



# **Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act**

CHAPTER 3

OF THE

ACTS OF 1987

**amended** 1988, c. 56; 1992, c. 12; ss. 1-27; 1993, c. 16, ss. 1-6

**An Act to Implement an Agreement  
Between the Government of Nova Scotia  
and the Government of Canada  
on Offshore Petroleum Resource  
Management and Revenue**

## Short title

1 This Act may be cited as the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act*. 1987, c. 3, s. 1.

## Interpretation

2 In this Act,

(a) "Bay of Fundy" means the submarine areas within the limits described in Schedule II;

(b) "Board" means the Canada-Nova Scotia Offshore Petroleum Board established by the joint operation of Section 9 of this Act and Section 10 of the federal Implementation Act;

(c) "Canada-Nova Scotia benefits plan" means a plan submitted pursuant to subsection (2) of Section 45;

(d) *repealed 1993, c. 16, s. 1.*

(e) "Chief Executive Officer" means the Chief Executive Officer of the Board appointed pursuant to Section 25;

(f) "development plan" means a plan submitted pursuant to subsection (2) of Section 136 for the pur-

pose of obtaining approval of the general approach of developing a pool or field as proposed in the plan;

(g) "federal Government" or "Government of Canada" means the Governor General in Council;

(h) "federal Implementation Act" means the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* (Canada);

(i) "federal Minister" means the Minister of Energy, Mines and Resources for Canada;

(j) "field"

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

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

(k) "frontier lands" has the same meaning as in the *Canada Petroleum Resources Act* (Canada);

(l) "fundamental decision" means a decision made by the Board respecting the exercise of a power or the performance of a duty or function pursuant to a provision of this Act that expressly provides for the exercise of the power or the performance of the duty or function subject to Sections 31 to 37;

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

(n) "Government" means the federal Government, the Provincial Government, or both, as the context requires;

(o) "Minister" means the Minister of Mines and Energy;

(p) "Nova Scotia lands" means

(i) Sable Island, and

(ii) those submarine areas that belong to Her Majesty in right of the Province or in respect of which Her Majesty in right of the Province has the right to dispose of or exploit the natural resources, and that are within the offshore area;

(q) "Offshore Accord" means the Canada-Nova Scotia Offshore Petroleum Resources Accord, dated the twenty-sixth day of August, 1986, and entered into by the Government of Canada, as represented by the Prime Minister of Canada and the Minister of Energy, Mines and Resources, and by the Province of Nova Scotia, as represented by the Premier and the Minister of Mines and Energy, and includes any amendments thereto;

(r) "offshore area" means the lands and submarine areas within the limits described in Schedule I;

(s) "oil" means

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

(ii) any other hydrocarbons, except coal and gas, and, without limiting the generality of the foregoing, hydrocarbons that may be extracted or recovered from deposits of oil sand, bitumen, bituminous sand, oil shale or from any other types of deposits on the surface or subsurface or the seabed or subsoil thereof of the offshore area;

(t) "petroleum" means oil or gas;

(u) "pool" means a natural underground reservoir containing or appearing to contain an accumulation of petroleum that is separated or appears to be separated from any other such accumulation;

(v) "prescribed", except where otherwise provided, means prescribed by regulations made by the Governor in Council;

(w) "Sable Island" means the area, whether above or under water, in the offshore area, that is within the limits described in Schedule III. 1987, c. 3, s. 2; 1993, c. 16, s. 1.

### **Jurisdiction preserved**

**3** The provisions of this Act shall not be construed as providing a basis for any claim by or on behalf of the Government of Canada in respect of any entitlement to or legislative jurisdiction over the offshore area or any living or non-living resources in the offshore area. 1987, c. 3, s. 3.

### **Act prevails**

**4** In case of any inconsistency or conflict between

(a) this Act or a regulation made pursuant thereto; and

(b) any other Provincial enactment,

this Act and the regulations made pursuant thereto prevail. 1987, c. 3, s. 4.

### **Amendment of description of offshore area**

**5 (1)** Subject to Section 6, the Governor in Council may make regulations amending the description of the limits set out in Schedule I for the purposes of the definition "offshore area".

### **Approval and issue of charts**

**(2)** The Minister may approve charts or cause charts to be issued setting out the offshore area or any portion thereof as may be set out consistent with the nature and scale of the chart.

### **Chart conclusive proof**

**(3)** In any legal or other proceedings, a chart purporting to be approved or issued by the Minister is conclusive proof of the limits of the offshore area or portion thereof set out in the chart without proof of the signature or official character of the person purporting to have approved or issued the chart. 1987, c. 3, s. 5.

### **Approval by Federal Minister**

**6** Before a regulation is made pursuant to subsection (1) of Section 5, subsection (4) of Section 17, subsection (8) of Section 35, subsection (7) of Section 39, subsection (7) of

Section 45, Section 51, Section 70, subsection (2) of Section 73, Section 120, subsection (1) of Section 124, Section 127, subsection (1) of Section 146, subsection (5) of Section 149, subsection (4) of Section 157 or Section 200, the Minister shall consult the federal Minister with respect to the proposed regulation and no regulation shall be made without the approval of the federal Minister. 1987, c. 3, s. 6; 1993, c. 16, s. 2.

### **Amendment of Accord**

**7** The Government of Nova Scotia as represented by the Premier of Nova Scotia or by such other member of the Executive Council for Nova Scotia as may be designated by the Governor in Council, may, jointly with the Government of Canada, amend the Offshore Accord from time to time. 1987, c. 3, s. 7.

### **Application of Act**

**8** This Act applies to Nova Scotia lands within the offshore area. 1987, c. 3, s. 8.

## PART I JOINT MANAGEMENT

### **Board established**

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

### **Board deemed established under laws of Province**

**(2)** Notwithstanding subsection (1), the Board shall be treated as if established by or under the law of the Province.

### **Powers of Board**

**(3)** The Board has the powers and capacities of a corporation incorporated pursuant to the *Companies Act*, including those set out in Section 14 of the *Interpretation Act*.

### **Dissolution of Board**

**(4)** The Board may be dissolved only by the joint operation of an Act of the Legislature and an Act of Parliament. 1987, c. 3, s. 9.

### **Membership of Board**

**10 (1)** The Board shall consist of five members.

### **Appointment of members**

(2) Subject to subsection (3), the members of the Board may be appointed by both the Provincial Government and the Government of Canada, or, in the alternative, each Government may appoint two members.

### **Chairman**

(3) The Chairman of the Board shall be appointed by the Provincial Government and the Government of Canada.

### **Provincial alternate**

(4) The Provincial Government may appoint one alternate member only to serve in the absence or incapacity of any member first appointed by it.

### **Federal alternate**

(5) The federal Government may appoint one alternate member only to serve in the absence or incapacity of any member first appointed by it.

### **Joint appointment of alternate member**

(6) The federal Government and the Provincial Government may jointly appoint one alternate member only to serve in the absence or incapacity of any member first jointly appointed by them. 1987, c. 3, s. 10.

### **"civil servant" defined**

**11 (1)** In this Section and Section 12, "civil servant" means

(a) a person employed in the Province pursuant to the *Civil Service Act* and a person in the public service appointed by order-in-council; and

(b) a person employed in the public service of Canada as defined in the federal Implementation Act.

### **Not more than two civil servants**

(2) Not more than two members of the Board may, during the term of office of those members on the Board, be civil servants and of those two members, not more than one may be appointed by each Government.

### **Chairman not civil servant**

(3) The Chairman of the Board shall not, during the term of office as Chairman, be a civil servant. 1987, c. 3, s. 11.

### **Term of board member**

**12 (1)** Subject to subsection (2), each member of the Board, including the Chairman, shall be appointed for a term of six years.

### **Transitional appointments**

**(2)** The first two members of the Board, other than the Chairman, to be appointed by each Government shall be appointed for terms of four and five years, respectively.

### **Re-appointment**

**(3)** Each member of the Board is eligible for re-appointment.

### **Appointment during good behaviour**

**(4)** Each member of the Board who is not a civil servant holds office during good behaviour but may be removed for cause by the Government or Governments that appointed the member.

### **Civil servant appointed during pleasure**

**(5)** Each member of the Board who is a civil servant holds office during pleasure. 1987, c. 3, s. 12.

### **Consultation on appointment of Chairman**

**13 (1)** Consultation between the two Governments with respect to the selection of the Chairman of the Board shall be deemed to commence

(a) six months prior to the expiration of the term of office of the incumbent Chairman; 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 Chairman,

whichever occurs earlier.

### **Failure to agree on Chairman**

**(2)** Where the two Governments fail to agree on the appointment of the Chairman of the Board within three months after the commencement of consultation between the Governments, after written notice given by one of the Governments to the other, the Chairman shall be selected pursuant to subsection (3) by a panel, consisting of three members and constituted in accordance with Section 43 unless, at any time prior to the selection of the Chairman by the panel, the Governments agree on the appointment.

### **Selection of Chairman by panel**

(3) The Chairman of the Board shall be selected from among persons nominated by each Government by the panel within sixty days after the appointment of the chairman of the panel.

### **Panel decision binding**

(4) The decision of the panel selecting a Chairman of the Board is final and binding on both Governments. 1987, c. 3, s. 13.

### **Acting Chairman**

14 The Board shall designate a member to act as Chairman of the Board during any absence or incapacity of the Chairman or vacancy in the office of Chairman, and that person, while acting as Chairman, has and may exercise all of the powers and perform all of the duties and functions of the Chairman. 1987, c. 3, s. 14.

### **Terms and conditions of appointment**

15 (1) Subject to Section 12, the salary and other terms and conditions of the appointment of the Chairman of the Board or any other member or alternate member appointed by both Governments, including the effective date of the appointment, shall be fixed by an order of the Provincial Government and an order of the federal Government after agreement has been reached by both Governments on the salary and other terms and conditions.

### **Agreement by both governments**

(2) The salary and other terms and conditions of the appointment of any member appointed by either the Provincial Government or the federal Government shall be agreed on by both Governments. 1987, c. 3, s. 15.

### **Conflict of interest guidelines**

16 Each member of the Board shall be subject to conflict of interest guidelines established jointly by the Minister and federal Minister and are not subject to any conflict of interest guidelines established by the Provincial Government. 1987, c. 3, s. 16.

### **Indemnification**

17 (1) The Province shall, subject to such terms and conditions as may be prescribed, indemnify 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 such costs, charges and expenses, including such amounts paid to settle an action or satisfy a judgment, reasonably incurred in respect of any 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, as may be prescribed.

### **Shared indemnification**

(2) Where the Government of Canada has indemnified a person referred to in subsection (1) or the heirs or legal representatives of that person, the Province shall, subject to such terms and conditions as are prescribed, pay to the Government of Canada one half of the amount so indemnified.

### **Indemnification out of consolidated fund**

(3) Any amount payable in respect of indemnification pursuant to this Section may be paid out of the Consolidated Fund.

### **Regulations**

(4) Subject to Section 6, the Governor in Council may make regulations prescribing anything that by this Section is to be prescribed. 1987, c. 3, s. 17.

### **Additional duties of Board**

**18 (1)** The Board shall, in addition to performing the duties and functions conferred or imposed on the Board by or pursuant to this Act, perform such duties and functions as are conferred or imposed on it by the Offshore Accord, to the extent that such duties and functions are not inconsistent with this Act or any regulations made thereunder.

### **Board may make recommendations**

(2) The Board may make recommendations to both Governments, respecting petroleum-related activity in the offshore area and, respecting proposed amendments to this Act, the federal Implementation Act, any regulations made pursuant to those Acts and to any other legislation relating to petroleum resource activities in the offshore area. 1987, c. 3, s. 18.

### **Access to information by Ministers**

**19 (1)** The Minister and the federal Minister are entitled to access to any information or documentation relating to petroleum resource activities in the offshore area that is provided for the purposes of this Act or any regulation made thereunder and such information or documentation shall, notwithstanding subsection (2) of Section 121, on the request of either the Minister or the federal Minister be disclosed to that Minister without requiring the consent of the party who provided the information or documentation.

### **Section 121 applies**

(2) Section 121 applies, with such modifications as the circumstances require, to any information or documentation to which the Minister and the federal Minister have access pursuant to subsection (1) and any disclosure of such information or documentation by the Minister or federal Minister or the production or giving of evidence relating thereto by such Minister, as if the references in that Section to the administration or enforcement of Parts II or III of this Act included references to the administration or enforcement of the federal Implementation Act.

### **Board to require summary**

(3) The Board shall require every person who makes an application in respect of which a fundamental decision is to be made by the Board, to give, forthwith after making the application, a written summary of the application to the Minister and the federal Minister. 1987, c. 3, s. 19.

### **Location of Board**

20 The principal office and staff of the Board shall be located in the Province. 1987, c. 3, s. 20.

### **Responsibility for storage and curatorship**

21 (1) The Board shall have responsibility for the storage and curatorship, in a facility in the Province, of all geophysical and geological records and reports, reports respecting wells and materials recovered from wells in the offshore area and, without limiting the generality of the foregoing, drill cuttings, fluid samples, hydrocarbon samples and cores recovered from wells in the offshore area.

### **Furnishing of samples**

(2) The Board shall, at the request of the Minister or the federal Minister,

(a) furnish that Minister with a sample of any material referred to in subsection (1); or

(b) where it is not possible to produce a sample of such material, provide that Minister with all or a portion of such material, subject to being returned to the facility referred to in subsection (1),

if the material is to be permanently retained at the facility referred to in subsection (1). 1987, c. 3, s. 21.

### **Meetings of Board**

22 A meeting of the Board shall be held

(a) once every two months unless the members of the Board unanimously agree to defer such a meeting; and

(b) at any other time

(i) at the call of the Chairman of the Board,

(ii) on the request of any two members of the Board, or

(iii) on the request of the Minister or the federal Minister to review any matter referred to the Board by that Minister. 1987, c. 3, s. 22.

### **Quorum**

**23 (1)** Three members of the Board constitute a quorum of the Board.

### **Majority vote**

**(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. 1987, c. 3, s. 23.

### **Board may make by-laws**

**24** Subject to this Act and the Offshore 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 pursuant to Section 10,

(iii) the manner of appointing the officers and employees of the Board on the basis of selection according to merit, including the holding of open competitions therefor,

(iv) the practices and procedures 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 the internal affairs of the Board; and

(b) establish conflict of interest guidelines respecting persons employed by the Board pursuant to subsection (1) of Section 26. 1987, c. 3, s. 24.

### **Chief Executive Officer**

**25 (1)** There shall be a Chief Executive Officer of the Board who,

(a) where both the federal Government and the Provincial Government appoint the Chairman as Chief Executive Officer, is the Chairman of the Board; or

(b) in any other case, is to be appointed by the Board by means of an open competition.

### **Joint approval of appointment**

**(2)** The appointment of a Chief Executive Officer pursuant to clause (b) of subsection (1) is subject to the approval of both Governments.

### **Failure to make appointment**

**(3)** Where either Government fails to make an appointment pursuant to clause (a) of subsection (1) or to approve the appointment of a Chief Executive Officer pursuant to clause (b) of subsection (1), the Chief Executive Officer shall be appointed by both the federal Government and the Provincial Government after having been selected pursuant to subsection (4) by a panel, consisting of three members and constituted in accordance with Section 43, unless at any time prior to the selection of the Chief Executive Officer by the panel, the two Governments agree on the appointment.

### **Selection from nominations**

**(4)** The Chief Executive Officer shall be selected from among persons nominated by each Government within sixty days after the appointment of the Chairman of the panel.

### **Decision of panel binding**

**(5)** The decision of the panel selecting a Chief Executive Officer is final and binding on both Governments.

### **Section 13(1) applies**

**(6)** Subsection (1) of Section 13 applies, with such modifications as the circumstances require, to the appointment of the Chief Executive Officer pursuant to clause (a) of subsection (1) or subsection (3).

### **Acting Chief Executive Officer**

(7) The Board shall designate a person to act as Chief Executive Officer during any 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 all the powers and perform all of the duties and functions of that office. 1987, c. 3, s. 25.

### **Officers and employees**

26 (1) The Board may, on the recommendation of the Chief Executive Officer, employ such other officers and such employees as are necessary for the Board to properly perform the powers, duties and functions of the Board pursuant to this Act and the Offshore Accord.

### **Appointment based on merit**

(2) The appointment of every person employed pursuant to subsection (1) shall be based on selection according to merit.

### **Employed person not civil servant**

(3) A person employed pursuant to subsection (1) is not considered to be employed in the public service of Canada or the civil service of the Province by virtue of that employment.

### **Deemed civil servant**

(4) For the purpose of being eligible for appointment to a position in the civil service pursuant to the *Civil Service Act*,

(a) any person who, immediately prior to being employed by the Board, was employed in the civil service shall be deemed to be a person employed in the civil service in the Department of Mines and Energy in the location where that person is performing duties for the Board and in a position of an occupational nature and at a level equivalent to the position in which that person is employed by the Board; and

(b) any person who, immediately prior to being employed by the Board, was not employed in the civil service shall, two years after being employed by the Board, be deemed to be a person employed in the civil service in the Department of Mines and Energy in the location where that person is performing duties for the Board and in a position of an occupational nature and at a level equivalent to the position in which that person is employed by the Board.

### **"civil service" defined**

(5) In this Section, "civil service" has the same meaning as in the *Civil Service Act*. 1987, c. 3, s. 26.

### **Appointment of auditor**

**27** The Board shall appoint an auditor, for such term as is set by the Board, for the purposes of auditing the financial statements of the Board. 1987, c. 3, s. 27.

### **Board to prepare budget**

**28 (1)** The Board shall, in respect of each fiscal year, prepare a budget for the Board sufficient to permit the Board to properly exercise its powers and perform its duties and functions.

### **Budget to be submitted to Minister**

**(2)** The budget shall be submitted to the Minister and the federal Minister, at such time as may be specified by each Minister, for their consideration and approval.

### **Variation of budget**

**(3)** Where it appears that the actual aggregate of the expenditures of the Board in respect of any fiscal year is likely to be substantially greater or less than that estimated in its budget in respect of that fiscal year, the Board shall submit to both Ministers for their consideration and approval a revised budget in respect of that fiscal year containing such particulars as may be requested by either Minister.

### **Province to pay one half**

**(4)** The Government of Nova Scotia shall pay one half of the aggregate of the expenditures set out in the budget or revised budget, where applicable, submitted and approved pursuant to this Section in respect of each fiscal year.

### **Payment from Consolidated Fund**

**(5)** The sums required for the payment pursuant to subsection (4) shall be paid out of the Consolidated Fund from time to time as required. 1987, c. 3, s. 28.

### **Access by Ministers**

**29** Subject to subsection (2) of Section 19, both the Minister and the federal Minister are entitled to access to the books and accounts of the Board. 1987, c. 3, s. 29.

### **Board to prepare annual report**

**30 (1)** The Board shall, in respect of each fiscal year, prepare an annual report in both official languages of Canada and submit it to the Minister and the federal Minister not later than ninety days after the expiration of that fiscal year.

### **Audited financial statement**

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

### **Tabling of report**

(3) The Minister shall

(a) table the report before the Legislature within fifteen days following submission of the report to the Minister; or

(b) if the Legislature is not then sitting, within fifteen days after the Legislature next sits. 1987, c. 3, s. 30.

### **Finality of Board powers**

**31** Subject to this Act, the exercise of a power or the performance of a duty or function by the Board pursuant to this Act is final and not subject to the review or approval of either Government, the Minister or the federal Minister. 1987, c. 3, s. 31.

### **Notice of fundamental decision**

**32 (1)** Where a fundamental decision is made by the Board, the Board shall, forthwith after making the decision, give written notice of that decision to the Minister and the federal Minister.

### **Publication of fundamental decision**

(2) The Board shall cause a fundamental decision to be published

(a) thirty days after receipt by both ministers of written notice of the decision; or

(b) when the fundamental decision is implemented,

whichever first occurs. 1987, c. 3, s. 32.

### **Time for implementation**

**33 (1)** Subject to subsection (2), a fundamental decision shall not be implemented

(a) before the expiration of thirty days after receipt by the Minister and the federal Minister of a notice of the fundamental decision and any further period during which the implementation of the decision is suspended or during which the decision may be set

aside, the setting aside may be overruled or a determination may be made by the National Energy Board; or

(b) if the decision has been conclusively set aside.

### **Waiver of time**

(2) A fundamental decision may be implemented before the expiration of the periods referred to in clause (a) of subsection (1) where the Board is advised, in writing, that both the Minister and the federal Minister approve that decision.

### **Implementation of fundamental decision**

(3) Where, on the expiration of the periods referred to in clause (a) of subsection (1), a fundamental decision of the Board has not been conclusively set aside, that decision shall be implemented forthwith by the Board. 1987, c. 3, s. 33.

### **Suspension of implementation**

**34 (1)** The Minister or the federal Minister may, on giving written notice to the other Minister and the Board within thirty days after receipt of a notice of a fundamental decision, suspend the implementation of the decision during a period specified in the notice not exceeding sixty days after receipt of the notice of the decision.

### **Publication of notice of suspension**

(2) The Minister shall publish notice of a suspension by the Minister, pursuant to subsection (1), in the Royal Gazette. 1987, c. 3, s. 34.

### **Decision may be set aside**

**35 (1)** Within thirty days after receipt by the Minister and the federal Minister of a notice of a fundamental decision and any further period during which the implementation of the decision is suspended, the decision may be set aside

(a) by both the Minister and the federal Minister by written notice thereof to the Board; or

(b) by the Minister, by written notice thereof to the federal Minister and the Board, in the case of

(i) a fundamental decision of the Board referred to in clause (a) of subsection (3) of Section 136, or

(ii) a fundamental decision with respect to a call for bids in relation to, or an interest in relation to, a portion of the offshore area that is situated wholly within the Bay of Fundy or Sable Island,

and the Minister shall publish notice of the setting aside in the Royal Gazette.

### **Federal Minister may set aside**

(2) The federal Minister may, by written notice to the Minister and the Board,

(a) set aside a fundamental decision of the Board within thirty days after receipt of a notice of the decision or any further period during which the implementation of the decision is suspended; or

(b) overrule the setting aside of a fundamental decision by the Minister, within thirty days after receipt of a notice to that effect,

if in the opinion of the federal Minister, the decision or setting aside of the decision would unreasonably delay the attainment of security of supply.

### **Application to National Energy Board**

(3) Notwithstanding subsection (2), where the Minister disagrees with the setting aside or overruling by the federal Minister in respect of a fundamental decision pursuant to subsection (2), the National Energy Board shall, on summary application made to it by the Minister,

(a) determine whether the fundamental decision of the Board or the setting aside of that decision would unreasonably delay the attainment of security of supply; and

(b) thereby confirm or vacate the setting aside or overruling by the federal Minister in respect of the fundamental decision.

### **Determination by National Energy Board**

(4) A determination of the National Energy Board pursuant to subsection (3)

(a) shall be made summarily within such time and in such manner as may be prescribed on application by the Minister within such time and in such manner as may be prescribed;

(b) is not subject to be reviewed or set aside by any government, court or other body; and

(c) shall be published forthwith by the Board.

### **Application of National Energy Board procedure**

(5) Where an application is made by the Minister to the National Energy Board prior to the coming into force of the first regulation made for the purposes of clause (a) of subsection (4), the application and the determination of the National Energy Board shall be made in accordance with the procedures established by the National Energy Board.

### **Fundamental decision deemed set aside**

(6) A fundamental decision of the Board shall be deemed, for the purposes of clause (b) of subsection (1) of Section 33 and subsection (3) of Section 33, to be conclusively set aside where the periods within which the setting aside may be overruled pursuant to clause (b) of subsection (2) and the setting aside or overruling thereof may be vacated pursuant to subsection (3) have expired and

(a) the setting aside has not been overruled or, if it has been so overruled that overruling is vacated pursuant to subsection (3); or

(b) the setting aside has not been vacated pursuant to subsection (4).

### **Interpretation**

(7) In this Section and in Sections 36 and 37,

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

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

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

### **Regulations**

(8) Subject to Section 6, the Governor in Council may make regulations prescribing anything that, by this Section, is to be prescribed. 1987, c. 3, s. 35.

### **Determination of security of supply final**

**36 (1)** For the purposes of this Act, where a determination as to whether security of supply exists is made pursuant to this Section by the Minister and the federal Minister or by a panel or is deemed to have been made pursuant to this Section, it is final and binding for the duration of the period in respect of which it is made.

### **Security of supply deemed not to exist**

(2) In respect of the period commencing on January 1, 1986, and terminating on December 31, 1990, a determination is and is deemed to have been made, for all purposes of this Act, that security of supply does not exist.

### **Commencement of period**

(3) Each period following the period referred to in subsection (2) shall commence on the expiration of the period immediately preceding that period and shall be for a duration of five successive calendar years. 1987, c. 3, s. 36.

### **Failure to agree on security of supply**

**37 (1)** Where the Minister and the federal Minister fail to agree on a determination as to whether security of supply exists in respect of any period, the determination shall be made by a panel consisting of three members, constituted in accordance with Section 43, within sixty days

after the appointment of the chairman of the panel unless, at any time prior thereto, the Minister and the federal Minister agree on the determination.

### **Determination not subject to review**

(2) Where a determination is made pursuant to subsection (1) by a panel as to whether security of supply exists, that determination is not subject to be reviewed or set aside by any Minister, government, court or other body. 1987, c. 3, s. 37.

### **Government of Canada powers preserved**

**38 (1)** Notwithstanding any other provision of this Act, nothing in this Act limits the powers of the Government of Canada in the event of a sudden domestic or import supply shortfall of suitable crude oil and equivalent substances or with respect to any other energy emergency.

### **Board to carry out obligations**

(2) Notwithstanding any other provision of this Act, where the Government of Canada has obligations with respect to the allocation of petroleum pursuant to the Agreement On An International Energy Program dated November 18, 1974, the Board shall, where authorized to do so by the federal Minister and during the period that those obligations continue, take such measures as are necessary to comply with those obligations and as are fair and equitable in relation to other hydrocarbon-producing regions of Canada. 1987, c. 3, s. 38.

### **Interpretation**

**39 (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 demands of all consumers in the Province;

(b) the feedstock requirements of industrial facilities that are in place in the Province on the thirty-first day of January, 1986; and

(c) the feedstock requirements of any refining facility located in the Province that was not in place on January 31, 1986, where the feedstock requirements required to satisfy the demand of industrial capacity, as of January 31, 1986, in the provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland have been met.

#### **Notice of option to acquire**

**(2)** Where there is a shortfall of petroleum deliveries in the Province, the Minister may, after consulting with the federal Minister, give notice to holders of production licences in the offshore area that the consumers and facilities referred to in subsection (1) that are specified in the notice have, during the term of the notice, the first 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 prior to the giving of the notice.

#### **Contract deemed varied**

**(3)** Notwithstanding any other provision of this Act, any contract entered into after the giving of the notice referred to in subsection (2) shall be deemed to be varied or suspended to the extent necessary to give effect to that notice.

#### **Term of notice**

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

#### **Failure to agree**

**(5)** Where the federal Minister or a holder of a production licence to whom a notice has been given pursuant to subsection (2), does not agree with the 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.

#### **Notice deemed revoked**

**(6)** Where it is determined pursuant to arbitration that a shortfall of petroleum deliveries in the Province does not exist or continue to exist, the notice given pursuant to subsection (2) is and is deemed to be revoked and ceases to have effect on the date on which the determination is made.

## **Regulations**

(7) Subject to Section 6, the Governor in Council may make regulations for carrying out the purposes of this Section and, without limiting the generality of the foregoing, may make regulations

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

(c) prescribing the manner of exercising a first option to acquire that is granted pursuant to a notice given pursuant to subsection (2). 1987, c. 3, s. 39.

## **Interpretation**

**40 (1)** In this Section,

(a) "certificate" means a certificate of public convenience and necessity issued pursuant to Part III of the *National Energy Board Act*;

(b) "Nova Scotia trunkline" means a trunkline for the transmission of petroleum in the offshore area or from the offshore area, and includes all tanks, reservoirs, storage facilities, pumps, racks, compressors, loading facilities, interstation systems of communication by telephone, telegraph or radio, and real and personal property connected therewith that are located within the offshore area or any other part of Nova Scotia, but does not include laterals, gathering lines, flow lines, structures, and facilities for the production and processing of petroleum.

### **Option to acquire up to fifty per cent**

(2) No certificate shall be issued in respect of a Nova Scotia trunkline, unless the National Energy Board is satisfied that the Government of Nova Scotia has been given a reasonable opportunity to acquire on a commercial basis at least a fifty per cent, or such lesser percentage as the Government proposes to acquire as a result of the opportunity, ownership interest in the trunkline.

### **No authorization unless opportunity to acquire**

(3) Where a certificate is not required in respect of a Nova Scotia trunkline, no authorization shall be issued pursuant to clause (b) of subsection (1) of Section 135 in respect of that trunkline, unless the Board is satisfied that the Government of Nova Scotia has been given a reasonable opportunity to acquire on a commercial basis at least a fifty per cent, or such lesser percentage as the Government proposes to acquire as a result of the opportunity, ownership interest in the trunkline.

### **Minister may enter into agreements**

(4) The Minister may, with the approval of the Governor in Council, enter into such agreements, make such arrangements and expend such money as is necessary for him to participate in the construction, operation and acquisition of trunklines including the acquisition of the ownership interest referred to in this Section. 1987, c. 3, s. 40.

### **Joint issue of written directives**

**41 (1)** The Minister and the federal Minister may jointly issue to the Board written directives in respect of

- (a) fundamental decisions;
- (b) Canada-Nova Scotia benefits plans and any of the provisions thereof;
- (c) public reviews conducted pursuant to Section 44;
- (d) studies to be conducted by the Board; and
- (e) advice with respect to policy issues to be given by the Board to the Minister and the federal Minister.

### **Provincial directive**

(2) The Minister may issue to the Board written directives respecting any fundamental decision relating to the Bay of Fundy or Sable Island.

(3) *repealed 1993, c. 16, s. 3.*

### **Specified portion of offshore area**

(4) Where a request is received during any calendar year by the Board or the Minister or the federal Minister to make a call for bids pursuant to Part II in relation to a particular portion of the offshore area, the Minister or the federal Minister may, after having reviewed the plan of the anticipated decisions of the Board during the calendar year submitted pursuant to Section 42, issue to the Board a written directive to specify that portion of the offshore area in a call for bids made pursuant to Part II.

### **Board to comply with directive**

(5) The Board shall comply with a directive issued pursuant to this Section.

### **Directives not regulations**

(6) Directives issued pursuant to this Section are not and are deemed not to be regulations for the purposes of the *Regulations Act*.

### **Publication of notice of directive**

(7) Where a directive is issued pursuant to this Section a notice shall be published in the Royal Gazette that the directive has been issued and that the text of the directive is available for inspection by any person on request made to the Board. 1987, c. 3, s. 41; 1993, c. 16, s.3.

### **Submission of plan**

**42** During the first month of each calendar year, the Board shall submit to the Minister and the federal Minister a plan outlining the anticipated decisions of the Board during that calendar year respecting

(a) the making of calls for bids pursuant to Part II with respect to interests to be issued in relation to portions of the offshore area and the issuance and terms and conditions of such interests; and

(b) exploration and development of the offshore area. 1987, c. 3, s. 42.

### **Appointment of panel**

**43 (1)** For the purposes of subsection (2) of Section 13, subsection (3) of Section 25, subsection (1) of Section 37 and subsection (4) of Section 134B one member of a panel shall be appointed by each Government within thirty days after the expiration of the three months referred to in subsection (2).

### **Appointment of chairman of panel**

(2) The chairman of the panel shall be appointed

(a) jointly by the two members of the panel appointed pursuant to subsection (1) within thirty days after the later of the two appointments made pursuant to that subsection; or

(b) where the two members of the panel fail to agree on the appointment of the chairman of the panel within the thirty-day period referred to in clause (a), by the Chief Justice of Nova Scotia within thirty days after the expiration of that period. 1987, c. 3, s. 43; 1988, c. 56, s. 1.

### **Public review**

**44 (1)** Subject to any directives issued pursuant to subsection (1) of Section 41, the Board may conduct a public review in relation to the exercise of any of its powers or the

performance of any of its duties or functions where the Board is of the opinion that it is in the public interest to do so.

### **Powers of board on review**

(2) Where a public review is conducted pursuant to subsection (1) in relation to any matter, the Board may

(a) establish terms of reference and a timetable that will permit a comprehensive review of all aspects of the matter, including those within the authority of the Legislature or of Parliament;

(b) appoint one or more commissioners and, where there is to be more than one commissioner, appoint as commissioners persons nominated by each of the Governments in recognition of the authority of ministers of the Crown in right of the Province or of Canada under any enactment of the Province or of Parliament, other than this enactment or the federal Implementation Act, in relation to the matter;

(c) cause the commissioners to hold public hearings in appropriate locations in the Province or elsewhere in Canada and report thereon to the Board, the Minister and the federal Minister; and

(d) where the public review is conducted in relation to any potential development of a pool or field, require the person who proposed the potential development to submit and make available for public distribution a preliminary development plan, an environmental impact statement, a socio-economic impact statement, a preliminary Canada-Nova Scotia benefits plan and any other plan specified by the Board.

### **Powers conferred**

(3) On the request of the Board, the Government of the Province may, subject to such terms and conditions as it considers necessary, confer on the Board or the commissioners appointed pursuant to clause (b) of subsection (2) all or any of the powers, privileges and immunities conferred on persons appointed as commissioners pursuant to the *Public Inquiries Act*.

### **Recommendation of commissioners**

(4) The commissioners shall make their recommendations respecting any preliminary plan or statement submitted pursuant to clause (d) of subsection (2) within two hundred and seventy days after their receipt of the plan or statement or such shorter period as may be set by the Board. 1987, c. 3, s. 44.

### **"Canada-Nova Scotia benefits plan" defined**

**45 (1)** In this Section, "Canada-Nova Scotia benefits plan" means a plan for the employment of Canadians and, in particular, members of the labour force of the Province and, subject to clause (d) of subsection (3), for providing manufacturers, consultants, contractors and service companies in the Province and other parts of Canada with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

### **Approval of Board**

**(2)** Before the Board may approve any development plan pursuant to subsection (4) of Section 136 or authorize any work or activity pursuant to clause (b) of subsection (1) of Section 135, a Canada-Nova Scotia benefits plan shall be submitted to and approved by the Board, unless the Board waives that requirement in accordance with subsection (6).

### **Requirements for plan**

**(3)** A Canada-Nova Scotia 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 first consideration for training and employment in the work program for which the plan was submitted and any 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 clause;

(c) a program shall be carried out and expenditures shall be made for the promotion of education and training and of research and development in the Province in relation to petroleum resource activities in the offshore area;

(d) first consideration is 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.

### **Provisions required in plan**

**(4)** The Board may require that any Canada-Nova Scotia benefits plan include provisions to ensure that disadvantaged individuals or groups have access to training and employment opportunities and to enable such individuals or groups or corporations owned or cooperatives operated by them to participate in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

### **Consultation on plan**

(5) In reviewing any Canada-Nova Scotia benefits plan, the Board shall consult with the Minister and the federal Minister on the extent to which the plan meets the requirements set out in subsections (1), (3) and (4).

### **Powers of Board respecting plan**

(6) The Board may, pursuant to subsection (2),

(a) subject to any directives issued pursuant to subsection (1) of Section 41, approve any Canada-Nova Scotia benefits plans; or

(b) with the consent of both ministers, waive the requirement for any Canada-Nova Scotia benefits plan.

### **Regulations respecting plan**

(7) Subject to Section 6, the Governor in Council may make regulations prescribing the time and manner of submission of any Canada-Nova Scotia benefits plan and the form and information to be contained therein. 1987, c. 3, s. 45.

### **Payments to be made to Board**

**46 (1)** A payment of royalty, rental, licence fee, cash bonus or deposit required to be made pursuant to the *Offshore Petroleum Royalty Act* or Parts II and III of this Act in respect of the offshore area shall be made to the Board.

### **Payment a discharge of liability**

(2) A payment made to the Board pursuant to

(a) the federal Implementation Act in respect of those kinds of payments referred to in subsection (1); or

(b) this Section,

is a good and sufficient discharge of liability to make payment of such amounts pursuant to the *Offshore Petroleum Royalty Act* or Parts II and III of this Act. 1987, c. 3, s. 46.

### **Deposit in Nova Scotia Offshore Revenue Account**

**47** All revenues collected or assessed by the Board or the Province in respect of royalties, bonuses, rentals, licence fees and corporate or retail sales tax shall be deposited by the Board and the Province into the Nova Scotia Offshore Revenue Account and paid by the Government of Canada to the Province consistent with payment schedules under the Canada-Nova Scotia Tax Collection Agreement. 1987, c. 3, s. 47.

## **Jurisdiction of Nova Scotia courts**

**48 (1)** It is hereby declared that, subject to any exceptions prescribed, every court in Nova Scotia has jurisdiction in respect of matters arising in respect of the collection of royalties, rentals, license fees, bonuses, deposits, consumption tax or insurance premiums tax, or in respect of any enactment determined by regulation to be applicable in the offshore area, as if those matters had arisen within the territorial limits of the County of Halifax, to the same extent as the court has jurisdiction in respect of matters occurring in the County of Halifax.

## **Jurisdiction not limited by Act**

**(2)** Nothing in this Act limits the jurisdiction that a court may exercise apart from this Act.

## **Court includes judges**

**(3)** For the purposes of this Section, "court" includes a judge thereof and any justice or provincial magistrate. 1987, c. 3, s. 48.

## **"agreement" defined**

**49 (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 on any submarine lands.

## **Failure to resolve dispute**

**(2)** Where a dispute between the Province and any other province that is a party to an agreement arises in relation to the description of any portion of the limits set out in Schedule I and the Province and the Government of Canada are unable, by means of negotiation, to bring about a resolution of the dispute within a reasonable time, the dispute shall, at such time as the federal Minister deems appropriate, be referred to an impartial person, tribunal or body and settled by means of the procedure determined in accordance with subsection (3).

## **Determination of practice and procedure**

**(3)** For the purposes of this Section, the person, tribunal or body to which a dispute is to be referred, the constitution and membership of any tribunal or body and the procedures for the settlement of a dispute may be determined by the federal Minister after consultation with the provinces concerned in the dispute.

## **Principles of international law apply**

(4) Where the procedure for the settlement of a dispute pursuant to this Section involves arbitration, the arbitrator shall apply the principles of international law governing maritime boundary delimitation, with such modifications as the circumstances require.

### **Section 6 does not apply**

(5) Notwithstanding Section 6, where a dispute is settled pursuant to this Section and a regulation pursuant to subsection (1) of Section 5 amending the description of the portion of the limits set out in Schedule I 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 6 with respect to that description. 1987, c. 3, s. 49.

### **Board to conclude memorandum of understanding**

**50 (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 the Province and the Government of Canada memoranda of understanding in relation to

- (a) environmental regulation;
- (b) emergency measures;
- (c) coast guard 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 such benefits;
- (e) occupational health and safety;
- (f) a Nova Scotia trunkline within the meaning of Section 40; and
- (g) such other matters as are appropriate.

### **Ministers to be parties**

(2) The Minister and the federal Minister shall be parties to any memorandum of understanding concluded in relation to a matter referred to in clause (d) of subsection (1). 1987, c. 3, s. 50.

### **Regulations**

**51** Subject to Section 6, the Governor in Council may make regulations for carrying out or giving effect to any of the provisions of Part I. 1987, c. 3, s. 51.

## **Regulations Act**

**52** Regulations made by the Governor in Council pursuant to this Act are regulations within the meaning of the *Regulations Act*. 1987, c. 3, s. 52.

## **Powers conferred by federal Implementation Act**

**53** The Provincial Minister and any corporation, agency, board, commission or tribunal of the Province may exercise such powers, duties and functions as are conferred on the Provincial Minister or the corporation, agency, board, commission or tribunal pursuant to the federal Implementation Act. 1987, c. 3, s. 53.

## PART II

### **Interpretation of Part**

**54** In this Part,

- (a) "call for bids" means a call for bids made in accordance with Section 64;
- (b) "Canada Oil and Gas Land Regulations" means the Canada Oil and Gas Land Regulations made pursuant to the *Public Lands Grants Act* (Canada) and the *Territorial Lands Act* (Canada);
- (c) "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;
- (d) "commercial discovery area" means, in relation to a declaration of commercial discovery made pursuant to subsection (1) or (2) of Section 84, those portions of the offshore area described in the declaration;
- (e) "Crown reserve lands" means any portion of the offshore area in respect of which no interest is in force;
- (f) "holder" or "interest holder" means, in respect of an interest or a share therein, the person indicated in the register referred to in Section 107 as the holder of the interest or the share;
- (g) "interest" means any exploration licence, production licence or significant discovery licence;
- (h) "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;
- (i) "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 any other case, prescribed by regulations made by the Governor in Council;
- (j) "share" means, with respect to an interest, an undivided share in the interest or a share in the interest held in accordance with Section 72;
- (k) "significant discovery" means a discovery indicated by the first 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;
- (l) "significant discovery area" means, in relation to a declaration of significant discovery made pursuant to subsection (1) or (2) of Section 77, those portions of the offshore area described in the declaration. 1987, c. 3, s. 54.

### **Form of notice**

**55** Where a notice is required to be given pursuant to this Part or the regulations, it shall be given in such form and manner as may be prescribed and shall contain such information as may be prescribed. 1987, c. 3, s. 55.

### **Part II binding on Her Majesty**

**56** This Part is binding on Her Majesty in right of the Province, a province and Canada. 1987, c. 3, s. 56.

### **Exercise of powers by designated person**

**57** The Board may designate any person to exercise the powers and perform the duties and functions pursuant to this Part that are specified in the designation and on such designation that person may exercise those powers and shall perform those duties and functions subject to such terms and conditions, if any, as are specified in the designation. 1987, c. 3, s. 57.

### **Advisory bodies**

**58 (1)** The Board may from time to time appoint and fix the terms of reference of such advisory bodies as the Board considers appropriate to advise the Board with respect to such matters relating to the administration or operation of this Part or Part III as are referred to them by the Board.

### **Costs of advisory body**

(2) The members of any advisory body appointed pursuant to subsection (1) may be paid for their services such remuneration and expenses as are fixed by the Board. 1987, c. 3, s. 58.

### **Representative of interest owners**

**59 (1)** Where an interest owner consists of two or more holders, such holders shall, in the manner prescribed, appoint one of their number to act as representative of the interest owner for the purposes of this Part and the *Offshore Petroleum Royalty Act*, but such holders may, with the consent of the Board, appoint different representatives for different purposes.

### **Representative designated by Board**

(2) In the event that an interest owner consisting of two or more holders fails to appoint a representative for any of the purposes of this Part, the Board may designate one of such holders as the representative of the interest owner for such purposes.

### **Interest owner bound by representative**

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

### **Duties of representative**

(4) A representative of an interest owner appointed or designated pursuant to this Section shall perform the duties in respect of the purposes for which that representative has been appointed or designated, and any 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. 1987, c. 3, s. 59.

### **Prohibition by Board of issuance of interests**

**60 (1)** Subject to Sections 31 to 37, the Board may, except in a case referred to in subsection (2), by order, for such purposes and under such conditions as may be set out in the order, prohibit the issuance of interests in respect of such portions of the offshore area as are specified in the order.

### **Prohibition by federal Minister**

(2) The federal Minister may, by order, in the case of a disagreement with any government concerning the location of an international boundary and under such conditions as may be set out in the order, prohibit the issuance of interests in respect of such portions of the offshore area as are specified in the order. 1987, c. 3, s. 60.

### **Surrender of interest**

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

### **Liability unaffected**

**(2)** Any liability of an interest owner or interest holder to Her Majesty in right of the Province, either direct or by way of indemnity, that exists at the time of any surrender pursuant to subsection (1) is not affected by the surrender. 1987, c. 3, s. 61.

### **Powers of Board**

**62 (1)** Subject to subsection (2), 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 any interest owner specified in the order from commencing or continuing any work or activity in the offshore area or any portion thereof that is subject to the interest of that interest owner.

### **Order of Board subject to Sections 31 to 37**

**(2)** An order of the Board made in a case referred to in clause (a) of subsection (1) is subject to Sections 31 to 37.

### **Federal Minister may prohibit work**

**(3)** The federal Minister may, in the case of a disagreement with any government concerning the location of an international boundary, by order, prohibit any interest owner specified in the order from commencing or continuing any work or activity in the offshore area or any portion thereof that is subject to the interest of that interest owner.

### **Compliance with order suspended**

**(4)** Where, by reason of an order made pursuant to subsection (1) or (3), any 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.

### **Extension of time**

(5) Notwithstanding any other provision in this Act, the term of an interest that is subject to an order pursuant to subsection (1) or (3) and the period provided for compliance with any requirement in relation to the interest are extended for a period equal to the period that the order is in force.

### **Authority to grant relief**

(6) Nothing in this Section affects the authority of the Board to relieve a person from any requirement in relation to an interest or pursuant to this Part or the regulations. 1987, c. 3, s. 62.

### **Issue of interest by Board**

**63 (1)** The Board may issue interests in respect of any portions of the offshore area in accordance with this Part and the regulations.

### **Restriction of interest**

(2) Subject to subsection (3), the application of any interest may be restricted to such geological formations and to such substances as may be specified in the interest.

### **Subsection (2) does not apply**

(3) Subsection (2) does not apply to any interest

(a) that is in force or in respect of which negotiations were completed before or on the coming into force of this Section in relation to any portion of the offshore area; or

(b) that immediately succeeds an interest referred to in clause (a) in relation to that portion of the offshore area where that portion was not Crown reserve lands on the expiration of the interest referred to in clause (a). 1987, c. 3, s. 63.

### **Conditions on issue of interest**

**64 (1)** Subject to Section 67, the Board shall not issue an interest in relation to Crown reserve lands unless

(a) prior thereto, the Board has made a call for bids in relation to those Crown reserve lands by publishing a notice in accordance with this Section and Section 69; 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 (1) of Section 65.

### **Call for bids subject to Sections 31 to 37**

(2) The making of a call for bids by the Board is subject to Sections 31 to 37.

### **Board to consider requests**

(3) Any 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.

### **Requirements for call for bids**

(4) A call for bids shall specify

(a) the interest to be issued and the portion 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) any terms and conditions that a bid must 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.

### **Publication of call for bids**

(5) Unless otherwise prescribed, a call for bids shall be published at least one hundred and twenty days before the closing date for the submission of bids specified in the call. 1987, c. 3, s. 64.

### **Requirements for selection of bid**

**65 (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.

### **Publication of selected bid**

(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 69 setting out the terms and conditions of that bid.

#### **Terms and conditions to be consistent**

(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 any terms and conditions in respect of the interest specified in the call.

#### **Publication of terms and conditions**

(4) The Board shall publish a notice in accordance with Section 69 setting out the terms and conditions of any interest issued as a result of a call for bids as soon as practicable after the issuance thereof. 1987, c. 3, s. 65.

#### **Board not required to issue interest**

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

#### **Requirement for new call for bids**

(2) Subject to Section 67, 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 six 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. 1987, c. 3, s. 66.

#### **Issue of interest where no call for bids**

67 (1) Subject to Sections 31 to 37, the Board may issue an interest, in relation to any Crown reserve lands, 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 Crown reserve lands and the interest owner who last held an interest in relation to such lands has, within one year after the time they so became Crown reserve lands, 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 any other interest or a share in any other interest, in relation to all or any portion of the offshore area subject to that other interest.

#### **Publication of notice of terms and conditions**

(2) Where the Board proposes to issue an interest pursuant to subsection (1), the Board shall, not later than ninety days before issuing the interest, publish a notice in accordance

with Section 69 setting out the terms and conditions of the proposed interest. 1987, c. 3, s. 67.

### **Issue of interest not vitiated**

**68** Where an interest has been issued, it is not vitiated by reason only of a failure to comply with any of the requirements set out in Sections 64 to 67 respecting the form and content of, and time and manner of publishing, any notice required by those Sections in relation to that interest. 1987, c. 3, s. 68.

### **Publication of notice**

**69** Any notice required to be published by the Board pursuant to subsection (1) of Section 64, subsection (2) or (4) of Section 65, subsection (2) of Section 67 or subsection (2) of Section 74 shall be published in the Royal Gazette and in any other publication the Board deems appropriate and notwithstanding those subsections, may contain only a summary of the information required to be published and a statement that the full text thereof is available for inspection by any person on request made to the Board. 1987, c. 3, s. 69; 1992, c. 12, s. 1.

### **Regulations**

**70** Subject to Section 6, the Governor in Council may, for the purposes of Section 64, make regulations of general application in relation to the offshore area or any portion thereof, or in respect of any particular call for bids, prescribing the terms, conditions and criterion to be specified in a call for bids, the manner in which bids are to be submitted and requiring those terms and conditions and that criterion and manner to be specified in the call. 1987, c. 3, s. 70.

### **Rights conferred by exploration licence**

**71 (1)** An exploration licence confers, with respect to the portion 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 that portion 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.

### **Sections 31 to 37 apply**

**(2)** The making of a call for bids and the issuance of an exploration licence by the Board is subject to Sections 31 to 37. 1987, c. 3, s. 71.

### **Application of licence to portion only**

**72** A share in an exploration licence may, subject to any requirements that may be prescribed, be held with respect to a portion only of the offshore area subject to the exploration licence. 1987, c. 3, s. 72.

### **Terms and conditions of exploration licence**

**73 (1)** An exploration licence shall contain such terms and conditions as may be prescribed and may contain any other terms and conditions, not inconsistent with this Part or the regulations, as may be agreed on by the Board, subject to Sections 31 to 37, and the interest owner of the licence.

### **Regulations**

**(2)** Subject to Section 6, the 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 any portion thereof. 1987, c. 3, s. 73.

### **Amendment of exploration licence**

**74 (1)** The Board, subject to Sections 31 to 37, and the interest owner of an exploration licence may, by agreement, amend any provision of the exploration licence in any manner not inconsistent with this Part or the regulations and, without limiting the generality of the foregoing, may, subject to subsection (2), amend the licence to include any other portion of the offshore area.

### **Conditions for amendment**

**(2)** The Board shall not amend an exploration licence to include any portion of the offshore area that, immediately prior to the inclusion, was Crown reserve lands unless the Board would be able to issue an interest to that interest owner in relation to those lands pursuant to subsection (1) of Section 67 and a notice has been published in accordance with Section 69 not later than ninety days before making the amendment, setting out the terms and conditions of the amendment.

### **Consolidation of exploration licences**

**(3)** Subject to Sections 31 to 37, the Board may, on the application of the interest owners of two or more exploration licences, consolidate those exploration licences into a single exploration licence, subject to any terms and conditions that may be agreed on by the Board and those interest owners. 1987, c. 3, s. 74.

### **Effective date of exploration licence**

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

### **Term of exploration licence**

**(2)** Subject to subsection (3) and Section 76, the term of an exploration licence shall not exceed nine years from the effective date of the licence and shall not be extended or renewed.

### **Renegotiation of term**

**(3)** Subject to Section 76, 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 four years and thereafter the term thereof shall not be renegotiated, extended or renewed.

### **Expiration of exploration licence**

**(4)** On the expiration of an exploration licence, any portion of the offshore area to which the exploration licence related and that is not subject to a production licence or a significant discovery licence becomes Crown reserve lands. 1987, c. 3, s. 75.

### **Continuation of exploration licence**

**76 (1)** Where, prior to the expiration of the term of an exploration licence, the drilling of any well has been commenced on any 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 thereafter as may be necessary to determine the existence of a significant discovery based on the results of that well.

### **Suspension of drilling**

**(2)** Where the drilling of a well referred to in subsection (1) is suspended by reason 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 deemed to be being pursued diligently during the period of suspension.

### **Where second well drilled**

**(3)** Where the drilling of a well referred to in subsection (1) cannot be completed for mechanical or other technical problems and if, within ninety days after the cessation of drilling operations with respect to that well, or such longer period as the Board determines, the drilling of another well is commenced on any 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 deemed to have commenced prior to the expiration of the term of the exploration licence. 1987, c. 3, s. 76.

### **Declaration of significant discovery on application**

**77 (1)** Subject to Section 126, where a significant discovery has been made on any portion of the offshore area that is subject to an interest or a share therein held in accordance with Section 72, the Board shall, on the application of the interest holder of the interest or the share made in the form and manner and containing such information as 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.

### **Declaration by Board**

**(2)** Where a significant discovery has been made on any portion of the offshore area, the Board may, by order subject to Section 126, make a declaration of significant discovery in relation to that portion of the offshore area in respect of which there are reasonable grounds to believe the significant discovery may extend.

### **Declaration to describe portions affected**

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

### **Variation of declaration**

**(4)** Subject to subsection (5), where a declaration of significant discovery is made pursuant to 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 126 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.

### **Time of variation**

**(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 pursuant to subsection (1) of Section 79, 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 pursuant to subsection (2) of Section 79, three years after the effective date of the significant discovery licence.

### **Copy to interest owner**

(6) A copy of a declaration of significant discovery and of any amendment or revocation thereof made pursuant to this Section in relation to any portion of the offshore area subject to an interest shall be sent by registered mail to the interest owner of that interest. 1987, c. 3. s. 77.

### **Rights conferred by significant discovery licence**

78 A significant discovery licence confers, with respect to the portion 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 that portion 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. 1987, c. 3. s. 78.

### **Issue of significant discovery licence**

79 (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 therein held in accordance with Section 72, the Board shall, on the application of the interest holder of the exploration licence or the share made in the form and manner and containing such information as 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.

### **Issue of licence respecting Crown reserve lands**

(2) Where a declaration of significant discovery is in force and the significant discovery area extends to Crown reserve lands, the Board may, after making a call for bids in relation to those Crown reserve lands or any portion thereof and selecting a bid submitted in response to the call in accordance with subsection (1) of Section 65, issue a significant discovery licence to the person who submitted that bid in relation to the Crown reserve lands specified in the call.

### **Terms and conditions of significant discovery licence**

(3) A significant discovery licence shall be in the form prescribed and may contain any other terms and conditions, not inconsistent with this Part or the regulations, as may be agreed on by the Board, subject to Sections 31 to 37, and the interest owner of the significant discovery licence.

### **Sections 31 to 37 apply**

(4) The making of a call for bids and the issuance of a significant discovery licence by the Board pursuant to subsection (2) is subject to Sections 31 to 37. 1987, c. 3, s. 79.

### **Decrease of significant discovery area**

**80 (1)** Where a significant discovery area in relation to a declaration of significant discovery is decreased pursuant to an amendment made pursuant to subsection (4) of Section 77, any significant discovery licence that was issued on the basis of that declaration shall be amended by decreasing accordingly the portion of the offshore area subject to that licence.

### **Increase of significant discovery area**

(2) Where a significant discovery area in relation to a declaration of significant discovery is increased pursuant to an amendment made pursuant to subsection (4) of Section 77, any 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 any exploration licence held by the interest owner of that significant discovery licence at the time the significant discovery area is so increased. 1987, c. 3, s. 80.

### **Exploration licence ceases**

**81 (1)** On the issuance of a significant discovery licence pursuant to subsection (1) of Section 79 with respect to a significant discovery area, any exploration licence ceases to have effect in relation to that significant discovery area.

### **Date of significant discovery licence**

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

### **Term of significant discovery licence**

(3) Subject to subsection (1) of Section 91, a significant discovery licence continues in force, in relation to each portion of the offshore area to which the licence applies, during such period as the declaration of significant discovery on the basis of which the licence was issued remains in force in relation to that portion.

### **Expiration of significant licence**

(4) On the expiration of a significant discovery licence, any portion of the offshore area to which the significant discovery licence related and that is not subject to a production licence becomes Crown reserve lands. 1987, c. 3, s. 81.

### **Requirement for activity**

**82 (1)** Subject to subsections (2) to (4) and Sections 31 to 37, the Board may, at any time after making a declaration of significant discovery, by order subject to Section 126, require the interest owner of any interest in relation to any portion of the significant discovery area to drill a well on any portion of the significant discovery area that is subject to that interest, in accordance with such directions as may be set out in the order, and to commence the drilling within one year after the making of the order or within such longer period as the Board specifies in the order.

### **Time limit before order**

(2) No order may be made pursuant to subsection (1) with respect to any interest owner who has completed a well on the relevant portion of the offshore area within six months prior to the making of the order.

### **Time limit before order**

(3) No order may be made pursuant to subsection (1) within the three years immediately following the well termination date of the well indicating the relevant significant discovery.

### **Limits on order**

(4) No order made pursuant to subsection (1) may require an interest owner to drill more than one well at a time on the relevant portion of the offshore area.

### **"well termination date" defined**

(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 any applicable drilling regulations. 1987, c. 3, s. 82.

### **Board may provide information**

**83 (1)** The Board may, notwithstanding Section 121, provide information or documentation relating to a significant discovery to any interest owner who requires such information or documentation to assist the interest owner in complying with an order made pursuant to subsection (1) of Section 82.

### **Information confidential**

(2) An interest owner shall not disclose any information or documentation provided to that interest owner pursuant to subsection (1) except to the extent necessary to enable the interest owner to comply with an order made pursuant to subsection (1) of Section 82. 1987, c. 3, s. 83.

### **Declaration of commercial discovery on application**

**84 (1)** Subject to Section 126, where a commercial discovery has been made on any portion of the offshore area that is subject to an interest or a share therein held in accordance with Section 72, the Board shall, on the application of the interest holder of the interest or the share made in the form and manner and containing such information as 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.

### **Declaration of commercial discovery by Board**

(2) Subject to Section 126, where a commercial discovery has been made on any 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.

### **Section 77 applies**

(3) Subsections (3), (4) and (6) of Section 77 apply, with such modifications as the circumstances require, with respect to a declaration made pursuant to subsection (1) or (2). 1987, c. 3, s. 84.

### **Notice to interest owner**

**85 (1)** Subject to Sections 31 to 37, the Board may, at any time after making a declaration of commercial discovery, give notice to the interest owner of any interest in relation to any portion of the commercial discovery area where commercial production of petroleum has not commenced before that time stating that, after such period of not less than six months as may be specified in the notice, an order may be made reducing the term of that interest.

### **Submissions allowed**

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

### **Reduction of term of interest**

(3) Notwithstanding any other provision of this Act, where the Board is of the opinion that it is in the public interest, the Board may, at any time not later than six months after the expiration of the period specified in a notice in respect of an interest sent pursuant to subsection (1), by order subject to Sections 31 to 37 and Section 126, reduce the term of the interest to three years after the date the order is made or such longer period as may be specified in the order.

#### **When interest ceases to have effect**

(4) Notwithstanding any other provision of this Act but subject to subsections (5) and (6), where an order is made pursuant to subsection (3), any 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 ceases to have effect at the end of the period specified in the order.

#### **When order ceases to have effect**

(5) Where commercial production of petroleum on any portion of the offshore area referred to in subsection (4) commences before the expiration of the period specified in an order made pursuant to subsection (3) or the period extended pursuant to subsection (6), the order ceases to have effect and is deemed to have been vacated.

#### **Powers of Board**

(6) Subject to Sections 31 to 37, the Board may extend the period specified in an order made pursuant to subsection (3) or may revoke the order. 1987, c. 3, s. 85.

#### **Rights conferred by production licence**

**86 (1)** A production licence confers, with respect to the portion 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 that portion of the offshore area in order to produce petroleum;
- (c) the exclusive right to produce petroleum from that portion of the offshore area; and
- (d) title to the petroleum so produced.

#### **Authorization of production**

(2) Notwithstanding subsection (1), the Board may, subject to such terms and conditions as the Board deems appropriate, authorize any interest holder of an interest or a share therein to produce petroleum on any portion of the offshore area subject to the interest or

share for use in the exploration or drilling for or development of petroleum on any portion of the offshore area. 1987, c. 3, s. 86.

### **Issue of production licence**

**87 (1)** Subject to Section 93, the Board, on application made in the form and manner and containing such information as may be prescribed,

(a) shall issue a production licence to one interest owner, in respect of any one commercial discovery area or portion thereof that is subject to an exploration licence or a significant discovery licence held by that interest owner; and

(b) may, subject to Sections 31 to 37 and to such terms and conditions as may be agreed on by the Board and the relevant interest owners, issue a production licence to

(i) one interest owner, in respect of two or more commercial discovery areas or portions thereof that are subject to an exploration licence or a significant discovery licence held by that interest owner, or

(ii) two or more interest owners, in respect of one or more commercial discovery areas or portions thereof that are subject to an exploration licence or a significant discovery licence held by any of those interest owners.

### **Production licence respecting Crown reserve lands**

**(2)** Where a declaration of commercial discovery is in force and the commercial discovery area extends to Crown reserve lands, the Board may, after making a call for bids in relation to those Crown reserve lands or any portion thereof and selecting a bid submitted in response to the call in accordance with subsection (1) of Section 14, issue a production licence to the person who submitted that bid in relation to the Crown reserve lands specified in the call.

### **Term and condition of production licence**

**(3)** A production licence shall be in the form prescribed and may contain any terms and conditions, not inconsistent with this Part or the regulations, as may be agreed on by the Board, subject to Sections 31 to 37, and the interest owner of the production licence.

### **Sections 31 to 37 apply**

**(4)** The making of a call for bids and the issuance of a production licence pursuant to subsection (2) is subject to Sections 31 to 37. 1987, c. 3 s. 87; 1993, c. 16, s. 4.

### **Consolidation of production licences**

**88** Subject to Sections 31 to 37, the Board may, on the application of the interest owners of two or more production licences, consolidate those production licences into a single production licence, on such terms and conditions as may be agreed on by the Board and those interest owners. 1987, c. 3 s. 88.

#### **Decrease of area covered by licence**

**89 (1)** Where a commercial discovery area in relation to a declaration of commercial discovery is decreased pursuant to an amendment made pursuant to subsection (3) of Section 84, any production licence that was issued on the basis of that declaration shall be amended by decreasing accordingly the portion of the offshore area subject to that licence.

#### **Increase of area covered by licence**

**(2)** Where a commercial discovery area in relation to a declaration of commercial discovery is increased pursuant to an amendment made pursuant to subsection (3) of Section 84, any 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. 1987, c. 3, s. 89.

#### **Effective date of production licence**

**90 (1)** Subject to subsections (2) to (4), a production licence is effective from the date it is issued and shall be issued for a term of twenty-five years.

#### **When production licence ceases**

**(2)** Where a declaration of commercial discovery on the basis of which a production licence was issued is, pursuant to subsection (3) of Section 84, revoked or amended to exclude all portions of the commercial discovery area in relation to which the production licence was issued, the production licence ceases to be in force.

#### **Extension of term**

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

#### **Extension by Board**

**(4)** Subject to Sections 31 to 37, the Board may, by order, on such terms and conditions as may be specified in the order, extend the term of a production licence where

(a) commercial production of petroleum from the portion of the offshore area subject to the licence ceases before or on the expiration of the twenty-five year term of the production licence and the Board has reasonable grounds to believe that commercial production from such portion of the offshore area will recommence; or

(b) the Board has reasonable grounds to believe that commercial production of petroleum from such portion of the offshore area will, at any time before or after the expiration of the term of the licence, cease during any period and thereafter recommence. 1987, c. 3, s. 90.

#### **Former interest ceases**

**91 (1)** On the issuance of a production licence, any interest in relation to the portion of the offshore area in respect of which the production licence is issued held immediately prior to the issuance of the production licence ceases to have effect in relation to such portion of the offshore area, but otherwise continues to have effect according to its terms and the provisions of this Act.

#### **Reversion to Crown reserve lands**

**(2)** On the expiration of a production licence, the portion of the offshore area in relation to which the production licence was issued becomes Crown reserve lands. 1987, c. 3, s. 91.

#### **Authorization of subsurface storage**

**92 (1)** The Board may, subject to Sections 31 to 37, and any terms and conditions it considers appropriate, issue a licence for the purpose of subsurface storage of petroleum or substances related to petroleum activity in portions of the offshore area at depths greater than sixty feet.

#### **Licence required for storage**

**(2)** No portion of the offshore area shall be used for a purpose referred to in subsection (1) without a licence referred to therein. 1987, c. 3, s. 92.

#### **Requirements for holder of production licence**

**93** No production licence or share in a production licence may be held by any person unless that person is a corporation incorporated in Canada. 1993, c. 16, s. 5.

**94** *repealed 1993, c. 16, s. 6.*

**95** *repealed 1993, c. 16, s. 6.*

**96** *repealed 1993, c. 16, s. 6.*

**97** repealed 1993, c. 16, s. 6.

**98** repealed 1993, c. 16, s. 6.

**99** repealed 1993, c. 16, s. 6.

**100** repealed 1993, c. 16, s. 6.

**101** repealed 1993, c. 16, s. 6.

**102** repealed 1993, c. 16, s. 6.

### **Part VII applies**

**103 (1)** Part VII of the *Canada Petroleum Resources Act* and the regulations made pursuant to that Part apply, with such modifications as the circumstances require, within the offshore area and the Environmental Studies Management Board established pursuant to Part VII of that Act has and may exercise in the offshore area the same powers and duties which that Board has in respect of frontier lands as defined in the *Canada Petroleum Resources Act*.

### **Approval of rates**

**(2)** The rates fixed by the federal Minister pursuant to section 80 of the *Canada Petroleum Resources Act* do not apply until approved by the Board.

### **Environmental Studies Management Board**

**(3)** Notwithstanding subsection (2) of section 78 of the *Canada Petroleum Resources Act*, as incorporated herein, one of the members of the Environmental Studies Management Board established by subsection (1) of section 78 of that Act is to be appointed by the Board on the recommendation of the Minister.

### **Annual report**

**(4)** The Environmental Studies Management Board referred to in subsection (3) shall submit to the Board a copy of every annual report and recommendation submitted to the federal Minister pursuant to clause (d) or (e) of subsection (1) of section 79 of the *Canada Petroleum Resources Act* and a copy of that Part and every Budget submitted to the federal Minister pursuant to clause (c) of subsection (1) of Section 79 of that Act that relates to the offshore area at the same time the report or recommendation is submitted to the federal Minister. 1987, c. 3, s. 103.

### **Interpretation**

**104 (1)** In Sections 104 to 120,

- (a) "assignment of security interest" means a notice of the assignment of a security interest or any part thereof in respect of which a security notice has been registered pursuant to Sections 104 to 120;
- (b) "court" means the Trial Division of the Supreme Court of Nova Scotia and includes a judge thereof;
- (c) "Deputy Registrar" means such person as the Board may designate for the purposes of Sections 104 to 120;
- (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) "operators lien" means any charge on or right in relation to an interest or a share in an interest
- (i) that arises pursuant to 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 thereunder to carry out any work or activity related to the exploration for or the development or production of petroleum in the portion 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 such work or activity, and
  - (ii) that secures the payments referred to in paragraph (C) of subclause (i);
- (g) "postponement" means a document evidencing the postponement of a security notice or operators lien;
- (h) "Registrar" means such person as the Board may designate for the purposes of Sections 104 to 120;
- (i) "secured party" means the person claiming a security interest pursuant to a security notice;
- (j) "security interest" means any charge on or right in relation to an interest or a share in an interest that secures
- (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 any part of an indebtedness referred to in subclause (i) or all or any part of a bond, debenture or other security of a corporation,

and includes a security given pursuant to Section 177 of the *Bank Act* (Canada), but does not include an operators lien;

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

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

### **Registration of assignment**

(2) Where an assignment of security interest is registered pursuant to Sections 104 to 120, a reference in Sections 104 to 120 to a secured party shall, in respect of the security notice to which the assignment of security interest relates, be read as a reference to the assignee named in the assignment of security interest. 1987, c. 3, s. 104.

### **Notice of change of share or interest to Board**

**105** Where an interest holder of an interest or any share therein enters into an agreement or arrangement that is or may result in a transfer, assignment or other disposition of the interest or any share therein, the interest holder shall give notice of such 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. 1987, c. 3, s. 105.

**106** *repealed 1993, c. 16, s. 6.*

### **Public register**

**107 (1)** A public register of all interests and instruments registered pursuant to Sections 104 to 120 shall be established and maintained in accordance with Sections 104 to 120 and the regulations.

### **Powers of Registrar and Deputy**

(2) The Registrar and Deputy Registrar shall exercise such powers and perform such duties and functions in respect of the register and the system of registration established pursuant to Sections 104 to 120 as may be prescribed. 1987, c. 3, s. 107.

### **Limitation on registration**

**108 (1)** No document other than an interest or instrument may be registered pursuant to Sections 104 to 120.

### **Form of registration**

(2) No instrument may be registered pursuant to Sections 82 to 98 unless it has been submitted for registration in the form prescribed for that instrument, in such manner and containing such information as may be prescribed, and meets any other requirement for the registration thereof prescribed by Sections 104 to 120 and the regulations. 1987, c. 3, s. 108.

*109 repealed 1993, c. 16, s. 6.*

### **Requirement for security notice**

**110 (1)** No security notice may be registered pursuant to Sections 104 to 120 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) such other particulars in respect thereof as may be prescribed.

### **Official address for service**

(2) No instrument may be registered pursuant to Sections 104 to 120 unless a notice of official address for service in respect of that instrument is filed with the Registrar in prescribed form.

### **Change of official address**

(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. 1987, c. 3, s. 110.

### **Security notice continues**

**111** Where a significant discovery licence or production licence is issued at any time in respect of any portion of the offshore area that was not Crown reserve lands immediately before that time, the registration pursuant to Sections 104 to 120 of a security notice in respect of the interest in force immediately preceding the issuance 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 prior to the registration of the security notice. 1987, c. 3, s. 111.

### **Duties of Registrar**

**112 (1)** Every document submitted for registration pursuant to Sections 104 to 120 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 thereof prescribed by this Part and the regulations, the Registrar shall register the instrument in accordance with this Part and the regulations.

### **Refusal of registration**

(2) Where the Registrar refuses to register any document pursuant to Sections 104 to 120, the Registrar shall return the document to the person submitting the document for registration and provide that person with the reasons for the refusal.

### **Manner of registration**

(3) An instrument is registered pursuant to Sections 104 to 120 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.

### **Registration in chronological order**

(4) Instruments accepted for registration pursuant to Sections 104 to 120 shall be registered in the chronological order in which such instruments are received by the Registrar. 1987, c. 3, s. 112.

### **Registration deemed actual notice**

**113** The registration of an instrument pursuant to Sections 104 to 120 shall be deemed 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 deemed to constitute actual notice to all persons who may serve a demand for information pursuant to Section 115 in respect of the security notice of the contents of the documents specified in the security notice. 1987, c. 3, s. 113.

### **Priorities**

**114 (1)** Subject to subsections (2) and (5), any particular right, in relation to an interest or a share therein, in respect of which an instrument has been registered pursuant to Sections 104 to 120 at any time has priority over and is valid against any other right, in relation to that interest or share,

(a) in respect of which an instrument may be registered pursuant to Sections 104 to 120,

(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 pursuant to Sections 104 to 120, acquired after that time.

### **Transitional**

(2) Where any right in respect of which an instrument may be registered pursuant to Sections 104 to 120 was acquired before the coming into force of Sections 104 to 120 and an instrument in respect of such right is registered pursuant to those Sections not later than one hundred and eighty days after the coming into force of those Sections, the priority and validity of such right shall be determined as though the instrument was registered pursuant to those Sections at the time the right was acquired and as though those Sections were in force at that time.

### **Actual knowledge of right**

(3) Notwithstanding subsection (2), no right in respect of which that subsection applies shall have priority over and be valid against any other 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 such right with actual knowledge of the other right.

### **Declaration to accompany instrument**

(4) No instrument in respect of any right to which subsection (2) applies shall be registered unless it is accompanied by the statutory declaration, in prescribed form, of the person claiming such right, attesting to the time at which such right was acquired.

### **Priority of operators lien**

(5) An operators lien, in relation to an interest or share therein, shall, without registration of any document evidencing the operators lien, have priority over and be valid against any other right, in relation to that interest or share, in respect of which an instrument may be registered pursuant to Sections 104 to 120, whether an instrument in respect of that other right was registered before or after the acquisition of the operators lien or the operators lien was acquired before or after that other right, unless the operators lien is postponed with respect to such other rights by the registration pursuant to Sections 104 to 120 of a postponement in respect of the operators lien and a discharge in respect of that postponement has not been registered pursuant to Sections 104 to 120. 1987, c. 3, s. 114.

### **Demand for information**

**115 (1)** A person may, in accordance with this Section, serve a demand for information in respect of a security notice that has been registered pursuant to this Part in relation to an interest or a share therein 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 pursuant to another security notice registered pursuant to Sections 104 to 120 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.

### **Manner and particulars of demand**

**(2)** A demand for information, in respect of a security notice, may be served pursuant to 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 fifteen days after service of the notice, of the place where the documents specified in the security notice or copies thereof are located and available for examination, and of the normal business hours during which the examination may be made; and

(b) to make such documents or copies thereof 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.

### **Service of demand**

**(3)** A demand for information is served for the purposes of this Section if 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.

### **Compliance with demand**

**(4)** A demand for information served pursuant to 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.

### **Order requiring compliance**

(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 therein 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.

#### **Failure to comply with order**

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

(a) make any other order the court considers necessary to ensure compliance with the order made pursuant to subsection (5); or

(b) make an order directing the Registrar to cancel the registration of the security notice.

(7) In this Section, "document" includes any amendment to the document. 1987, c. 3, s. 115.

#### **Other remedies**

**116 (1)** A person who may serve a demand for information in respect of a security notice in relation to an interest or a share therein pursuant to subsection (1) of Section 115 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 sixty 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) commence proceedings in the court, requiring the secured party to show cause why the registration of the security notice should not be cancelled.

#### **Court may shorten period**

(2) The court may, by order, on the *ex parte* application of a person who proposes to serve a notice to take proceedings pursuant to subsection (1), shorten the sixty-day period referred to in clause (a) of subsection (1) and, if the order is made,

(a) clause (a) of subsection (1) shall, in relation to that notice to take proceedings, be deemed to refer to the shorter period; and

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

#### **Court may extend period**

(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 clause (a) of subsection (1), whether or not that period has been shortened pursuant to subsection (2).

#### **Service of notice**

(4) A notice to take proceedings is served for the purposes 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.

#### **Cancellation of registration**

(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 commenced in accordance with the notice to take proceedings or within the period extended pursuant to subsection (3) or an application so made was dismissed by the court or discontinued.

#### **Consequences of cancellation**

(6) Where the registration of a security notice in respect of a security interest is cancelled pursuant to subsection (5) or (7), the secured party under the security notice may not submit for registration pursuant to Sections 104 to 120 another security notice in respect of that security interest without leave of the court to do so.

#### **Manner of cancellation**

(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 pursuant to Sections 104 to 120 or otherwise. 1987, c. 3, s. 116.

#### **Transfer not effective until registered**

117 A transfer of an interest or a share therein is not effective against the Crown prior to the registration of the transfer. 1987, c. 3, s. 117.

#### **Rights preserved**

118 For greater certainty, the registration of an instrument

(a) does not restrict or in any manner affect any right or power of the Board, the Minister or the federal Minister pursuant to this Part, the regulations or the terms of any interest; and

(b) does not derogate from any proprietary right or any right to dispose of or exploit natural resources that Her Majesty in right of the Province has pursuant to this Act in respect of any portion of the offshore area. 1987, c. 3, s. 118.

### **No liability for acts done in good faith**

**119** No action or other proceedings for damages shall be commenced 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 pursuant to Sections 104 to 120. 1987, c. 3, s. 119.

### **Regulations**

**120** Subject to Section 6, the Governor in Council may make regulations for carrying out the purposes and provisions of Sections 104 to 120 and, without restricting the generality of the foregoing, may make regulations

(a) prescribing the powers, duties and functions of the Registrar and Deputy Registrar for the purposes of Sections 104 to 120 and the time when, and manner and circumstances in which, they are to be exercised, and providing for the designation by the Board of any person or class of persons to exercise such powers and perform such duties and functions as may be specified in the regulations;

(b) governing the books, abstracts and indexes to be maintained as the register for the purposes of Sections 104 to 120 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 therein;

(c) governing the filing of copies of interests, registered instruments and other documents in the register established pursuant to Section 85;

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

(e) prescribing fees for the registration of instruments, making copies and certified copies of documents, searches and any other services specified in the regulations for the purposes of Sections 104 to 120, and requiring such fees to be paid for such services; and

(f) prescribing any other matter or thing that is by Sections 104 to 120 to be prescribed. 1987, c. 3, s. 120.

### **Interpretation**

**121 (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 analyse 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, flora and fauna both onshore and offshore, human activity and habitation and any 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 surface or subsurface or the seabed or its subsoil of any 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 thereof and includes the processing, analysis and interpretation of material or data obtained from such work;
- (i) "geotechnical work" means work, in the field or laboratory, undertaken to determine the physical properties of materials recovered from the surface or subsurface or the seabed or its subsoil of any portion of the offshore area;

(j) "well site seabed survey" means a survey pertaining to the nature of the surface or subsurface or the seabed or its subsoil of any 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;

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

### **Information privileged**

(2) Subject to this Section and Section 19, information or documentation provided for the purposes of this Part or Part III or any regulation made pursuant to either Part, whether or not such information or documentation is required to be provided pursuant to either Part or any regulation made thereunder, is privileged and shall not knowingly be disclosed without the consent in writing 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 such administration or enforcement.

### **Exemption from disclosure**

(3) No person shall be required to produce or give evidence relating to any information or documentation that is privileged pursuant to subsection (2) in connection with any legal proceedings, other than proceedings relating to the administration or enforcement of this Part or Part III.

### **Exception**

(4) For greater certainty, this Section does not apply to a document that has been registered pursuant to Sections 104 to 120.

### **Further exception**

(5) Subsection (2) does not apply to the following classes of information or documentation obtained as a result of carrying on a work or activity that is authorized pursuant to 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 two 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) two years since the well termination date of the relevant exploratory well, and

- (ii) ninety 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) two years since the well termination date of the relevant exploratory well, and
  - (ii) sixty days since the well termination date of the development well,  
have passed;
- (d) geological work or geophysical work performed on or in relation to any 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 clause (a) or the later period referred to in subclauses (i) or (ii) of clause (b) or subclauses (i) or (ii) of clause (c), according to whether clause (a), (b) or (c) is applicable in respect of that well, or
  - (ii) in any other case, after the expiration of five years following the date of completion of the work;
- (e) any engineering research or feasibility study or experimental project, including geotechnical work, carried out on or in relation to any 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 clause (a) or the later period referred to in subclauses (i) or (ii) of clause (b) or subclauses (i) or (ii) of clause (c), according to whether clause (a), (b) or (c) is applicable in respect of that well, or
  - (ii) in any other case, after the expiration of five 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 lands, whichever occurs first;
- (f) any contingency plan formulated in respect of emergencies arising as a result of any work or activity authorized pursuant to Part III;
- (g) diving work, weather observation or the status of operational activities or of the development of or production from a pool or field;
- (ga) an accident, incident or petroleum spill, to the extent [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) any study funded from the account established pursuant to Section 103, if the study has been completed; and

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

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

(ii) in any other case, if five years have passed since the completion of the study.

### **Disclosure respecting geological work**

(6) Notwithstanding subclause (ii) of clause (d) of subsection (5), any information or documentation in respect of geological work or geophysical work that is performed in relation to a well after the commencement of the drilling of the well may be disclosed in accordance with that subclause, but shall not be disclosed prior to the expiration of the period referred to in clause (a) or the later period referred to in subclauses (i) or (ii) of clause (b) or subclauses (i) or (ii) of clause (c), according to whether clause (a), (b) or (c) is applicable in respect of that well. 1987, c. 3, s. 121; 1992, c. 12, s. 3.

*122 repealed 1992, c. 12, s. 4.*

### **Submission to arbitration**

**123 (1)** Where a dispute of a prescribed class arises between two or more interest holders of an interest in respect of any operations conducted in carrying out a work or activity in the offshore area authorized pursuant to Part III and an operating agreement or other similar arrangement that extends to such work or activity is not in force or was made prior to March 5, 1982, the matters in dispute may, by order of the Board, be submitted to arbitration conducted in accordance with the regulations.

### **Limitation**

(2) Subsection (1) applies only in respect of

(a) interests in force on March 5, 1982, in relation to any portions of the offshore area; and

(b) interests immediately succeeding the interests referred to in clause (a) in relation to those portions of the offshore area where those portions of the offshore area were not Crown reserve lands on the expiration of the interests referred to in clause (a).

### **Order of arbitrator binding**

(3) An order of an arbitrator made pursuant to arbitration pursuant to 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 deemed to be terms and conditions of the interest to which the matters relate. 1987, c. 3, s. 123.

### **Regulations**

**124 (1)** Subject to Section 6, the Governor in Council may make regulations for carrying out the purposes and provisions of Section 123 and, without restricting the generality of the foregoing, 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 the enforcement of arbitration orders.

### **Application of regulations**

(2) Regulations made pursuant to subsection (1) may apply generally to the offshore area or any portion thereof. 1987, c. 3, s. 124; 1992, c. 12, s. 5.

### **Compliance required**

**125 (1)** Where the Board has reason to believe that an interest owner or holder is failing or has failed to meet any requirement of or pursuant to this Part, Part III or the *Offshore Petroleum Royalty Act* or any regulation made pursuant to either Part or that Act, the Board may give notice to that interest owner or holder requiring compliance with the requirement within ninety days after the date of the notice or within such longer period as the Board considers appropriate.

### **Failure to comply with notice**

(2) Notwithstanding anything in this Part, where an interest owner or holder fails to comply with a notice pursuant to 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 any 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 Sections 31 to 37 and Section 126, cancel that interest or share, and where the interest or share is so cancelled, the portion of the offshore area thereunder becomes Crown reserve lands.

### **Default in payment**

(3) Notwithstanding any other provision of this Act, but subject to subsection (4), where a person is in default in accordance with the *Offshore Petroleum Royalty Act* and any

regulations made thereunder in the payment of any amount payable pursuant to that Act in respect of any interest issued in relation to any portion of the offshore area, the Minister may, for so long as the amount remains unpaid, direct the Board to

(a) refuse to issue to that person any interest in relation to any portion of the offshore area;

(b) refuse to authorize, pursuant to clause (b) of subsection (1) of Section 135, that person to carry on any work or activity related to the exploration for or the production of petroleum on any portion of the offshore area and may suspend any such authorization already given; and

(c) exercise the powers pursuant to subsections (1) and (2).

#### **Decision not fundamental decision**

(4) Notwithstanding any other provision of this Act, a decision of the Board made in accordance with a direction of the Minister pursuant to subsection (3) is not a fundamental decision.

#### **Proceedings stayed**

(5) No remedy may be exercised pursuant to subsection (3) in respect of a default in payment of an amount pending any assessment, reassessment, appeal or review in respect of that default pursuant to the *Offshore Petroleum Royalty Act* and any regulations made thereunder. 1987, c. 3, s. 125.

#### **"Committee" defined**

**126 (1)** In this Section, "Committee" means the Oil and Gas Committee established pursuant to Part III.

#### **Notice by Board**

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

#### **Request for hearing**

(3) Any person receiving a notice pursuant to subsection (2) may, in writing, request a hearing within the thirty-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 thereof to the person who requested the hearing.

### **Evidence of hearing**

(4) Any person requesting a hearing pursuant to subsection (3) may make representations and introduce witnesses and documents at the hearing.

### **Powers of Committee**

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

### **Recommendations by Committee**

(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.

### **Consideration of recommendations**

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

### **Notification of decision**

(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 pursuant to subsection (3) and, on request by that person, publish or make available to that person the reasons for the order, decision or action.

### **Effective date of decision**

(9) Subject to subsection (10), 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 thirty-day period referred to in that subsection, where no hearing is requested pursuant to 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 pursuant to subsection (3).

### **Commencement of time**

(10) Where a decision referred to in subsection (2) is a fundamental decision, or an order or action referred to in that subsection involves the making of a fundamental decision, the periods referred to in clause (a) of subsection (1) of Section 33 do not commence prior to

the day referred to in clause (a) or (b) of subsection (9), as the case may be, and the order, decision or action takes effect subject to Section 33.

### **Review of decision**

**(11)** Any order, decision or action, in respect of which a hearing is held pursuant to this Section, is subject to review and to be set aside by the Trial Division of the Supreme Court of Nova Scotia upon application made, in the manner prescribed, to the Trial Division within thirty days of the date the order, decision or action takes effect pursuant to subsection (9). 1987, c. 3, s. 126.

### **Regulations**

**127** Subject to Section 6, the Governor in Council may make regulations for carrying out the purposes and provisions of this Part and, without restricting the generality of the foregoing, may make regulations

(a) authorizing or requiring the survey, division and subdivision of the offshore area and defining and describing those divisions and subdivisions;

(b) prescribing the information and documentation to be provided by interest owners and interest holders for the purposes of this Part, the time when and manner in which such information and documentation is to be provided, authorizing the Board to prescribe the form in which it is to be provided and requiring such 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 such fees and deposits, the time and manner of their payment and providing for the administration of such fees and deposits and the disposition and return of deposits; and

(d) prescribing any other matter or thing that by this Part is to be prescribed or that is to be done by regulations. 1987, c. 3, s. 127.

### **Forms**

**128 (1)** The Board may prescribe any form or any information to be given on a form that is by this Part or the regulations to be prescribed and may include on any 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 the knowledge of that person, true, accurate and complete.

### **Form deemed prescribed**

**(2)** Every form purporting to be a form prescribed or authorized by the Board shall be deemed to be a form prescribed by the Board, pursuant to this Part, unless called in

question by the Board or some person acting for the Board or Her Majesty. 1987, c. 3, s. 128.

### **Transitional**

**129 (1)** Where an exploration agreement in relation to any portion of the offshore area was entered into or negotiations in respect thereof were completed pursuant to the *Offshore Oil and Gas Act*, or an exploration agreement was ratified and confirmed by Section 41 of the *Canada-Nova Scotia Oil and Gas Agreement (Nova Scotia) Act*, before the coming into force of this Section, that exploration agreement shall, for the purposes of this Act, be referred to as an exploration licence and shall, subject to this Part, have effect in accordance with its terms and conditions.

### **Transitional**

**(2)** Where a declaration of significant discovery was made pursuant to Section 44 of the *Offshore Oil and Gas Act*, and is in force on the coming into force of this Section, it continues in force as if it was made pursuant to Section 77 of this Act.

### **Transitional**

**(3)** Where, on the coming into force of this Section, an exploration agreement is continuing in force pursuant to subsection (4) of Section 16 of the *Offshore Oil and Gas Act*, it is and is deemed to be a significant discovery licence issued pursuant to this Part on the coming into force of this Section and is subject to this Act. 1987, c. 3, s. 129.

### **"federal interest" defined**

**130 (1)** In this Section, "federal interest" means an interest within the meaning of the federal Implementation Act.

### **Federal interest**

**(2)** Notwithstanding any other provision of this Part, but subject to the regulations, a federal interest that would be in force at the time of the coming into force of this Section but for the fact that it is in relation to Crown reserve lands to which this Act applies is, subject to subsection (3) and (4), an interest for the purposes of this Act.

### **Interest retroactive**

**(3)** An interest referred to in subsection (2) is retroactive to the date on which it would have been effective as a federal interest had it been in relation to frontier lands.

### **Interest subject to terms and conditions**

(4) An interest referred to in subsection (2) is subject to the same terms and conditions as would have applied had it been in relation to frontier lands and Division X of Part II of the federal Implementation Act apply with such modifications as the circumstances require. 1987, c. 3, s. 130.

### **Interests replace previous rights**

**131 (1)** Subject to Section 129, the interests provided for pursuant to this Part replace all petroleum rights or prospects thereof acquired or vested in relation to any portion of the offshore area prior to the coming into force of this Section.

### **No action against Province**

(2) No party shall have any right to claim or receive any compensation, damages, indemnity or other form of relief from Her Majesty in right of the Province or from any servant or agent thereof for any acquired, vested or future right or entitlement or any prospect thereof that is replaced or otherwise affected by this Part, or for any duty or liability imposed on that party by this Part. 1987, c. 3, s. 131.

### **Reservation abrogated**

**132** For greater certainty, the reservation to Her Majesty in right of the Province of a Crown share in any interest granted or entered into pursuant to the *Offshore Oil and Gas Act* prior to the coming into force of this Section is abrogated as of the day this Section comes into force. 1987, c. 3, s. 132.

## **PART III**

### **Interpretation of Part**

**133** In this Part,

(a) "Chief Conservation Officer" means the person designated as the Chief Conservation Officer pursuant to Section 137;

(aa) "Chief Safety Officer" means the person designated as the Chief Safety Officer pursuant to Section 137;

(b) "Committee" means the Oil and Gas Committee established by Section 138;

(c) "lease" means a production licence issued pursuant to Part II;

(d) "pipeline" means any pipe or any system or arrangement of pipes by which petroleum or water incidental to the drilling for or production of petroleum is conveyed from any wellhead or other place at which it is produced to any other place, or from any place where it is stored, processed or treated to any other place, and includes all property of any

kind 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 without restricting the generality of the foregoing, 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 any pipe or any system or arrangement of pipes that constitutes a distribution system for the distribution of gas to ultimate consumers;

(e) "well" means any 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, if made through sedimentary rocks to a depth of at least four hundred and ninety-five feet. 1987, c. 3, s. 133; 1992, c. 12, s. 6.

### **Purpose of Part**

**133A** 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, c. 12, s. 7.

### **Designation by Minister**

**133B** The Minister may designate a member of the Oil and Gas Administration Advisory Council established by the *Canada Oil and Gas Operations Act*. 1992, c. 12, s. 7.

### **Approval by Minister**

**133C** The Minister may approve the establishment of the Offshore Oil and Gas Training Standards Advisory Board pursuant to the *Canada Oil and Gas Operations Act*. 1992, c. 12, s. 7.

#### **Conditions for activity in offshore area**

**134** No person shall 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 issued pursuant to clause (a) of subsection (1) of Section 135;
- (b) that person is the holder of an authorization issued, before the commencement of operations, pursuant to clause (b) of said subsection (1) 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 he proposes to carry on the work or activity. 1987, c. 3, s. 134; 1992, c. 12, s. 8.

#### **Prohibition in offshore area in Schedule IV**

**134A (1)** Notwithstanding Section 134, no person shall, before the first day of January, 2000, engage in exploration or drilling for or the production, conservation, processing or transportation of petroleum in that portion of the offshore area described in Schedule IV.

#### **Prohibition for further period**

**(2)** On or before the first day of January, 2000, and after considering the report of the review panel referred to in Section 134B, the Minister and the federal Minister may jointly, for such further period of time after the first day of January, 2000, as they may determine, prohibit exploration or drilling for or the production, conservation, processing or transportation of petroleum in all or any part of that portion of the offshore area described in Schedule IV.

#### **Notice**

**(3)** The Minister shall give notice in the Royal Gazette of a prohibition made pursuant to subsection (2). 1988, c. 56, s. 2.

#### **Public review by review panel**

**134B (1)** A public review of the environmental and socio-economic impact of exploration or drilling for petroleum in that portion of the offshore area described in Schedule IV

shall be conducted by a review panel established not later than the first day of January, 1998, in accordance with this Section.

### **Composition of review panel**

(2) The review panel shall consist of not more than five members.

### **Appointment of review panel**

(3) Two members of the review panel may be appointed by the Minister, two members of the review panel may be appointed by the federal Minister and a chairman is to be appointed by both the Minister and the federal Minister.

### **Failure to agree on chairman**

(4) Where the Minister and the federal Minister fail to agree on the appointment of a chairman of the review panel within sixty days of the appointment of the first member of the review panel, the chairman shall be selected by an arbitration panel, constituted in accordance with Section 43, within thirty days of the appointment of the chairman of the arbitration panel unless the Minister and the federal Minister sooner agree on the appointment of a chairman of the review panel.

### **Report of review panel**

(5) The review panel shall make recommendations in a report containing the results of the review and shall submit the report to the Minister and the federal Minister on or before the first day of July, 1999. 1988, c. 56, s. 2.

### **Exemption from payment into fund**

**134C** The owner of an interest in lands in the offshore area described in Schedule IV is, in respect of those lands, exempt from the payment of any amount required to be paid into the Environmental Studies Research Fund pursuant to Part VII of the *Canada Petroleum Resources Act* during the periods referred to in Section 134A. 1988, c. 56, s. 2.

### **Delegation of powers**

**134D** The Board may delegate any of the Boards powers conferred by Section 135, 135B, 135C, 136A, 136B or 160 to any person, and that person shall exercise those powers in accordance with the terms of the delegation. 1992, c. 12, s. 9.

### **Powers of Board**

**135 (1)** The Board may, on application made in the form and containing the information fixed by it and 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.

### **Expiry of operating licence**

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

### **Requirements for licence**

(3) An operating licence is subject to such requirements as the Board determines or as may be prescribed and to such fees and deposits as are prescribed.

### **Requirements for authorization**

(4) An authorization is subject to such approvals as the Board determines or as may be granted in accordance with the regulations and such requirements and deposits as the Board determines or as 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.

### **Suspension or revocation of licence**

(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 (1) or (2) of Section 136A;

(c) subsection (3) of Section 136A, subsection (2) of Section 136B or subsection (1A) of Section 160; or

(d) any applicable regulation. 1992, c. 12, s. 10.

### **Right of entry**

**135A (1)** Subject to subsection (2), any person may, for the purpose of exploring for or exploiting petroleum, enter on and use any portion of the offshore area in order to carry on a work or activity authorized pursuant to clause (b) of subsection (1) of Section 135.

### **Consent by occupier**

**(2)** Where a person occupies a portion of the offshore area under a lawful right or title, other than an authorization pursuant to clause (b) of subsection (1) of Section 135 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, c. 12, s. 10.

### **Matters to be considered**

**135B** The Board shall, before issuing an authorization for a work or activity referred to in clause (b) of subsection (1) of Section 135, 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, c. 12, s. 10.

### **Compliance with requirements**

**135C** The Board shall, before issuing an authorization for a work or activity referred to in clause (b) of subsection (1) of Section 135, ensure that the applicant has complied with the requirements of subsection (1) of Section 160 in respect of that work or activity. 1992, c. 12, s. 10.

### **Consent of Ministers required**

**136 (1)** No approval that is

(a) applicable to an authorization pursuant to clause (b) of subsection (1) of Section 135 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 consent 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 pursuant to clauses (a) and (b) of subsection (4).

### **Form and content of application**

(2) For the purposes 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 such time and in such manner as may be prescribed by the regulations, together with the proposed development plan in the form and containing the information described in subsection (3).

### **Contents of proposed development plan**

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

(a) in Part I, a description of the general approach of developing the pool or field, and in particular, information, in such detail as 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 any 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, as may be prescribed, necessary for a comprehensive review and evaluation of the proposed development.

### **Approval of plan**

(4) After reviewing an application and development plan submitted by any person pursuant to this Section the Board may, subject to such requirements as the Board deems appropriate or as may be prescribed, approve

(a) subject to Sections 31 to 37, Part I of the development plan, and

(b) Part II of the development plan.

### **Approval for amendment to plan**

(5) Where a development plan has been approved pursuant to 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 clause (a) or (b) of subsection (4), as the case may be.

### **Subsections (2) to (5) apply**

(6) Subsections (2) to (5) apply, with such modifications as the circumstances require, with respect to a proposed amendment to a development plan. 1987, c. 3, s. 136; 1992, c. 12, s. 11.

### **Conditions for authorization**

**136A (1)** Subject to subsection (2), no authorization pursuant to clause (b) of subsection (1) of Section 135 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 purposes 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 purposes 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.

### **Acceptance of declaration**

(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 in lieu of a declaration from the applicant for the authorization, and such a declaration shall be in the 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.

### **New declaration**

(3) Where the equipment, an installation, the operating procedures or any of 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.

### **Exemption from liability**

(4) The Board or any delegate of the Board is not liable to any person by reason only of having issued an authorization in reliance on a declaration made pursuant to this Section. 1992, c. 12, s. 12.

### **Requirement for certificate**

**136B (1)** No authorization pursuant to clause (b) of subsection (1) of Section 135 shall be issued with respect to any prescribed equipment or installation, or any equipment or 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.

### **Duties of holder**

(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.

### **Contents of certificate**

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

(a) is fit for the purposes 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 purposes of this Section by subsection (4) of Section 135, whether they are imposed by regulation or by the Board.

### **Invalid certificate**

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

(a) has not complied with any prescribed procedure or any 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 any extent greater than that prescribed.

### **Access by certifying authority**

(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 any information that relates to them.

## **Interpretation**

(6) For the purposes of this Section, "certifying authority" has the meaning assigned by the regulations.

## **Exemption from liability**

(7) The Board or any delegate of the Board is not liable to any person by reason only of having issued an authorization in reliance on a certificate issued pursuant to this Section. 1992, c. 12, s. 12.

## **Designation of Chief Conservation Officer**

137 The Board may, for the purposes of this Act, designate the Chief Executive Officer or any other person as the Chief Safety Officer and the same or another person as the Chief Conservation Officer. 1992, c. 12, s. 13.

## **Exemption from Regulations Act**

137A For the purposes 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 a regulation within the meaning of the *Regulations Act*. 1992, c. 12, s. 13.

## **Title to certain petroleum**

137B (1) Subject to subsection (2), title to petroleum produced during an extended formation flow test vests in the person who conducts the test in accordance with an authorization pursuant to clause (b) of subsection (1) of Section 135, with every approval and requirement subject to which such an authorization is issued and with any applicable regulation, whether or not the person has a production licence issued pursuant to Part II.

## **Conditional title**

(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 in lieu of royalties.

## **Application of Section**

(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, c. 12, s. 13.

## **Oil and Gas Committee**

**138 (1)** The Board may establish a committee, for the purpose of this Act and the federal Implementation Act, to be known as the Oil and Gas Committee, consisting of not more than five members, not more than three of whom may be employees in the public service of the Province or of Canada.

#### **Appointment and term of members**

**(2)** The members of the Committee shall be appointed by the Board to hold office for a term of three years and one member shall be designated as chairman for such term as may be fixed by the Board.

#### **Re-appointment of chairman**

**(3)** A retiring chairman or retiring member may be reappointed to the Committee in the same or another capacity. 1987, c. 3, s. 138.

#### **Qualifications for appointment**

**139 (1)** The Board shall appoint as members of the Committee at least two persons who appear to the Board to have specialized, expert or technical knowledge of petroleum.

#### **Disqualification**

**(2)** The members and employees of the Board and the Chief Conservation Officer are not eligible to be members of the Committee.

#### **Staff**

**(3)** The Board shall provide the Committee with such officers, clerks and employees as may be necessary for the proper conduct of the affairs of the Committee, and may provide the Committee with such professional or technical assistance for temporary periods or for specific work as the Committee may request, but no such assistance shall be provided otherwise than from the staff of the Board except with the approval of the Minister and the federal Minister.

#### **Remuneration of members**

**(4)** The members of the Committee who are not employees of the public service of Canada or of the Province shall be paid such remuneration as may be authorized by the Board.

#### **Entitlement to expenses**

**(5)** The members of the Committee are entitled to be paid reasonable travelling and living expenses while absent from their ordinary place of residence in the course of their duties. 1987, c. 3, s. 139.

### **Conflict of interest**

**140** No member of the Committee shall have a pecuniary interest of any description, directly or indirectly, in any property in petroleum to which this Part applies or own shares in any company engaged in any phase of the petroleum industry in Canada in an amount in excess of five per cent of the issued shares thereof and no member who owns any shares of any company engaged in any phase of the petroleum industry in Canada shall vote when a question affecting such a company is before the Committee. 1987, c. 3, s. 140.

### **Quorum**

**141 (1)** A majority of the members, including one member who is not an employee in the public service of the Province or of Canada, constitutes a quorum of the Committee.

### **Rules**

**(2)** The Committee may make general rules not inconsistent with this Part regulating its practice and procedure and the places and times of its sittings. 1987, c. 3, s. 141.

### **Inquiry**

**142 (1)** Where, pursuant to 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 any such inquiry or appeal and to make any order, or give any direction that pursuant to this Part the Committee is authorized to make or give or with respect to any matter, act or thing that by this Part may be prohibited or approved by the Committee or required by the Committee to be done.

### **Powers of Committee**

**(2)** For the purpose of any inquiry, hearing or appeal, or the making of any order pursuant to this Part the Committee has, regarding the attendance, swearing and examination of witnesses, the production and inspection of documents, the entry upon and inspection of property, the enforcement of its orders and regarding other matters necessary or proper for the due exercise of its jurisdiction pursuant to this Part, all such powers, rights and privileges as are vested in a superior court of record.

### **Finding of Committee binding**

**(3)** The finding or determination of the Committee upon any question of fact within its jurisdiction is binding and conclusive. 1987, c. 3, s. 142.

### **Delegation by Committee**

**143 (1)** The Committee may authorize and depute any member thereof to inquire into such matter before the Committee as may be directed by the Committee and to report the evidence and findings, if any, thereon to the Committee, and when such 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.

**Inquiry by member**

(2) Where an inquiry is held by a member pursuant to subsection (1) the member has all the powers of the Committee for the purpose of taking evidence or acquiring information for the purposes of the report to the Committee. 1987, c. 3, s. 143.

**Reference to Committee**

**144** The Board may at any time refer to the Committee for a report or recommendation any question, matter or thing arising pursuant to this Part or relating to the conservation, production, storage, processing or transportation of petroleum. 1987, c. 3, s. 144.

**Enforceability of order**

**145 (1)** Any order made by the Committee may, for the purpose of enforcement thereof, be made an order of the Trial Division of the Supreme Court and shall be enforced in like manner as any order of that Court.

**Procedure**

(2) To make such decision or order referred to in subsection (1) an order of the Trial Division of the Supreme Court, the chairman may make a certified copy of such decision or order, upon which shall be made the following endorsement, signed by the chairman:

"Make the within an order of the Trial Division of the Supreme Court

Dated this . . . . . day of . . . . . A.D., 19. . . . .

.....

Chairman"

and the chairman may forward such certified copy, so endorsed, to a prothonotary of such Court, who shall on receipt thereof enter the same as a record and it shall thereupon become and be an order of the Trial Division of the Supreme Court and enforceable as any rule, order, decree or judgment thereof.

**Effect of substitute order**

(3) When an order of the Committee has been made an order of the Trial Division of the Supreme Court, any order of the Committee, or of the Board pursuant to Section 183, rescinding or replacing the first-mentioned order of the Committee, is and is deemed to cancel the order of the Court and may in like manner be made an order of the Court. 1987, c. 3, s. 145.

## **Regulations**

**146 (1)** Subject to Section 6, the Governor in Council may, for the purposes of safety and the protection of the environment as well as for the production and conservation of oil and gas resources, make regulations

(a) defining "oil" and "gas" for the purposes of Sections 146 to 180, "installation" and "equipment" for the purposes of Sections 136A and 136B and "serious" for the purposes of Section 162;

(b) concerning the exploration and drilling for, and the production, processing and transportation of, petroleum and works and activities related to such exploration, drilling, production, processing and transportation;

(c) authorizing the Board, or any person, to make such orders as may be specified in the regulations, and to exercise such powers and perform such duties as 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 purposes of subsection (2) of Section 135A, including the costs of or incurred in relation to such arbitrations;

(e) concerning the approvals to be granted as conditions of authorizations issued pursuant to clause (b) of subsection (1) of Section 135;

(f) concerning certificates for the purposes of Section 136B;

(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 purposes of subsection (1) of Section 157 in such quantities, at such locations, under such conditions and by such persons as may be specified in the regulations; and

(i) prescribing anything that is required to be prescribed for the purposes of this Part.

### **Incorporation by reference**

(2) Unless otherwise provided in this Part, regulations made pursuant to subsection (1) may incorporate by reference the standards or specifications of any government, person or organization, either as of a fixed time or as amended from time to time. 1987, c. 3, s. 146; 1992, c. 12, s. 14.

### **Joint powers of Officers**

**147 (1)** Subject to subsection (2), the Chief Safety Officer and Chief Conservation Officer may

(a) authorize the use of equipment, methods, measures or standards in lieu of any required by regulation where those officers are satisfied that the use of that other equipment or 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) grant an exemption from any 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 that will be achieved without compliance with that requirement.

### **Powers of Chief Safety Officer**

(2) The Chief Safety Officer alone may exercise the powers referred to in clause (a) or (b) of subsection (1) if the regulatory requirement referred to in that clause 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.

### **Defence**

(3) No person contravenes the regulations if that person acts in compliance with an authorization or exemption pursuant to subsection (1) or (2). 1992, c. 12, s. 15.

### **Publication of guidelines**

**148** The Board may issue and publish, in such manner as the Board deems appropriate, guidelines and interpretation notes with respect to the application and administration of Sections 45, 135 and 136 or any regulations made pursuant to Section 146. 1987, c. 3, s. 148.

### **"marine installation or structure" defined**

**149 (1)** In this Section, "marine installation or structure" includes

(a) any ship, offshore drilling unit, production platform, subsea installation, pumping station, living accommodation, storage structure, loading or landing platform; and

(b) any other work or work within a class of works prescribed pursuant to clause (a) of subsection (5),

but does not include any vessel that provides any supply or support services to a marine installation or structure.

### **Application of Acts**

(2) *The Elevators and Lifts Act, Steam Boiler and Pressure Vessel Act* and any other enactment prescribed do not apply on a marine installation or structure that is within the offshore area.

### **Acts do not apply**

(3) Notwithstanding any other enactment, any provision of the *Labour Standards Code, Occupational Health and Safety Act, Trade Union Act or Workers Compensation Act*, or the regulations made pursuant to those Acts, that relates to an occupational health and safety matter provided for pursuant to

(a) clauses (d), (m), (o) or (p) of subsection (1) of Section 146 as that Section read before the coming into force of the amendments made to that Section by *An Act to Implement Arrangements Made Between Nova Scotia and Canada to Provide Uniformity in the Laws Relating to Petroleum Resources in the Offshore* passed in the year 1992; or

(b) any other provision of this enactment respecting occupational health and safety,

does not apply on a marine installation or structure within the offshore area.

### **Application of Trade Union Act**

(4) Notwithstanding any other enactment, the *Trade Union Act* does not apply to a marine installation or structure except a marine installation or structure that is within the offshore area for the purpose of becoming or that is, permanently attached to, permanently anchored to or permanently resting on the seabed or subsoil of the submarine areas of the offshore area.

### **Designation by Minister of Labour**

(4A) With the approval of Governor in Council, the Minister of Labour may designate a person employed by the Board as an officer for the purpose of the *Occupational Health and Safety Act*.

### **Designation by Minister of Labour**

**(4B)** The Minister of Labour may designate a person who is designated pursuant to subsection (4A) as an officer or inspector for the purposes of the *Labour Standards Code*, *Trade Union Act*, *Workers Compensation Act* or any enactment for which the Minister of Labour is responsible.

### **Regulations**

**(5)** Subject to Section 6, the Governor in Council may make regulations

(a) prescribing a work or a class of works for the purpose of the definition "marine installation or structure" in subsection (1); and

(b) excluding any enactment from application to a marine installation or structure that is within the offshore area. 1987, c. 3, s. 149; 1992, c. 12, s. 16.

### **Orders by officer**

**150 (1)** Where the Chief Conservation Officer on reasonable grounds is of the opinion that

(a) with respect to an interest in any portion of the offshore area, the capability exists to commence, continue or increase production of petroleum; and

(b) a production order would stop waste,

the Chief Conservation Officer may order the commencement, continuation or increase of production of petroleum at such rates and in such quantities as are specified in the order.

### **Order for decrease or cessation**

**(2)** Where the Chief Conservation Officer on reasonable grounds is of the opinion that an order pursuant to this subsection would stop waste, the Chief Conservation Officer may order a decrease or the cessation or suspension of production of petroleum for any periods specified in the order.

### **Sections 152 and 154 apply**

**(3)** Subsections (2) to (4) of Section 152 and Section 154 apply, with such modifications as the circumstances require, to an order made pursuant to subsection (1) or (2) as if it were an order made pursuant to subsection (1) of Section 152.

### **Access by officer**

**(4)** A person subject to an order made pursuant to subsection (1) or (2) shall, on request, afford 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. 1987, c. 3, s. 150; 1992, c. 12, s. 17.

## **Offence**

**151 (1)** Subject to subsection (5) of Section 191, any person who commits waste is guilty of an offence pursuant to this Part, but a prosecution may be instituted for such an offence only with the consent of the Board.

### **"waste" defined**

**(2)** In this Part, "waste", in addition to its ordinary meaning, means waste as understood in the petroleum industry and in particular, but without limiting the generality of the foregoing, 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 any 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 any 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 such methods would result in increasing the quantity of petroleum, ultimately recoverable under sound engineering and economic principles.
- 1987, c. 3, s. 151.

## **Cease order**

**152 (1)** Where the Chief Conservation Officer, on reasonable grounds, is of the opinion that waste, other than waste as defined in clause (f) or (g) of subsection (2) of Section 151, is being committed, the Chief Conservation Officer may, subject to subsection (2), order that all operations giving rise to such waste cease until the Chief Conservation Officer is satisfied that the waste has stopped.

### **Investigation by officer**

(2) Before making any order pursuant to subsection (1), the Chief Conservation Officer shall hold an investigation at which interested persons shall be given an opportunity to be heard.

### **Interim cease order**

(3) Notwithstanding subsection (2), the Chief Conservation Officer may, without an investigation, make an order pursuant to 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 any such order and in any event within fifteen days thereafter, the Chief Conservation Officer shall hold an investigation at which interested persons shall be given an opportunity to be heard.

### **Variation of interim cease order**

(4) At the conclusion of an investigation made pursuant to subsection (3), the Chief Conservation Officer may set aside, vary or confirm the order made, or make a new order. 1987, c. 3, s. 152; 1992, c. 12, s. 18.

### **Delegation by Officer**

**153 (1)** For the purpose of giving effect to an order made pursuant to Section 152, the Chief Conservation Officer may authorize such persons as 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 those operations and any works connected therewith.

### **Duties of person authorized**

(2) A person authorized pursuant to 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 thereof shall be borne by the person who holds any interest that is subject to Part II or any lease issued pursuant to Part II, and until paid constitutes a debt recoverable by action in any court of competent jurisdiction as a debt due to the Board. 1987, c. 3, s. 153.

### **Appeal from order of Officer**

**154 (1)** A person aggrieved by an order of the Chief Conservation Officer after an investigation pursuant to Section 152 may appeal to the Committee to have the order reviewed.

## **Powers of Committee**

(2) After hearing the appeal the Committee may

- (a) set aside, confirm or vary the order made by the Chief Conservation Officer;
- (b) order such works to be undertaken as may be considered necessary to prevent waste, the escape of petroleum or any other contravention of this Part or the regulations; or
- (c) make such other or further order as the Committee considers appropriate. 1987, c. 3, s. 154.

## **Application to Committee for order**

**155 (1)** When the Chief Conservation Officer, on reasonable grounds, is of the opinion that waste as defined in clause (f) or (g) of subsection (2) of Section 151 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 thereof.

## **Hearing**

(2) On the day specified in the order made pursuant to 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. 1987, c. 3, s. 155.

## **Order following hearing**

**156 (1)** If, after the hearing mentioned in Section 155, the Committee is of the opinion that waste as defined in clause (f) or (g) of subsection (2) of Section 151 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 any gas produced from such pool; or
- (b) direct repressurizing, recycling or pressure maintenance for the pool or any part of the pool and for, or incidental to such purpose, direct the introduction or injection into that pool, or part thereof, of gas, water or other substance,

and the order may further direct that the pool or part thereof specified in the order be shut in if 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.

## **Continued operation permitted**

(2) Notwithstanding subsection (1), the Committee may permit the continued operation of a pool or any part of a pool after the date fixed by an order made pursuant to subsection (1) if 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 any such continuation of operations is subject to any conditions imposed by the Committee. 1987, c. 3, s. 156.

### **"spill" defined**

**157 (1)** In Sections 158 to 162, "spill" means a discharge, emission or escape of petroleum, other than one that is authorized pursuant to the regulations or any other law of the Province or that constitutes a discharge from a ship to which Part XV or XVI of the *Canada Shipping Act* applies.

### **"debris" defined**

(2) In Sections 159 and 162, "debris" means any installation or structure that was put in place in the course of any work or activity required to be authorized pursuant to clause (b) of subsection (1) of Section 135 and that has been abandoned without such authorization as may be required by or pursuant to this Part or any material that has broken away or has been jettisoned, or that has been displaced, in the course of any such work or activity.

### **"actual loss or damage" defined**

(3) In Section 159, "actual loss or damage" includes loss of income, including future income.

### **Exemption from liability**

(4) Her Majesty in right of the Province incurs no liability whatever to any person arising out of the authorization by regulations made by the Governor in Council of any discharge, emission or escape of petroleum. 1987, c. 3, s. 157; 1992, c. 12, s. 19.

### **Spill prohibited**

**158 (1)** No person shall cause or permit a spill on or from any portion of the offshore area.

### **Report of spill**

(2) Where a spill occurs in any portion of the offshore area, any 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.

### **Prevention of further spill**

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

### **Action by Officer**

(4) Where the Chief Conservation Officer is satisfied, on reasonable grounds, that

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

(b) such action is not being taken or will not be taken pursuant to subsection (3),

the Chief Conservation Officer may take such action or direct that it be taken by such persons as may be necessary.

### **Powers of Officer**

(5) For the purposes of subsection (4), the Chief Conservation Officer may authorize and direct such persons as may be necessary to enter the place where the spill has occurred and take over the management and control of any work or activity being carried on in the area of the spill.

### **Management of spill**

(6) A person authorized and directed to take over the management and control of any work or activity pursuant to 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).

### **Costs respecting spill**

(7) Any costs incurred pursuant to subsection (6) shall be borne by the person who obtained an authorization pursuant to clause (b) of subsection (1) of Section 135 in respect of the work or activity from which the spill emanated and until paid constitute a debt recoverable by action in any court of competent jurisdiction as a debt due to the Board.

### **Recovery of costs and expenses**

**(7A)** Where a person, other than a person referred to in subsection (7), takes action pursuant to subsection (3) or (4), the person may recover from Her Majesty in right of the Province the costs and expenses reasonably incurred by that person in taking the action.

### **Section 154 applies**

**(8)** Section 154 applies, with such modifications as the circumstances require, to any action or measure taken or authorized or directed to be taken pursuant to subsections (4) to (6) as if it were taken or authorized or directed to be taken by order pursuant to subsection (1) of Section 152 and as if such order were not subject to an investigation.

### **No personal liability**

**(9)** No person required, directed or authorized to act pursuant to this Section is personally liable in respect of any act or omission in the course of complying with this Section unless it is shown that that person did not act reasonably in the circumstances. 1987, c. 3, s. 158; 1992, c. 12, s. 20.

### **Liability for spill**

**159 (1)** Where any discharge, emission or escape of petroleum that is authorized by regulation, or any spill, occurs in any portion of the offshore area,

(a) the person required to obtain an authorization pursuant to clause (b) of subsection (1) of Section 135 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 any prescribed limit of liability, for

(i) all actual loss or damage incurred by any 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 Her Majesty or the Board or any other person in taking any action or measure in relation to the spill or the authorized discharge, emission or escape of petroleum pursuant to subsections (4) to (6) of Section 158; 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 severally 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 any person as a result of the spill or the authorized discharge, emission or escape of petroleum.

### **Liability for spill**

(2) Where any person incurs actual loss or damage as a result of debris or the Board or Her Majesty reasonably incurs any costs or expenses in taking any remedial action in relation to debris,

(a) the person who obtained an authorization pursuant to clause (b) of subsection (1) of Section 135 in respect of the work or activity from which the debris originated is liable, without proof of fault or negligence, up to any applicable limit of liability, for all such actual loss or damage and all such 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 severally liable, to the extent determined according to the degree of the fault or negligence proved against them, for all such actual loss or damage and all such costs or expenses.

### **Limit on liability**

(2A) Where subsection (1) or (2) applies, no person is liable for more than the greater of the prescribed limit referred to in clause (a) or (b) of subsection (1), as the case may be, and the amount for which the person would be liable under any other law for the same occurrence.

### **Priority of claims and procedure**

(3) All claims pursuant to this Section may be sued for and recovered in any court of competent jurisdiction and shall rank firstly in favour of persons incurring actual loss or damage, without preference, and secondly, without preference, to meet any costs and expenses described in subsection (1) or (2).

### **Liability not suspended**

(4) Nothing in this Section suspends or limits

(a) any legal liability or remedy for an act or omission by reason only that the act or omission is an offence pursuant to this Part or gives rise to liability pursuant to this Section;

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

(c) the operation of any applicable law or rule of law that is not inconsistent with this Section.

### **Limitation of actions**

(5) Proceedings in respect of claims pursuant to this Section may be instituted within three years after the day when the loss, damage, costs or expenses occurred but in no case after six years after 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. 1987, c. 3, s. 159; 1992, c. 12, s. 21.

### **Financial guarantee**

**160 (1)** An applicant for an authorization pursuant to clause (b) of subsection (1) of Section 135 in respect of any work or activity in any 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 any other form satisfactory to the Board, in an amount satisfactory to the Board.

### **Duty of holder**

**(1A)** The holder of an authorization issued pursuant to clause (b) of subsection (1) of Section 135 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.

### **Claim against guarantee**

(2) The Board may require that money in an amount not exceeding the amount prescribed for any 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, pursuant to subsection (1), in respect of any claim for which proceedings may be instituted pursuant to Section 159, whether or not such proceedings have been instituted.

### **Manner of payment**

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

### **Deduction from award**

(4) Where a claim is sued for pursuant to Section 159, there shall be deducted from any award made pursuant to the action on that claim any amount received by the claimant pursuant to this Section in respect of the loss, damage, costs or expenses claimed. 1987, c. 3, s. 160; 1992, c. 12, s. 22.

### **Committee established**

**161 (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 Implementation Act to review and monitor the application of Sections 159 and 160 and any claims and the payment thereof made pursuant to those Sections.

#### **Dissolution of committee**

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

#### **Compensation policies**

**(3)** The Board shall promote and monitor compensation policies for fishermen sponsored by the fishing industry respecting damages of a non-attributable nature. 1987, c. 3, s. 161.

#### **Inquiry**

**162 (1)** Where a spill or debris or an accident or incident, related to any activity to which this Part applies, occurs or is found in any 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 any person it deems qualified to conduct the inquiry.

#### **Compulsory inquiry**

**(1A)** Where a spill or debris or an accident or incident related to any activity to which this Part applies occurs or is found in any 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.

#### **Powers during inquiry**

**(2)** For the purposes of an inquiry pursuant to subsection (1), a person authorized by the Board pursuant to that subsection has and may exercise all the powers, privileges and immunities of a person appointed as a commissioner pursuant to the *Public Inquiries Act*.

#### **Consistency of procedures**

**(3)** The person or persons authorized to conduct an inquiry pursuant to subsection (1) shall ensure that, as far as practicable, the procedures and practices for the inquiry are compatible with investigation procedures and practices followed by any appropriate federal authorities, and for such purposes may consult with any such authorities concerning compatible procedures and practices.

#### **Report to Board**

(4) As soon as possible after the conclusion of an inquiry pursuant to subsection (1), the person or 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.

### **Publication of report**

(5) A report made pursuant to subsection (4) shall be published by the Board within thirty days after the Board has received it.

### **Copies of report**

(6) The Board may supply copies of a report published pursuant to subsection (5) in such manner and on such terms as the Board considers proper. 1987, c. 3, s. 162; 1992, c. 12, s. 23.

### **Interpretation**

**163** In Sections 163 to 180,

- (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 thereon;
- (d) "pooling order" means an order made pursuant to Section 165 or as altered pursuant to Section 167;
- (e) "royalty interest" means any interest in, or the right to receive a portion of, any petroleum produced and saved from a field or pool or part of a field or pool or the proceeds from the sale thereof, but does not include a working interest or the interest of any person whose sole interest is as a purchaser of petroleum from the pool or part thereof;
- (f) "royalty owner" means a person, including Her Majesty, who owns a royalty interest;
- (g) "spacing unit" means the 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 pursuant to a unit agreement or unitization order or the share of production from a pooled spacing unit that is allocated to a pooled tract pursuant to a pooling agreement or pooling order;

(i) "unit agreement" means an agreement to unitize the interests of owners in a pool or a part thereof 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 pursuant to a unit agreement or a unitization order;

(m) "unit operator" means a person designated as unit operator pursuant to 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 pursuant to Section 173;

(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 such right is held as an incident of ownership of an estate in fee simple in the petroleum or pursuant to a lease issued pursuant to Part II, agreement or other instrument, if the right is chargeable with and the holder thereof 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 thereof;

(r) "working interest owner" means a person who owns a working interest. 1987, c. 3, s. 163.

### **Pool of interests**

**164 (1)** Where one or more working interest owners have leases issued pursuant to Part II 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, or both drilling for and producing, petroleum if a copy of the pooling agreement and any amendment thereto has been filed with the Chief Conservation Officer.

### **Entry of Board into pooling agreement**

(2) The Board may, on behalf of Her Majesty, enter into a pooling agreement on such terms and conditions as it deems advisable and, notwithstanding any enactment, the pooling agreement is binding on Her Majesty. 1987, c. 3, s. 164.

### **Application for pooling order**

**165 (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.

### **Application referred to Committee**

(2) An application pursuant to 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 such hearing the Committee shall afford all interested parties an opportunity to be heard.

### **Proposed pooling agreement**

(3) Prior to a hearing held pursuant to subsection (2), the working interest owner making application shall provide the Committee, and such other interested parties as 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 such information as the Committee deems necessary.

### **Deemed pooling agreement**

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

### **Provisions in pooling order**

(5) Every 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 such 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 any petroleum allocated pursuant to clause (c) to a working interest owner where the working interest owner thereof fails to take in kind and dispose of such production, and for the deduction out of the proceeds by the operator of the expenses reasonably incurred in connection with such sale.

### **Penalty**

(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 that person as that persons share of the cost of drilling and completion of the well, but such penalty shall not exceed an amount equal to one half of that working interest owners share of such costs.

### **Costs recoverable from share**

(7) If a working interest owner does not, within the time specified therefor in the pooling order, pay the share of the costs of the drilling, completing, operating and abandoning of the well, the portion of the costs and the penalty, if any, are recoverable only out of that persons share of production from the spacing unit and not in any other manner. 1987, c. 3, s. 165.

### **Deemed pooling agreement**

**166** Where a pooling order is made, all working interest owners and royalty owners having interests in the pooled spacing unit shall, upon the making of the pooling order, be deemed to have entered into a pooling agreement as set out in the pooling order and that order shall be deemed to be a valid contract between the parties having interests in the pooled spacing unit, and all its terms and provisions, as set out therein or as altered

pursuant to Section 167, are binding upon and enforceable against the parties thereto, including Her Majesty. 1987, c. 3, s. 166.

### **Hearing of application to vary**

**167 (1)** The Committee shall hear any application to vary, amend or terminate a pooling order where such application is made by the owners of over twenty-five per cent 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 any working interest owner or royalty owner.

### **Variation of order**

**(2)** After a hearing held pursuant to subsection (1), the Committee may vary or amend the pooling order to supply any deficiency therein or to meet changing conditions and may vary or revoke any provision that the Committee deems to be unfair or inequitable or it may terminate the pooling order.

### **Ratios not altered**

**(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. 1987, c. 3, s. 167.

### **Pooling agreement required**

**168 (1)** No person shall produce any petroleum within a spacing unit in which there are two or more leases issued pursuant to Part II or two or more separately owned working interests unless a pooling agreement has been entered into in accordance with Section 164 or in accordance with a pooling order made pursuant to Section 165.

### **Production for testing exempt**

**(2)** Subsection (1) does not prohibit the production of petroleum for testing in any quantities approved by the Chief Conservation Officer. 1987, c. 3, s. 168.

### **Unit agreement**

**169 (1)** Any one or more working interest owners in a pool or part thereof exceeding in area a spacing unit, together with the royalty owners, may enter into a unit agreement and operate their interests pursuant to the terms of the unit agreement or any amendment thereto if a copy of the agreement and any amendment has been filed with the Chief Conservation Officer.

### **Entry of Board into unit agreement**

(2) The Board may enter into a unit agreement binding on Her Majesty, on such terms and conditions as it may deem advisable, and the provisions of any enactment 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.

### **Acts of agent deemed acts of parties**

(3) Where a unit agreement filed pursuant to this Section provides that a unit operator shall be the agent of the parties thereto with respect to their powers and responsibilities pursuant to this Part, the performance or non-performance thereof by the unit operator shall be deemed to be the performance or non-performance by the parties otherwise having those powers and responsibilities pursuant to this Part. 1987, c. 3, s. 169.

### **Application by officer**

**170 (1)** Notwithstanding anything in this Part, where, in the opinion of the Chief Conservation Officer, the unit operation of a pool or part thereof 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 thereof to enter into a unit agreement and a unit operating agreement in respect of the pool or part thereof, as the case may be.

### **Committee hearing**

(2) Where an application is made by the Chief Conservation Officer pursuant to subsection (1), the Committee shall hold a hearing at which all interested persons shall be afforded an opportunity to be heard.

### **Requirement for agreement**

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

### **Failure to enter into agreement**

(4) If in the time specified in the order referred to in subsection (3), being not less than six 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 thereof in respect of which the order was made shall cease until such time as a unit agreement and a unit operating agreement have been approved by the Committee and filed with the Chief Conservation Officer.

### **Continued operation permitted**

(5) Notwithstanding subsection (4), the Committee may permit the continued operation of the pool or part thereof after the time specified in the order referred to in subsection (3) if it is of the opinion that a unit agreement and unit operating agreement are in the course of being entered into, but any such continuation of operations shall be subject to any conditions prescribed by the Committee. 1987, c. 3, s. 170.

### **Application for unitization order**

**171 (1)** One or more working interest owners who are parties to a unit agreement and a unit operating agreement and own in the aggregate sixty-five per cent or more of the working interests in a unit area may apply for a unitization order with respect to the agreements.

### **Application to Board**

(2) An application pursuant to subsection (1) shall be made to the Board which shall refer the application to the Committee for the purpose of holding a hearing thereon in accordance with Section 173.

### **Application on behalf of interest owners**

(3) An application pursuant to 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). 1987, c. 3, s. 171.

### **Contents of application**

**172 (1)** An application for a unitization order shall contain

- (a) a plan showing the unit area that the applicant desires to be made subject to the order;
- (b) one 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 pursuant to the provisions of the unit agreement.

### **Contents of 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 deemed to have been produced from that unit tract.

### **Provisions in unit operating agreement**

**(3)** The unit operating agreement referred to in subsection (1) shall make provision for the

- (a) contribution or transfer to the unit, and any adjustment among the working interest owners, of the investment in wells and equipment within the unit area;
- (b) charging of the costs and expenses of the unit operation to the working interest owners;
- (c) supervision of the unit operation by the working interest owners through an operating committee composed of their duly 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) determination of the percentage value of the vote of each working interest owner; and
- (e) determination of the method of voting upon any motion before the operating committee and the percentage value of the vote required to carry the motion. 1987, c. 3, s. 172.

### **Referral to Committee**

**173 (1)** Where an application made pursuant to Section 171 is referred by the Board to the Committee, the Committee shall hold a hearing thereon at which all interested persons shall be afforded an opportunity to be heard.

### **Findings of Committee**

**(2)** If the Committee finds that

- (a) at the date of the commencement of a hearing referred to in subsection (1)

(i) the unit agreement and the unit operating agreement have been executed by one or more working interest owners who own in the aggregate sixty-five per cent or more of the total working interests in the unit area, and

(ii) the unit agreement has been executed by one or more royalty owners who own in the aggregate sixty-five per cent 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 upon and enforceable against all such 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 upon and enforceable against all such owners,

and subject to Section 174, the unit agreement and the unit operating agreement have the effect given them by the order of the Committee.

### **Variation of agreement**

(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 any provision thereof. 1987, c. 3, s. 173.

### **Effective date of order**

**174 (1)** Subject to subsection (2), a unitization order becomes effective on the day that the Committee determines in the order, but that day shall be not less than thirty days after the day on which the order is made.

### **Effective date of variation order**

(2) 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 thirty 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 statements in writing objecting to the order and signed

(a) in the case of the unit agreement by

(i) one or more working interest owners who own in the aggregate more than twenty-five per cent of the total working interests in the area and were included within the group owning sixty-five per cent or more of the total working interests as described in subclause (i) of clause (a) of subsection (2) of Section 173, and

(ii) one or more royalty owners who own in the aggregate more than twenty-five per cent of the total royalty interests in the unit area and were included within the group owning sixty-five per cent or more of the total royalty interests as described in subclause (ii) of clause (a) of subsection (2) of Section 173; or

(b) in the case of the unit operating agreement, by one or more working interest owners who own in the aggregate more than twenty-five per cent of the total working interests in the unit area and were included within the group owning sixty-five per cent or more of the total working interests as described in subclause (i) of clause (a) of subsection (2) of Section 173.

### **Revocation of order**

(3) Where a unitization order becomes ineffective pursuant to subsection (2), the Committee shall forthwith revoke the order. 1987, c. 3, s. 174; 1992, c. 12, s. 24.

### **Order not invalidated**

**175** A unitization order is not invalid by reason only of the absence of notice or of any irregularities in giving notice to any owner in respect of the application for the order or any proceedings leading to the making of the order. 1987, c. 3, s. 175.

### **Amendment of order**

**176 (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.

### **Consent to amend order**

(2) If the Committee finds that, at the date of the commencement of a hearing of an application for the amendment of a unitization order, one or more working interest owners who own, in the aggregate, sixty-five per cent or more of the total working interests and one or more royalty interest owners who own, in the aggregate, sixty-five per cent 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. 1987, c. 3, s. 176.

### **Ratios not affected by order**

**177** No amendment shall be made pursuant to Section 176 that will alter the ratios between the tract participations of those tracts that were qualified for inclusion in the unit area before the commencement 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. 1987, c. 3, s. 177.

### **Compliance with agreement**

**178** After the date on which a unitization order comes into effect and while the order remains in force, no person shall carry on any operations within the unit area for the purpose of drilling for or producing petroleum from the unitized zone, except in accordance with the provisions of the unit agreement and the unit operating agreement. 1987, c. 3, s. 178.

### **Calculation of interest percentage**

**179** The percentages of interests referred to in subsection (1) of Section 171, subsection (2) of Section 173, subsection (2) of Section 174 and subsection (2) of Section 176 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. 1987, c. 3, s. 179.

### **Conflict between order and agreement**

**180 (1)** A pooled spacing unit that has been pooled pursuant to 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 such amendments to the pooling order as it deems necessary to remove any conflict between the provisions of the pooling order and the provisions of the unit agreement, or the unit operating agreement or the unitization order, if any.

### **Unit agreement provisions prevail**

**(2)** Where a pooled spacing unit is included in a unit area pursuant to subsection (1), the provisions of the unit agreement, the unit operating agreement and the unitization order, if any, prevail over the provisions of the pooling order in the event of a conflict.

### **Exception**

**(3)** Notwithstanding subsection (2),

(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 pursuant to 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 therein on the same basis and in the same proportion as would apply pursuant to the pooling order; and

(c) the credits allocated pursuant to a unit operating agreement to a pooled spacing unit for adjustment of investment for wells and equipment thereon shall be shared by the owners of the working interests therein in the same proportion as would apply to the sharing of production pursuant to the pooling order. 1987, c. 3, s. 180.

### **Decision of Committee final**

**181 (1)** Except as provided in Sections 181 to 184, every decision or order of the Committee is final and conclusive.

### **Record deemed decision or order**

**(2)** Any minute or other record of the Committee or any document issued by the Committee in the form of a decision or order shall, for the purposes of this Section, be deemed to be a decision or order of the Committee. 1987, c. 3, s. 181.

### **Stated case**

**182 (1)** The Committee may, of its own motion or at the request of the Board, state a case, in writing, for the opinion of the Appeal Division of the Supreme Court of Nova Scotia upon any question that in the opinion of the Committee is a question of law or of the jurisdiction of the Committee.

### **Hearing**

**(2)** The Appeal Division shall hear and determine the case stated, and remit the matter to the Committee with the opinion of the Court thereon. 1987, c. 3, s. 182.

### **Variation of committee decision**

**183** The Board may, at any time in its discretion, either upon petition of any interested person or of its own motion, vary or rescind any decision or order of the Committee made pursuant to this Part, whether such order is made *inter partes* or otherwise and any order that the Board makes with respect thereto becomes a decision or order of the Committee and, subject to Section 184, is binding upon the Committee and upon all parties. 1987, c. 3, s. 183.

### **Appeal from Committee upon leave**

**184 (1)** An appeal lies from a decision or order of the Committee to the Trial Division of the Supreme Court of Nova Scotia upon a question of law, in the manner prescribed, upon leave therefor being obtained from that Court, upon application made within one month after the making of the decision or order sought to be appealed from or within such further time as that Court may allow.

#### **Order of Committee stayed**

**(2)** Where leave to appeal is granted pursuant to subsection (1), any order of the Committee in respect of which the appeal is made shall be stayed until the matter of the appeal is determined.

#### **Court to certify opinion**

**(3)** After the hearing of the appeal the Court shall certify its opinion to the Committee and the Committee shall make any order necessary to comply with that opinion.

#### **Order subject to Section 183**

**(4)** Any order made by the Committee pursuant to subsection (3), unless that order has already been dealt with by the Board pursuant to Section 183, shall be subject to that Section. 1987, c. 3, s. 184.

#### **Officers**

**185** The safety officers and conservation officers necessary for the administration and enforcement of this Part and the regulations shall be appointed by the Board. 1992, c. 12, s. 25.

#### **Powers of officers**

**186** A safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer may at any reasonable time

(a) enter any 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 any other person that the officer believes is necessary to help carry out the inspection, examination, test or inquiry;

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

(c) order that any 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 any 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, any reasonable tests or examinations; and

(f) require the person in charge of the place, or any other 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. 1992, c. 12, s. 25.

### **Certificate of appointment or designation**

**187** 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 any place pursuant to the authority of this Part, the officer shall, if so required, produce the certificate to the person in charge of the place. 1992, c. 12, s. 25.

### **Assistance**

**188** The owner, the person in charge of any place referred to in Section 185 and every person found therein shall give a safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer, as the case may be, all reasonable assistance to enable the officer to carry out duties and functions pursuant to this Part or the regulations. 1992, c. 12, s. 25.

### **Prohibition**

**189** 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 or functions pursuant to this Part or the regulations. 1992, c. 12, s. 25.

### **Order**

**190 (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 any portion of the offshore area is likely to result in serious bodily injury, the safety officer or Chief Safety Officer, as the case may be, may order that the operation cease or be continued only in accordance with the terms of the order.

### **Notice of order**

(2) The safety officer or Chief Safety Officer who makes an order pursuant to subsection (1) shall affix at or near the scene of the operation a notice of the order in prescribed form.

### **Expiry of order**

(3) An order made by a safety officer pursuant to subsection (1) expires seventy-two hours after it is made unless it is confirmed before that time by order of the Chief Safety Officer.

### **Notification of Chief Safety Officer**

(4) A safety officer who makes an order pursuant to subsection (1) shall immediately so advise the Chief Safety Officer, and the Chief Safety Officer may modify or revoke the order.

### **Referral to Court**

(5) The person carrying out the operation to which an order pursuant to subsection (1) makes reference or any person having a pecuniary interest in that operation may by notice in writing request the Chief Safety Officer to refer it, in the manner prescribed, to the Trial Division of the Supreme Court for review, and thereupon the Chief Safety Officer shall do so.

### **Inquiry by Court**

(6) The Trial Division of the Supreme Court shall inquire into the need for the order.

### **Burden of proof**

(7) Where an order has been referred to the Trial Division pursuant to this Section, the burden of establishing that the order is not needed is on the person who requested that the order be so referred.

### **Powers of Court**

(8) The Trial Division may confirm or set aside the order, and the decision of the Trial Division is final and conclusive.

### **Prohibition**

(9) No person shall continue an operation in respect of which an order has been made pursuant to this Section, except in accordance with the terms of the order or until the order has been set aside by the Trial Division pursuant to this Section. 1992, c. 12, s. 25.

### **Inconsistent orders**

**190A** 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 any inconsistency between the orders. 1992, c. 12, s. 25.

### **Installation of manager**

**190B (1)** Every holder of an authorization pursuant to clause (b) of subsection (1) of Section 135 with respect to 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 is responsible for the safety of the installation and the persons at it.

### **Powers of manager**

**(2)** Subject to this Act and any other Act of the Legislature, an installation manager has the power to do such things as are required to ensure the safety of the installation and the persons at it and, more particularly, may

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

### **Extended powers**

**(3)** In a prescribed emergency situation, an installation managers 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, c. 12, s. 25.

### **Offence**

**191 (1)** Every person is guilty of an offence who

- (a) contravenes this Part or the regulations;
- (b) knowingly makes any false entry or statement in any report, record or document required by this Part or the regulations or by any order made pursuant to this Part or the regulations;
- (c) knowingly destroys, mutilates or falsifies any report or other document required by this Part or the regulations or by any order made pursuant to this Part or the regulations;
- (d) produces any petroleum from a pool or field under the terms of a unit agreement within the meaning of Part III, or any 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 pursuant to clause (b) of subsection (1) of Section 135 or without complying with the approvals or requirements of such an authorization; or

(f) fails to comply with a direction, requirement or order of a safety officer, a conservation officer, the Chief Safety Officer, the Chief Conservation Officer or an installation manager or with an order of the Committee.

### **Penalty**

(2) Every person who is guilty of an offence pursuant to subsection (1) is liable on summary conviction to a fine not exceeding one million dollars or to imprisonment for a term not exceeding five years, or to both.

(3) *repealed 1992, c. 12, s. 26.*

(4) *repealed 1992, c. 12, s. 26.*

### **Exception**

(5) No person commits an offence pursuant to subsection (1) of Section 151 by reason of committing waste as defined in clause (f) or (g) of subsection (2) of Section 151 unless that person has been ordered by the Committee to take measures to prevent the waste and has failed to comply. 1987, c. 3, s. 191; 1992, c. 12, s. 26.

**192** *repealed 1992, c. 12, s. 27.*

### **Order to comply**

**193** Where a person is guilty of an offence pursuant to this Part, a court may, in addition to any other 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. 1987, c. 3, s. 193.

### **Continuing offence**

**194** Where an offence pursuant to this Part is committed on more than one day or is continued for more than one day, it shall be deemed to be a separate offence for each day on which the offence is committed or continued. 1987, c. 3, s. 194.

**195** *repealed 1992, c. 12, s. 27.*

### **Limitation period**

**196** A prosecution for an offence pursuant to this Part may be instituted at any time within two years after the time when the subject-matter of the complaint arose. 1987, c. 3, s. 196.

### **Copy of order is proof**

**197** In any prosecution for an offence pursuant to this Part, a copy of any order or other document purporting to have been made pursuant to 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 any evidence to the contrary, proof of the matters set out therein. 1987, c. 3, s. 197.

### **Jurisdiction for hearing**

**198** Any complaint or information in respect of an offence pursuant to this Part may be heard, tried or determined by a justice or judge if 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. 1987, c. 3, s. 198.

### **Right of action by Board**

**199 (1)** Notwithstanding that a prosecution has been instituted in respect of an offence pursuant to this Part, the regulations or any order made pursuant to this Part or the regulations, the Board may commence and maintain an action to enjoin the committing of any contravention of this

Part, the regulations or any order made pursuant to this Part or the regulations.

### **Civil remedy unaffected**

**(2)** No civil remedy for any act or omission is suspended or affected by reason that the act or omission is an offence pursuant to this Part. 1987, c. 3, s. 199.

### **Regulations**

**200** Subject to Section 6, the Governor in Council may make such regulations not inconsistent with this Part as may be deemed necessary for carrying out the purposes of this Part, and, without limiting the generality of the foregoing, may make regulations defining and distinguishing more particularly for the purposes of this Part the expressions "oil" and "gas". 1987, c. 3, s. 200.

### **Application of Part**

**201** This Part applies to every interest or right in petroleum acquired or vested before the coming into force of this Section and is binding on Her Majesty in right of the Province, a province or Canada. 1987, c. 3, s. 201.

### **Deemed licence**

**202 (1)** Where an operating licence was issued pursuant to Section 5 of the *Oil and Gas Production and Conservation (Nova Scotia) Act*, and is in force on the coming into force of this Section, it is and is deemed to be an operating licence issued by the Board pursuant to this Part.

### **Deemed authorization**

**(2)** Where, prior to the coming into force of this Section, authorization for any work or activity or approval of a development plan was given pursuant to Section 5 of the *Oil and Gas Production and Conservation (Nova Scotia) Act* or any regulation made pursuant to that Act, the authorization or approval is and is deemed to be given by the Board pursuant to this Part. 1987, c. 3, s. 202.

## PART IV RELATED AND OTHER AMENDMENTS Health Services Tax Act

### **Repeal and enactment**

**203** Clause (eb) of Section 1 of Chapter 126 of the Revised Statutes, 1967, the *Health Services Tax Act*, is repealed and the following clause substituted therefor:

(eb) "offshore area" means Sable Island and the submarine area of the Province that is between the inner limits and the outer limits described in Schedule I, as amended from time to time, of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act*;

1987, c. 3, s. 203.

### **Section 40A repealed**

**204** Section 40A of said Chapter 126 is repealed. 1987, c. 3, s. 204.

### **Section 40B amended**

**205** Section 40B of said Chapter 126, as enacted by Chapter 2 of the Acts of 1984, is amended by striking out the punctuation, words, figures and letters ", Section 1A and Section 40A" in the first and second lines thereof and substituting therefor the words, figure and letter "and Section 1A". 1987, c. 3, s. 205.

## Income Tax Act

### **Section 58 amended**

**206** Subsection (1) of Section 58 of Chapter 134 of the Revised Statutes, 1967, the *Income Tax Act*, as enacted by Chapter 2 of the Acts of 1984, is amended by striking out the words and symbols "of the Canada-Nova Scotia Oil and Gas Agreement (Nova Scotia) Act" in the fourth and fifth lines thereof and substituting therefor the words, punctuation and symbols ", as amended from time to time, of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act*". 1987, c. 3, s. 206.

## PART V GENERAL

### Repeal

**207** Chapter 2 of the Acts of 1984, the *Canada-Nova Scotia Oil and Gas Agreement (Nova Scotia) Act*, is repealed. 1987, c. 3, s. 207.

### Repeal

**208** Chapter 8 of the Acts of 1984, the *Offshore Oil and Gas Act*, is repealed. 1987, c. 3, s. 208.

### Repeal

**209** Chapter 9 of the Acts of 1984, the *Oil and Gas Production and Conservation (Nova Scotia) Act*, is repealed. 1987, c. 3, s. 209.

### Proclamation

**210** This Act comes into force on and not before such day as the Governor in Council orders and declares by proclamation. 1987, c. 3, s. 210.

Proclaimed (except ss. 104-120) - January 4, 1990

In force (except ss. 104-120) - January 5, 1990

Proclaimed (ss. 104-120) - September 27, 1990

In force (ss. 104-120) - October 1, 1990

## SCHEDULE I LIMITS OF THE OFFSHORE AREA (All latitudes and longitudes referred to in this Schedule

are determined according to N.A.D. 27 datum.)

The inner limit of the offshore area is the low water mark of Nova Scotia, except that

(a) in the vicinity of Chignecto Bay, the inner limit is a straight line from the most southwesterly point on the most northwesterly point on the low water mark at Cape Chignecto (N.S.) to a point at latitude 45 24' 10" and longitude 65 03' 31", being on a line between that point at Cape Chignecto (N.S.) and Martin Head (N.B.);

(b) in the vicinity of Minas Channel, the inner limit is a straight line from the most southwesterly point on the low water mark at Cape Chignecto (N.S.) to the most northwesterly point on the low water mark at Long Point (N.S.);

(c) in the vicinity of St. Marys Bay, the inner limit is a straight line from the most southerly point on the low water mark at Long Island (N.S.) to the low water mark at the nearest point on the mainland, being approximately two kilometres southwesterly of Meteghan (N.S.);

(d) in the vicinity of Chedabucto Bay, the inner limit is a straight line from the most easterly point on the low water mark at Glasgow Head (N.S.) to the most southwesterly point on the low water mark at Red Point (N.S.);

(e) in the vicinity of St. Georges Bay, the inner limit is a straight line from the most easterly point on the low water mark at Cape George Point (N.S.) to the most westerly point on the low water mark at McKays Point (N.S.); and

(f) in any bay where a straight closing line of ten kilometres or less may be drawn between points on the low water mark of the bay so that the area of the bay landward of the closing line is greater than that of a semi-circle whose diameter is the closing line, the inner limit is the closing line; and for the purposes of this paragraph,

(i) "bay" includes harbour, port, cove, sound, channel, basin or other inlet,

(ii) the closing line shall be drawn in such manner as to enclose a maximum area of the bay, and

(iii) the area of the bay shall be calculated as including any islands or parts of islands lying landward of the closing line and as excluding any area above the low water mark along the coast of the bay.

The outer limit of the offshore area is as follows:

Commencing at the most northerly point of the boundary between the Provinces of Nova Scotia and New Brunswick in the mouth of Tidnish River, the limit runs

northerly in a straight line to a point at latitude 46 01' 10" and longitude 64 02' 34", being approximately on the middle thread of Baie Verte;

thence easterly in a straight line to a point at latitude 46 02' 18" and longitude 63 49' 09", being approximately the midpoint between Coldspring Head (N.S.) and Cape Tormentine (N.B.);

thence northeasterly in a straight line to a point at latitude 46 04' 30" and longitude 63 39' 34", being approximately the midpoint between Coldspring Head (N.S.) and MacIvors Point (P.E.I.);

thence southeasterly in a straight line to a point at latitude 45 59' 45" and longitude 63 19' 41", being approximately the midpoint between Cape Cliff (N.S.) and Rice Point (P.E.I.);

thence southeasterly in a straight line to a point at latitude 45 55' 38" and longitude 63 05' 06", being approximately the midpoint between Cape John (N.S.) and Prim Point (P.E.I.);

thence southeasterly in a straight line to a point at latitude 45 51' 30" and longitude 62 43' 30", being approximately the midpoint between Caribou Island (N.S.) and Wood Islands (P.E.I.);

thence northeasterly in a straight line to a point at latitude 45 53' 51" and longitude 62 33' 31", being approximately the midpoint between the Pictou Island (N.S.) and the most southerly point of Cape Bear peninsula (P.E.I.);

thence northeasterly in a straight line to a point at latitude 45 56' 43" and longitude 62 13' 06", being approximately the midpoint between Livingstone Cove (N.S.) and Murray Head (P.E.I.);

thence northeasterly in a straight line to a point at latitude 46 19' 09" and longitude 61 41' 56", being approximately the midpoint between Sight Point (N.S.) and East Point (P.E.I.);

thence northeasterly in a straight line to a point at latitude 46 50' 24" and longitude 61 24' 01", being in the direction of the midpoint between White Capes (N.S.) and Ile d'Entree (Que.), but terminating at an east-west line through the midpoint between Cable Head (P.E.I.) and Cap du Sud (Que.);

thence northeasterly in a straight line to a point at latitude 47 00' 35" and longitude 61 21' 05", being approximately the midpoint between White Capes (N.S.) and the south-east corner of the Ile du Havre Aubert (Que.);

thence northeasterly in a straight line to a point at latitude 47 19' 46" and longitude 60 59' 34", being approximately the midpoint between Cape St. Lawrence (N.S.) and Pointe de l'Est (Que.);

thence northeasterly in a straight line to a point at latitude 47 25' 24" and longitude 60 45' 49", being approximately the midpoint between St. Paul Island (N.S.) and Pointe de l'Est (Que.);

thence northeasterly in a straight line to a point at latitude 47 45' 40" and longitude 60 24' 17", being approximately the midpoint between Cape Anguille (Nfld.) and Pointe de l'Est (Que.);

thence southeasterly in a straight line to a point at latitude 47 25' 28" and longitude 59 43' 33", being approximately the midpoint between St. Paul Island (N.S.) and Cape Ray (Nfld.);

thence southeasterly in a straight line to a point at latitude 46 54' 50" and longitude 59 00' 30", being approximately the midpoint between Flint Island (N.S.) and Grand Bruit (Nfld.);

thence southeasterly in a straight line and on an azimuth of 135 00' 00" to the outer edge of the continental margin;

thence in a general westerly direction along the outer edge of the continental margin to its intersection with the southeasterly production of the geodetic line from point C to point D of the Single Maritime Boundary between Canada and the United States of America, said Boundary constituted by the Judgment of the Chamber of the International Court of Justice at The Hague on 12 October 1984;

thence northwesterly along the production of said geodetic line to point D of said Single Maritime Boundary and being at latitude 40 27' 05" and longitude 65 41' 59" as shown in said Judgment;

thence northwesterly along the geodetic line from point D to point C being a portion of said Single Maritime Boundary, point C being at latitude 42 31' 08" and longitude 67 28' 05" as shown in said Judgment;

thence northwesterly along the geodetic line from point C to point B being a portion of said Single Maritime Boundary, point B being at latitude 42 53' 14" and longitude 67 44' 35" as shown in said Judgment;

thence northerly along the geodetic line running from point B to point A to the point where the Boundary intersects a straight line drawn on an azimuth of 225 00' 00" from a point at latitude 44 25' 03" and longitude 66 38' 47", being approximately the midpoint between Whipple Point on Brier Island (N.S.) and Southwest Head on Grand Manan Island (N.B.);

thence northeasterly in a straight line to that point at latitude 44 25' 03" and longitude 66 38' 47";

thence northeasterly in a straight line to a point at latitude 44 26' 09" and longitude 66 32' 32", being approximately the midpoint between Brier Island (N.S.) and White Head Island (N.B.);

thence northeasterly in a straight line to a point at latitude 44 50' 16" and longitude 66 11' 39", being approximately the midpoint between Gullivers Head (N.S.) and Point Lepreau (N.B.);

thence northeasterly in a straight line to a point at latitude 45 00' 14" and longitude 65 43' 36", being approximately the midpoint between the west promontory of Parkers Cove (N.S.) and Cape Spencer (N.B.);

thence northeasterly in a straight line to a point at latitude 45 22' 19" and longitude 65 05' 31", being approximately the midpoint between Isle Haute (N.S.) and Martin Head (N.B.);

thence northeasterly in a straight line to a point at latitude 45 24' 10" and longitude 65 03' 31", being a point on the inner limit.

1987, c. 3, Sch. I.

SCHEDULE II  
LIMITS OF THE BAY OF FUNDY  
(All latitudes and longitudes referred to in this Schedule  
are determined according to N.A.D. 27 datum.)

Commencing at a point on the low water mark on the northwest side of Brier Island (N.S.), being the intersection of the low water mark and the parallel of latitude 44 15' 00", the limits run

west along the parallel of latitude 44 15' 00" to a point being the intersection of that parallel of latitude and a straight line drawn on a azimuth of 225 00' 00" from a point at latitude 44 25' 03" and longitude 66 38' 47";

thence along the outer and inner limits of the offshore area, as described in Schedule I, in the Bay of Fundy to the point of commencement.

1987, c. 3, Sch. II.

SCHEDULE III  
LIMITS OF SABLE ISLAND  
(All latitudes and longitudes referred to in this Schedule  
are determined according to N.A.D. 27 datum.)

Commencing at a point at latitude 44 01' 00" and longitude 60 35' 00", the limits run northeasterly in a straight line to a point at latitude 44 03' 00" and longitude 60 25' 00";

thence southeasterly in a straight line to a point at latitude 43 58' 00" and longitude 60 00' 00";

thence easterly along the parallel of latitude 43 58' 00" to a point at longitude 59 50' 00";

thence northeasterly in a straight line to a point at latitude 44 09' 00" and longitude 59 29' 00";

thence southwesterly in a straight line to a point at latitude 43 56' 00" and longitude 59 42' 00";

thence southwesterly in a straight line to a point at latitude 43 53' 00" and longitude 60 04' 00";

thence northwesterly in a straight line to a point at latitude 43 57' 00" and longitude 60 25' 00";

thence northwesterly in a straight line to the point of commencement.

1987, c. 3, Sch. III.

SCHEDULE IV  
AREA REFERRED TO IN SECTION 134A  
(All latitudes and longitudes referred to in this Schedule

are determined according to the NAD 27 datum.

All parallels of latitude referred to in this Schedule

are to be determined in such manner that they are

parallel with boundaries of grid areas as provided in

the Canada Oil and Gas Land Regulations

in force on May 13, 1988.)

COMMENCING at the intersection of latitude 42 30' 00" N and the geodetic line from point C to point D of the Single Maritime Boundary between Canada and the United States of America, at approximate longitude 67 27' 05" W, said Boundary constituted by the judgment of the Chamber of the International Court of Justice at The Hague on October 12, 1984, said point C being at latitude 42 31' 08" N and longitude 67 28' 05" W and said point D being at latitude 40 27' 05" N and longitude 65 41' 59" W as shown in said judgment;

THENCE easterly along latitude 42 30' 00" N to longitude 66 30' 00" W;

THENCE south along longitude 66 30' 00" W to latitude 42 25' 00" N;  
THENCE easterly along latitude 42 25' 00" N to longitude 65 45' 00" W;  
THENCE south along longitude 65 45' 00" W to latitude 42 20' 00" N;  
THENCE easterly along latitude 42 20' 00" N to longitude 65 37' 30" W;  
THENCE south along longitude 65 37' 30" W to latitude 42 10' 00" N;  
THENCE easterly along latitude 42 10' 00" N to longitude 65 30' 00" W;  
THENCE south along longitude 65 30' 00" W to latitude 42 05' 00" N;  
THENCE easterly along latitude 42 05' 00" N to longitude 65 22' 30" W;  
THENCE south along longitude 65 22' 30" W to latitude 41 50' 00" N;  
THENCE westerly along latitude 41 50' 00" N to longitude 65 30' 00" W;  
THENCE south along longitude 65 30' 00" W to latitude 41 40' 00" N;  
THENCE westerly along latitude 41 40' 00" N to longitude 65 37' 30" W;  
THENCE south along longitude 65 37' 30" W to latitude 41 35' 00" N;  
THENCE westerly along latitude 41 35' 00" N to longitude 65 45' 00" W;  
THENCE south along longitude 65 45' 00" W to latitude 41 25' 00" N;  
THENCE westerly along latitude 41 25' 00" N to longitude 65 52' 30" W;  
THENCE south along longitude 65 52' 30" W to latitude 41 15' 00" N;  
THENCE westerly along latitude 41 15' 00" N to longitude 66 07' 30" W;  
THENCE south along longitude 66 07' 30" W to latitude 41 05' 00" N;  
THENCE westerly along latitude 41 05' 00" N to its intersection with said geodetic line  
from point C to point D, at approximate longitude 66 13' 33" W;  
THENCE northwesterly along said geodetic line to the point of commencement.

1988, c. 56, Sch. IV.