a commissioner under the *Public Inquiries Act*.

(7) Where an order has been referred to a provincial court judge under this section, the burden of establishing that the order is not needed is on the person who requested that the order be so referred.

(8) A Provincial Court judge to whom an order is referred under this section may confirm or set aside the order and the decision of the Provincial Court judge is final and conclusive.

(9) No person shall continue an operation in respect of which an order has been made under this section, except in accordance with the terms of the order or until the order has been set aside by a Provincial Court judge under this section.

1986 c37 s187; [1992 c15 s30](#)

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Priority

189.1 An order made by a safety officer or the chief safety officer prevails over an order made by a conservation officer or the chief conservation officer to the extent of an inconsistency between the orders.

[1992 c15 s30](#)

INSTALLATION MANAGER

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Installation manager

189.2 (1) Every holder of an authorization under paragraph 134(1)(b) in respect of a work or activity for which a prescribed installation is to be used shall put in command of the installation a manager who meets any prescribed qualifications, and the installation manager shall be responsible for the safety of the installation and the persons at it.

(2) Subject to this Act and another Act of the province, an installation manager has the power to do those things that are required to ensure the safety of the installation and the persons at it, and may

- (a) give orders to a person who is at the installation;
- (b) order that a person who is at the installation be restrained or removed; and
- (c) obtain information or documents.

(3) In a prescribed emergency situation, an installation manager's powers are extended so that they also apply to each operator of a vessel, vehicle or aircraft that is at the installation or that is leaving or approaching it.

[1992 c15 s30](#)

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Offences

190. (1) Every person is guilty of an offence who

- (a) contravenes this Part or the regulations;
- (b) knowingly makes a false entry or statement in a report, record or document required by this Part or the regulations or by an order made under this Part or the regulations;
- (c) knowingly destroys, mutilates or falsifies a report or other document required by this Part or the regulations or by an order made under this Part or the regulations;
- (d) produces petroleum from a pool or field under the terms of a unit agreement within the meaning of Division II, or an amended unit agreement, before the unit agreement or amended unit agreement is filed with the chief conservation officer;
- (e) undertakes or carries on a work or activity without an authorization under paragraph 134(1)(b) or without complying with the approvals or requirements of the authorization; or
- (f) fails to comply with a direction, requirement or order of a safety officer, the chief safety officer, a conservation officer, the chief conservation officer or an installation manager or with an order of the committee.

(2) Every person who is guilty of an offence under subsection (1) is liable

- (a) on summary conviction, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 1 year, or to both; or
- (b) on conviction on indictment, to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding 5 years, or to both.

(5) Notwithstanding subsection 149(1), a person does not commit an offence under subsection 149(1) by reason of committing waste as defined in paragraph 149(2)(f) or (g) unless that person has been ordered by the committee to take measures to prevent the waste and has

failed to comply.

1986 c37 s188; [1992 c15 s31](#)

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Rep. by 1992 c15 s32

191. [Rep. by 1992 c15 s32]

[1992 c15 s32](#)

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Order to comply

192. Where a person is guilty of an offence under this Part, a court may, in addition to another penalty it may impose, order that person to comply with the provisions of the Part, regulation or order for the contravention of which that person has been convicted.

1986 c37 s190

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Continuing offences

193. Where an offence under this Part is committed on more than 1 day or is continued for more than 1 day, it shall be considered to be a separate offence for each day on which the offence is committed or continued.

1986 c37 s191

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Rep. by 1992 c15 s33

194. [Rep. by 1992 c15 s33]

[1992 c15 s33](#)

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Limitation period

195. A prosecution for an offence under this Part may be instituted within 2 years from the time when the subject-matter of the complaint arose.

1986 c37 s193

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Evidence

196. In a prosecution for an offence under this Part, a copy of an order or other document purporting to have been made under this Part or the regulations and purporting to have been signed by the person authorized by this Part or the regulations to make that order or document is, in the absence of evidence to the contrary, proof of the matters set out in the order or document.

1986 c37 s194

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Jurisdiction of judge or justice

197. A complaint or information in respect of an offence under this Part may be heard, tried or determined by a justice or judge where the accused is resident or carrying on business within the territorial jurisdiction of that justice or judge although the matter of the complaint or information did not arise in that territorial jurisdiction.

1986 c37 s195

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Action to enjoin not prejudiced by prosecution

198. (1) Notwithstanding that a prosecution has been instituted in respect of an offence under this Part, the regulations or an order made under this Part or the regulations, the board may begin and maintain an action to enjoin the committing of a contravention of this Part, the regulations or an order made under this Part or the regulations.

(2) A civil remedy for an act or omission is not suspended or affected because the act or omission is an offence under this Part.

1986 c37 s196

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Regulations

199. The Lieutenant-Governor in Council may make the regulations consistent with this Part that may be necessary for carrying out the purposes of this Part, and may make regulations defining and distinguishing more particularly for the purposes of Divisions I and II the expressions "oil" and "gas".

1986 c37 s197

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Application

200. This Part applies to an interest or right in petroleum acquired or vested before April 4, 1987 and is binding on the Crown in right of Canada or the province.

1986 c37 s198

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Operating licences, authorizing, etc.

201. (1) Where an operating licence was issued under subsection 5(1) of the *Oil and Gas Production and Conservation Act* (Canada) and is in force on April 4, 1987, it shall be considered to be an operating licence issued by the board under this Part.

(2) Where, before April 4, 1987, authorization for work or activity or approval of a development plan was given under subsection 5(1) of the *Oil and Gas Production and Conservation Act* (Canada) or a regulation made under that Act, the authorization or approval shall be considered to have been given by the board under this Part.

1986 c37 s199

PART IV

THE OFFSHORE DEVELOPMENT FUND

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Definitions

- 202.** In this Part
- (a) "development fund" means the account established by section 203; and
 - (b) "project" means work or activity in respect of which costs may be incurred.

1986 c37 s200

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Development fund

203. There shall be established in the accounts of the province an account to be known as the Offshore Development Fund, to which shall be charged all amounts paid by the provincial minister under this Part.

1986 c37 s201

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Agreement with the federal government

- 204.** The provincial minister may, with the approval of the provincial government, enter into an agreement with the federal minister, having the approval of the federal government,
- (a) providing for the criteria for the selection of projects and the procedure to be followed in proposing and approving projects;
 - (b) providing for the procedure to be followed in making a payment of amounts under subsection 205(1) and the terms and conditions of the payment of those amounts or a part of them;
 - (c) restricting the costs in respect of which payment of amounts may be made under subsection 205(1); and
 - (d) providing for other matters or things necessary for or incidental to carrying out the purposes and provisions of this Part.

1986 c37 s202

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Power to make payments

- 205.** (1) On a request made in accordance with the terms of an agreement entered into under section 204 for the payment of an amount of money for costs incurred in respect of a project that has been approved by both ministers, the provincial minister shall, subject to subsections (2) to (4) and the terms of the agreement, pay the amount.
- (2) The aggregate amount of all payments made under subsection (1) shall not exceed the sum of \$75,000,000.
 - (3) A payment shall not be made by the provincial minister under subsection (1) in relation to a project unless the federal minister has agreed to pay 3/4 of the total costs incurred by both governments in respect of the project.
 - (4) The provincial minister shall not pay an amount of money under subsection (1) unless the payment is for costs incurred in respect of a project approved and in progress before the day that is the later of

(a) April 1, 1993; and

(b) the day on which the cumulative volume of production in the offshore area, measured as having flowed through the first sales meter, has reached an amount equal to 2,400,000 cubic metres of oil or a volume of gas or of a combination of oil and gas that is the energy equivalent to it, as determined by the provincial minister in accordance with the regulations.

1986 c37 s203

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Development fund committee

206. (1) There is established by the joint operation of this Act and the federal Act a committee to be known as the development fund committee, consisting of 4 members.

(2) Two members of the development fund committee are to be appointed by each government.

(3) The development fund committee shall monitor and review the implementation of the development fund under this Part.

(4) The development fund committee is, by the joint operation of this subsection and subsection 232(4) of the federal Act, dissolved 3 years after the date, as determined by both ministers, on which the last payment is made under subsection 205(1).

1986 c37 s204; 1987 c25 s8

PART V GENERAL PROVISIONS, TRANSITIONAL AND COMMENCEMENT

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Agreements under federal Act

207. The Minister of Finance of the province or another minister or ministers of the Crown in right of the province as designated by order of the Lieutenant-Governor in Council may enter into agreements respecting the offshore area under section 98 and Part IV of the federal Act with the Minister of Finance of Canada or another minister or ministers of the Crown in right of Canada as designated by order of the Governor General in Council.

1986 c37 s205

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Initial payment to environmental studies fund during transitional period

208. Notwithstanding section 49 of the *Canada Oil and Gas Act* as it read immediately before April 4, 1987, where an exploration agreement in relation to a portion of the offshore area was entered into or negotiations in respect of a portion of the offshore area were completed under the *Canada Oil and Gas Act* after February 11, 1985 and before the coming into force of Part VII of the *Canada Petroleum Resources Act*,

(a) the interest owner shall deposit for payment into the relevant fund an amount determined in accordance with subsection 81(2) of the *Canada Petroleum Resources Act*; and

(b) where, before April 4, 1987, there has been deposited for payment into the relevant fund in relation to that exploration agreement an amount determined in accordance with section 49 of the *Canada Oil and Gas Act* as it read immediately before April 4, 1987, the minister may refund to the interest owner an amount equal to the difference between that amount and the amount required to be deposited under paragraph(a).

1987 c25 s9

(1992 c15 in force - Sept. 1/92)

(1992 c47 in force - Jun. 30/93)

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