
Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act

1988, c. 28

An Act to implement an agreement between the Government of Canada and the Government of Nova Scotia on offshore petroleum resource management and revenue sharing and to make related and consequential amendments

[Assented to 21st July, 1988]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

INTERPRETATION

Definitions

2. In this Act,

"Accord" «*Accord*»

"Accord" means the Canada-Nova Scotia Offshore Petroleum Resources Accord dated August 26, 1986 and entered into by the Government of Canada, as represented by the Prime Minister of Canada and the Federal Minister, and by the Government of Nova Scotia, as represented by the Premier of Nova Scotia and the Provincial Minister, and includes any amendments thereto;

"Bay of Fundy" «*Baie de Fundy*»

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

"Board" «*Office*»

"Board" means the Canada-Nova Scotia Offshore Petroleum Board established by the joint operation of section 9 of this Act and section 9 of the Provincial Act;

"Canada-Nova Scotia benefits plan" «*plan de retombées économiques*»

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

"Canadian ownership rate" [Repealed, 1993, c. 47, s. 11]

"Chief Executive Officer" «*premier dirigeant*»

"Chief Executive Officer" means the Chief Executive Officer of the Board appointed pursuant to section 25;

"development plan" «*plan de mise en valeur*»

"development plan" means a plan submitted pursuant to subsection 143(2) for the purpose of obtaining approval of the general approach of developing a pool or

	field as proposed in the plan;
"Federal Government" «gouvernement fédéral»	"Federal Government" means the Governor in Council;
"Federal Minister" «ministre fédéral»	"Federal Minister" means the Minister of Natural Resources;
"field" «champ»	"field" (a) means a general surface area underlain or appearing to be underlain by one or more pools, and (b) includes the subsurface regions vertically beneath the general surface area referred to in paragraph (a);
"former regulations" «anciens règlements»	"former regulations" means the <i>Canada Oil and Gas Land Regulations</i> made pursuant to the <i>Public Lands Grants Act</i> and the <i>Territorial Lands Act</i> and includes orders made pursuant to those Regulations;
"frontier lands" «terres domaniales»	"frontier lands" has the same meaning as in the <i>Canada Petroleum Resources Act</i> ;
"fundamental decision" «décision majeure»	"fundamental decision" means a decision made by the Board respecting the exercise of a power or the performance of a duty pursuant to a provision of this Act that expressly provides for the exercise of the power or the performance of the duty subject to sections 32 to 37;
"gas" «gaz»	"gas" means natural gas and includes all substances, other than oil, that are produced in association with natural gas;
"government" Version anglaise seulement	"government" means the Federal Government, the Provincial Government or both, as the context requires;
"interest" «titre»	"interest" has the meaning assigned by section 49;
"Minister" Version anglaise seulement	"Minister" means the Federal Minister, the Provincial Minister or both, as the context requires;
"offshore area" «zone extracôtière» ou «zone»	"offshore area" means the lands and submarine areas within the limits described in Schedule I;
"Offshore Petroleum Royalty Act" «loi sur les redevances»	"Offshore Petroleum Royalty Act" means the <i>Offshore Petroleum Royalty Act</i> , Chapter 9 of the Statutes of Nova Scotia, 1987, as amended from time to time;
"oil" «pétrole»	"oil" means (a) crude oil regardless of gravity produced at a well head in liquid form, and (b) 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 its

subsoil of the offshore area;

"petroleum" «hydrocarbures»	"petroleum" means oil or gas;
"pool" «gisement»	"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;
"prescribed" <i>Version anglaise seulement</i>	"prescribed" means prescribed by regulations made by the Governor in Council;
"Province" «province»	"Province" means the province of Nova Scotia;
"Provincial Act" « loi provinciale »	"Provincial Act" means the <i>Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act</i> , Chapter 3 of the Statutes of Nova Scotia, 1987, as amended from time to time;
"Provincial Government" «gouvernement provincial»	"Provincial Government" means the lieutenant governor in council of the Province;
"Provincial Minister" «ministre provincial»	"Provincial Minister" means the Minister of Mines and Energy of the Province;
"Sable Island" «Île de Sable»	"Sable Island" means the area, whether above or under water, that is within the limits described in Schedule III.

1988, c. 28, s. 2; 1993, c. 47, s. 11; 1994, c. 26, s. 16(F), c. 41, s. 37.

Construction

3. For greater certainty, the provisions of this Act shall not be interpreted as providing a basis for any claim by or on behalf of any province in respect of any interest in or legislative jurisdiction over any offshore area or any living or non-living resources of any offshore area.

Precedence over other Acts of Parliament

4. In case of any inconsistency or conflict between

(a) this Act or any regulations made thereunder, and

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

this Act and the regulations made thereunder take precedence.

PRESCRIBING LIMITS OF OFFSHORE AREA

Regulations

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".

Issue of charts

(2) The Federal Minister may 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.

Evidence

(3) In any legal or other proceedings, a chart purporting to be issued by or under the authority of the Federal 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 issued the chart.

CONDITION PRECEDENT FOR CERTAIN REGULATIONS

Approval of Provincial Minister prior to making certain regulations

6. Before a regulation is made pursuant to subsection 5(1), 17(4), 35(8), 39(7) or 45(7), section 67, subsection 70(2), section 121, subsection 125(1), 128(1), 153(1), 157(5) or 165(4) or section 208, 245 or 248, the Federal Minister shall consult the Provincial Minister with respect to the proposed regulation and no regulation shall be so made without the approval of the Provincial Minister.

AMENDMENT OF ACCORD

Amendment of Accord

7. The Government of Canada, as represented by the Prime Minister of Canada or by such other member of the Queen's Privy Council for Canada as may be designated by the Governor in Council, may, jointly with the Government of Nova Scotia, amend the Accord from time to time.

APPLICATION

Application

8. (1) Except as otherwise provided by this Act, this Act applies within the offshore area.

Excluded legislation

(2) Subject to section 103, the *Canada Petroleum Resources Act* and the *Canada Oil and Gas Operations Act* and any regulations made under those Acts do not apply within the offshore area.

1988, c. 28, s. 8; 1992, c. 35, s. 84.

PART I JOINT MANAGEMENT

Establishment of Board

Jointly established Board

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

Treated as Provincial entity

(2) Subject to subsections (3) and (4), the Board shall for all purposes be treated as having been established by or under a law of the Province.

Powers of corporation

(3) The Board has the legal powers and capacities of a corporation incorporated under the *Canada Business Corporations Act*, including those set out in section 21 of the *Interpretation Act*.

Dissolution of Board

(4) The Board may be dissolved only by the joint operation of an Act of

Parliament and an Act of the Legislature of the Province.

1988, c. 28, s. 9; 1992, c. 35, s. 85; 1994, c. 24, s. 34(F).

Board consisting of five members

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

Federal and Provincial appointees

(2) Two members of the Board are to be appointed by the Federal Government, two by the Provincial Government and the Chairman of the Board is to be appointed by both the Federal Government and the Provincial Government.

Alternate members

(3) Each government may appoint one alternate member to act as a member of the Board in the absence or incapacity of any of the members of the Board appointed by that government.

Joint appointees

(4) Notwithstanding subsection (2) or (3), any member or alternate member of the Board may be appointed by both the Federal Government and the Provincial Government.

Definitions

11. (1) In this section and section 12,

"public servant"
«fonctionnaire»

"public servant" means a person employed in the Public Service of Canada, and includes any other person who is a civil servant within the meaning of the Provincial Act;

"Public Service of Canada"
«administration fédérale»

"Public Service of Canada" has the meaning given the expression "Public Service" in the *Public Service Staff Relations Act*, and includes any portion of the public service of Canada designated by order in council pursuant to this subsection and for the purposes of this section as part of the Public Service of Canada.

Qualifications

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

Qualifications for Chairman

(3) The Chairman of the Board shall not, during the term of office as Chairman, be a public servant.

Term of office of Board members

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

Terms of first members

(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) On the expiration of a term of office, the Chairman or a member of the Board is eligible for re-appointment for one or more further terms.

Good behaviour appointments for members who are not public servants

(4) Any member of the Board who is not a public servant holds office during good behaviour, but may be removed for cause

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

(b) where the member is appointed by both governments, by both governments.

Appointments of public servants during pleasure	(5) Any member of the Board who is a public servant holds office during pleasure.
Deemed consultation between governments re Chairman	<p>13. (1) Consultation between the two governments with respect to the selection of the Chairman of the Board shall be deemed to commence</p> <p>(a) six months prior to the expiration of the term of office of the incumbent Chairman, or</p> <p>(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,</p> <p>whichever occurs earlier.</p>
Where no agreement 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, the Chairman shall be selected pursuant to subsection (3) by a panel constituted in accordance with section 47, unless, at any time prior to the selection of the Chairman by the panel, the two governments agree on the appointment.
Selection of Chairman of Board within sixty days	(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.
Decision of panel binding	(4) The decision of the panel selecting a Chairman of the Board is final and binding on both governments.
Absence or incapacity of 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.
Salaries of joint appointees	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 Federal Government and an order of the Provincial Government after agreement has been reached by both governments on the salary and other terms and conditions.
Salaries of separate appointees	(2) The salary and other terms and conditions of the appointment of any member appointed by either the Federal Government or the Provincial Government shall be agreed on by both governments.
Conflict of interest guidelines	16. All members of the Board shall be subject to conflict of interest guidelines established jointly by the Federal Minister and Provincial Minister and are not subject to any conflict of interest guidelines established by the Federal Government.
Power to indemnify	17. (1) The Government of Canada 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.

Both Governments share costs of indemnification

(2) Where the Government of the Province has indemnified a person referred to in subsection (1) or the heirs or legal representatives of that person pursuant to subsection 17(1) of the Provincial Act, the Government of Canada shall, subject to such terms and conditions as may be prescribed, pay to the Government of the Province one-half of the amount of the indemnity.

Payable out of Consolidated Revenue Fund

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

Regulations

(4) Subject to section 6, the Governor in Council may make regulations prescribing anything that by this section is to be prescribed.

Functions of Board

Functions 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 Accord, to the extent that such duties and functions are not inconsistent with this Act or any regulations made thereunder.

Proposed amendments

(2) The Board may make recommendations to both governments with respect to proposed amendments to this Act, the Provincial Act, any regulations made under those Acts and to any other legislation relating to petroleum resource activities in the offshore area.

Access to information by governments

19. (1) The Federal Minister and the Provincial 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, on the request of either Minister, be disclosed to that Minister without requiring the consent of the party who provided the information or documentation.

Applicable provision

(2) Section 122 applies, with such modifications as the circumstances require, in respect of any disclosure of information or documentation or the production or giving of evidence relating thereto by a Minister as if the references in that section to the administration or enforcement of a Part of this Act included references to the administration or enforcement of the Provincial Act or any Part thereof.

Summary of applications of fundamental decisions to Ministers

(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 both Ministers.

Administration

Location of offices and staff

20. The principal office and staff of the Board shall be located in the Province.

Storage of information	<p>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.</p>
Board to furnish samples to Ministers	<p>(2) The Board shall, at the request of the Federal Minister or the Provincial Minister,</p> <p>(a) furnish that Minister with a sample of any material referred to in subsection (1), or</p> <p>(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 it being returned to the facility referred to in subsection (1),</p> <p>if the material is to be permanently retained at the facility referred to in subsection (1).</p>
Meetings of Board	<p>22. The Board shall meet</p> <p>(a) once every two months unless the members of the Board unanimously agree to defer the meeting; and</p> <p>(b) at any other time</p> <p>(i) at the call of the Chairman of the Board,</p> <p>(ii) on the request of any two members of the Board, or</p> <p>(iii) on the request of the Federal Minister or the Provincial Minister to review any matter referred to the Board by that Minister.</p>
Quorum	<p>23. (1) Three members of the Board constitute a quorum of the Board.</p>
Majority vote	<p>(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.</p>
By-laws and guidelines	<p>24. Subject to this Act and the Accord, the Board may</p> <p>(a) make by-laws respecting</p> <p>(i) the members, officers and employees of the Board,</p> <p>(ii) the attendance and participation, including voting rights, at meetings of the Board of alternate members of the Board appointed pursuant to subsection 10(3),</p> <p>(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</p>

competitions for appointments,

(iv) the procedures to be followed in the performance of any of the duties and functions of the Board,

(v) the conduct of meetings of the Board,

(vi) the manner of dealing with matters and business before the Board, and

(vii) generally, the carrying on of the work of the Board and the management of the internal affairs thereof; and

(b) establish conflict of interest guidelines respecting persons employed by the Board pursuant to subsection 26(1).

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.

Approval required

(2) The appointment of a Chief Executive Officer pursuant to paragraph (1)(b) is subject to the approval of both governments.

Panel to choose Chief Executive Officer in the absence of agreement

(3) Where either government fails to make an appointment pursuant to paragraph (1)(a) or to approve the appointment of a Chief Executive Officer pursuant to paragraph (1)(b), 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 constituted in accordance with section 47, unless, at any time prior to the selection of the Chief Executive Officer by the panel, the two governments agree on the appointment.

Selection within sixty days

(4) The Chief Executive Officer 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.

Decision of panel binding

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

Application of subsection

(6) Subsection 15(1) applies, with such modifications as the circumstances require, to the appointment of the Chief Executive Officer pursuant to paragraph (1)(a) or subsection (3).

Absence or incapacity of 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.

Staff of the Board

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

Method of selection	(2) The appointment of every person employed pursuant to subsection (1) shall be based on selection according to merit.
Presumption	(3) Except as provided in subsection (4), no person employed pursuant to subsection (1) shall, by virtue of that employment, be considered to be employed in the public service of Canada or of the Province.
Mobility of staff	<p>(4) For the purpose of being eligible for appointment to a position in the Public Service by competition or other process of personnel selection pursuant to the <i>Public Service Employment Act</i>,</p> <p>(a) any person who, immediately prior to being employed by the Board, was employed in the Public Service shall be deemed to be a person employed in the Public Service in the Department of Energy, Mines and Resources 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</p> <p>(b) any person who, immediately prior to being employed by the Board, was not employed in the Public Service shall, two years after being employed by the Board, be deemed to be a person employed in the Public Service in the Department of Energy, Mines and Resources 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.</p>
Definition of "Public Service"	(5) In this section, "Public Service" has the same meaning as in the <i>Public Service Staff Relations Act</i> .
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.
Budget	28. (1) The Board shall, in respect of each fiscal year, prepare a budget sufficient to permit the Board to properly exercise its powers and perform its duties and functions.
Submission to governments	(2) The budget shall be submitted to the Federal Minister and the Provincial Minister, at such time as may be specified by each Minister, for their consideration and approval.
Revised 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, a revised budget in respect of that fiscal year, containing such particulars as may be requested by either Minister, shall be submitted to both Ministers for their consideration and approval.
Payment of operating costs	(4) The Government of Canada 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.
Appropriation	(5) Subject to any other Act of Parliament that appropriates moneys for the payment required by subsection (4), the sums required for such payment shall be paid out of the Consolidated Revenue Fund from time to time as required.

Access to books and accounts	29. Subject to subsection 19(2), both the Federal Minister and the Provincial Minister are entitled to have access to the books and accounts of the Board.
Annual report	30. (1) The Board shall, in respect of each fiscal year, prepare a report in both official languages of Canada and submit it to the Federal Minister and the Provincial Minister not later than ninety days after the expiration of that fiscal year.
Contents of report	(2) The 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 Federal Minister shall cause the annual report referred to in this section to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the day on which the report is submitted to the Federal Minister.

Decisions in Relation to Offshore Management

Board's decisions final	31. Subject to this Act, the exercise of a power or the performance of a duty by the Board pursuant to this Act is final and not subject to the review or approval of either government or either Minister.
Notice to Ministers of fundamental decisions	32. (1) Forthwith after making a fundamental decision, the Board shall give written notice of the decision to the Federal Minister and the Provincial Minister.
Public notice of fundamental decisions	(2) The Board shall cause a fundamental decision to be published <ul style="list-style-type: none"> (a) thirty days after receipt by both Ministers of a notice of the fundamental decision pursuant to subsection (1), or (b) when the fundamental decision is implemented, <p>whichever occurs earlier.</p>
Suspension of implementation of fundamental decision	33. (1) Subject to subsection (2), a fundamental decision shall not be implemented <ul style="list-style-type: none"> (a) before the expiration of thirty days after receipt by both Ministers of a notice of the fundamental decision pursuant to subsection 32(1) and any further period during which the implementation of the decision is suspended pursuant to section 34 or during which, pursuant to section 35, 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.
Exception where approval of both Ministers	(2) A fundamental decision may be implemented before the expiration of the periods referred to in paragraph (1)(a) where the Board is advised, in writing, that both the Federal Minister and the Provincial Minister approve that decision.
Decision to be implemented on	(3) Where, on the expiration of the periods referred to in paragraph (1)(a), a fundamental decision of the Board has not been conclusively set aside, that

expiration of delays

decision shall be implemented forthwith by the Board.

Suspension rights

34. The Federal Minister or the Provincial 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 pursuant to subsection 32(1), suspend the implementation of the decision during a period not exceeding sixty days after receipt of the notice of the decision pursuant to subsection 32(1).

Veto

35. (1) Within thirty days after receipt of a notice of a fundamental decision pursuant to subsection 32(1) and any further period during which the implementation of the decision is suspended pursuant to section 34, the decision may be set aside

(a) by both the Federal Minister and the Provincial Minister; or

(b) by the Provincial Minister, in the case of

(i) a fundamental decision of the Board referred to in paragraph 143(4)(a), or

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

Federal Minister's
veto

(2) The Federal Minister may

(a) set aside a fundamental decision of the Board within thirty days after receipt of a notice of the decision pursuant to subsection 32(1) or any further period during which the implementation of the decision is suspended pursuant to section 34, or

(b) overrule the setting aside of a fundamental decision by the Provincial Minister within thirty days after receipt of a notice to that effect pursuant to subsection (3),

if, in the opinion of the Federal Minister, the decision, in the case of paragraph (a), or the setting aside of the decision, in the case of paragraph (b), would unreasonably delay the attainment of security of supply.

Notice

(3) Where a Minister sets aside a fundamental decision of the Board pursuant to subsection (1) or (2) or the Federal Minister overrules the setting aside of a fundamental decision pursuant to subsection (2), that Minister shall give a written notice to that effect to the other Minister and the Board.

Determination by
National Energy
Board

(4) Notwithstanding subsection (2), where the Provincial 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 application made by the Provincial Minister within such time and in such manner as may be prescribed,

(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.
Procedures for determination	(5) A determination of the National Energy Board made pursuant to subsection (4), <p>(a) notwithstanding the <i>National Energy Board Act</i>, shall be made within such time and in such manner as may be prescribed;</p> <p>(b) is final and binding and is not subject to appeal to, or review or setting aside by, any Minister, government, court or other body; and</p> <p>(c) shall be published forthwith by the Board.</p>
Transitional	(6) Where an application is made by the Provincial Minister to the National Energy Board prior to the coming into force of the first regulation made for the purposes of subsection (4) or paragraph (5)(a), the application and the determination of the National Energy Board shall be made in accordance with the procedures and within the periods established by the National Energy Board.
Conclusively set aside	(7) For the purposes of section 33, a fundamental decision shall be deemed to have been conclusively set aside if <p>(a) it is set aside by both Ministers pursuant to subsection (1);</p> <p>(b) it is set aside by the Provincial Minister pursuant to subsection (1) and the setting aside has not been overruled pursuant to paragraph (2)(b) or, if it has been so overruled, that overruling is vacated pursuant to subsection (4); or</p> <p>(c) it is set aside by the Federal Minister pursuant to subsection (2) and the setting aside has not been vacated pursuant to subsection (4).</p>
Regulations	(8) Subject to section 6, the Governor in Council may make regulations prescribing anything that, by this section, is to be prescribed.
Definitions	(9) In this section and sections 36 and 37,
"security of supply" «sécurité des approvisionnements»	"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;
"self-sufficiency" «autosuffisance»	"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;
"suitable crude oil and equivalent substances" «pétrole brut et substances assimilées acceptables»	"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.

Determination binding	36. (1) For all purposes of this Act, including section 35, where a determination whether security of supply exists is made by both Ministers or by a panel pursuant to section 37 or is deemed to have been made pursuant to subsection (2), it is final and binding for the duration of the period in respect of which it is made.
Initial period	(2) In respect of the period commencing on January 1, 1986 and terminating on December 31, 1990, a determination shall be deemed to have been made, for all purposes of this Act, including section 35, that security of supply does not exist.
Subsequent periods	(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.
Where no agreement on determination re security of supply	37. (1) Where the two Ministers fail to agree on a determination whether security of supply exists in respect of any period, the determination shall be made by a panel, constituted in accordance with section 47, within sixty days after the appointment of the chairman of the panel unless, at any time prior to the determination by the panel, the two Ministers agree on the determination.
Determination not subject to review	(2) Where a determination referred to in subsection (1) is made by a panel pursuant to that subsection, that determination is final and binding and is not subject to appeal to, or review or setting aside by, any Minister, government, court or other body.
Supply shortfall	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.
Canada's obligations under IEA	(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.

Regional Security of Supply

Definition of "shortfall of petroleum deliveries in the Province"	<p>39. (1) In this section, "shortfall of petroleum deliveries in the Province" means deliveries of petroleum that are inadequate to supply, on commercial terms,</p> <p>(a) the end use consumption demands of all consumers in the Province;</p> <p>(b) feedstock requirements of industrial facilities that are in place in the Province on January 31, 1986; and</p> <p>(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.</p>
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Notice by Provincial Minister to holders of production licences

(2) Where there is a shortfall of petroleum deliveries in the Province, the Provincial Minister may, after consulting with the Federal Minister, give notice to holders of production licences in the offshore area that the consumers and facilities referred to in paragraphs (1)(a), (b) and (c) 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.

Later contracts subject to notice

(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 under subsection (2) is the period during which a shortfall of petroleum deliveries in the Province continues to exist.

Arbitration in case of dispute whether shortfall exists

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

Notice ceases to have effect

(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 under subsection (2) shall be 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 and provisions 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 governing the enforcement of arbitration orders and appeals from those orders; and

(c) prescribing the manner of exercising a first option to acquire that is granted pursuant to a notice given under subsection (2).

Nova Scotia Trunkline

Definition of "Nova Scotia trunkline"

40. (1) In this section, "Nova Scotia trunkline" means a trunkline for the transmission of petroleum in the offshore area or from the offshore area to and within the Province, 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 Province or the offshore area, but does not include laterals, gathering lines, flow lines, structures, or facilities for the production and processing of petroleum.

Certificate

(2) No certificate of public convenience and necessity shall be issued pursuant to Part III of the *National Energy Board Act* 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 fifty per cent, or such lesser percentage as the Government proposes to acquire as a result of the opportunity, ownership interest in the trunkline.

Authorization

(3) Where a certificate referred to in subsection (2) is not required in respect of a Nova Scotia trunkline, no authorization shall be issued under paragraph 142(1)(b) 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 fifty per cent, or such lesser percentage as the Government proposes to acquire as a result of the opportunity, ownership interest in the trunkline.

Ministerial Directives

Directives issued jointly by both Ministers

41. (1) The Federal Minister and the Provincial Minister may jointly issue to the Board written directives in relation to

- (a) fundamental decisions;
- (b) Canada-Nova Scotia benefits plans and any 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 Federal Minister and the Provincial Minister.

Directives of either Minister

(2) Where a request is received during any calendar year by the Board or the Federal Minister or the Provincial Minister to make a call for bids pursuant to Part II in relation to particular portions of the offshore area, the Federal Minister or the Provincial Minister may, after having reviewed the plan of the anticipated decisions of the Board during the calendar year submitted pursuant to section 43, issue to the Board a written directive to specify those portions of the offshore area in a call for bids made pursuant to Part II.

(3) [Repealed, 1993, c. 47, s. 12]

Directives of Provincial Minister

(4) The Provincial Minister may issue to the Board written directives with respect to any fundamental decision relating to the Bay of Fundy or Sable Island.

Directives binding

(5) The Board shall comply with any directive issued under this section.

Directives deemed not to be statutory instruments

(6) Directives issued under this section shall be deemed not to be statutory instruments for the purposes of the *Statutory Instruments Act*.

1988, c. 28, s. 41; 1993, c. 47, s. 12.

Public Notice

Public notice

42. (1) Where the Federal Minister

(a) issues or jointly issues a directive under section 41,

(b) suspends the implementation of a fundamental decision pursuant to section 34, or

(c) sets aside a fundamental decision or overrules the setting aside of a fundamental decision pursuant to section 35,

the Minister shall cause a notice of the Minister's action and of the fundamental decision in relation to which it is exercised to be published in the *Canada Gazette*.

Text of directive to be made available

(2) Where a directive is issued under section 41, the notice thereof published pursuant to subsection (1) shall indicate that the text of the directive is available for inspection by any person on request made to the Board.

Strategic Plan for Interests, Exploration and Development

Strategic plan

43. During the first month of each calendar year, the Board shall submit to the Federal Minister and the Provincial Minister a plan outlining the anticipated decisions of the Board during that calendar year respecting

(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.

Public Review

Public review

44. (1) Subject to any directives issued under subsection 41(1), 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 where the Board is of the opinion that it is in the public interest to do so.

Powers of Board

(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 Parliament or of the Legislature of the Province;

(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 Canada or of the Province under any Act of Parliament or of the Legislature of the Province, other than this Act or the Provincial 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 Federal Minister and the Provincial 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 of commissioners

(3) On the request of the Board, the Federal Government may, subject to such terms and conditions as it considers necessary, confer on the Board or the commissioners appointed pursuant to paragraph (2)(b) all or any of the powers conferred on persons appointed as commissioners under Part I of the *Inquiries Act*.

Time limit for Board's recommendations on a plan

(4) The commissioners shall make their recommendations respecting any preliminary plan or statement submitted pursuant to paragraph (2)(d) 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.

Canada-Nova Scotia Benefits Plan

Definition of "Canada-Nova Scotia benefits plan"

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 paragraph (3)(d), 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.

Canadian and Nova Scotian participation

(2) Before the Board may approve any development plan pursuant to subsection 143(4) or authorize any work or activity under paragraph 142(1)(b), 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).

Particular provisions of 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 paragraph;

(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; and

(d) first consideration shall be given to services provided from within the Province and to goods manufactured in the Province, where those services and goods are competitive in terms of fair market price, quality and delivery.

Affirmative action programs

(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.

Duties of Board in reviewing plans

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

Directives

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

(a) subject to any directives issued under subsection 41(1), approve any Canada-Nova Scotia benefits plan; or

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

Regulations

(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.

1988, c. 28, s. 45; 1992, c. 35, s. 86.

Coordination of Government Departments and Agencies

Coordination

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

(a) environmental regulation;

(b) emergency measures;

(c) 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.

Idem (2) The Federal Minister and the Provincial Minister shall be parties to any memorandum of understanding concluded in relation to a matter referred to in paragraph (1)(d).

Constitution of Panel

Notice **47.** (1) Before a panel is constituted for the purposes of subsection 13(2), 25(3), 37(1) or 140(5), the government or Minister proposing constitution of the panel shall notify the other government or Minister of the proposal.

Appointment of members of panel (2) Within thirty days after notice is given pursuant to subsection (1), each government shall appoint one member of the panel.

Chairman of panel (3) The chairman of the panel shall be appointed

(a) jointly by the two members of the panel appointed pursuant to subsection (2) 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 paragraph (a), by the Chief Justice of Nova Scotia within thirty days after the expiration of that period.

Settlement Procedure for Disputes

Definition of "agreement" **48.** (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 frontier lands.

Disputes between neighbouring provinces (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 Government of Canada is unable, by means of negotiation, to bring about a resolution of the dispute within a reasonable time, the dispute shall, at 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).

Procedures determined by Federal Minister (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 shall be determined by the Federal Minister after consultation with the provinces concerned in the dispute.

Principles of international law to 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.

Approval of Provincial Minister not required before (5) Notwithstanding section 6, where a dispute is settled pursuant to this section and a regulation under subsection 5(1) amending the description of the portion of

regulation made

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.

PART II PETROLEUM RESOURCES

Interpretation

Definitions

49. In this Part,

"call for bids" «*appel d'offres*»

"call for bids" means a call for bids made in accordance with section 61;

"commercial discovery" «*découverte exploitable*»

"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;

"commercial discovery area" «*périmètre de découverte exploitable*»

"commercial discovery area" means, in relation to a declaration of commercial discovery made pursuant to subsection 81(1) or (2), those portions of the offshore area described in the declaration;

"Crown reserve area" «*réserves de l'État*»

"Crown reserve area" means portions of the offshore area in respect of which no interest is in force;

"former exploration agreement" «*ancien accord d'exploration*»

"former exploration agreement" means an exploration agreement under the *Canada Oil and Gas Land Regulations*;

"former lease" «*ancienne concession*»

"former lease" means an oil and gas lease under the *Canada Oil and Gas Land Regulations*;

"former permit" «*ancien permis*»

"former permit" means an exploratory permit under the *Canada Oil and Gas Land Regulations*;

"former special renewal permit" «*ancien permis spécial de renouvellement*»

"former special renewal permit" means a special renewal permit under the *Canada Oil and Gas Land Regulations*;

"holder" or "interest holder" *Version anglaise seulement*

"holder" or "interest holder" means, in respect of an interest or a share therein, the person indicated, in the register maintained pursuant to Division VIII, as the holder of the interest or the share;

"interest" «*titre*»

"interest" means any former exploration agreement, former lease, former permit, former special renewal permit, exploration licence, production licence or significant discovery licence;

"interest owner" *Version anglaise seulement*

"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;

"prescribed" <i>Version anglaise seulement</i>	<p>"prescribed" means</p> <p>(a) in the case of a form or the information to be given on a form, prescribed by the Board, and</p> <p>(b) in any other case, prescribed by regulations made by the Governor in Council;</p>
"share" « <i>fraction</i> »	"share" means, with respect to an interest, an undivided share in the interest or a share in the interest held in accordance with section 69;
"significant discovery" « <i>découverte importante</i> »	"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;
"significant discovery area" « <i>périmètre de découverte importante</i> »	"significant discovery area" means, in relation to a declaration of significant discovery made pursuant to subsection 74(1) or (2), those portions of the offshore area described in the declaration.
Aboriginal rights	50. Nothing in this Part shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the <i>Constitution Act, 1982</i> .

Application

Application **51.** This Part applies to the frontier lands within the offshore area.

**DIVISION I
GENERAL**

Manner of Giving Notices

Giving notice **52.** Where a notice is required to be given under 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.

1988, c. 28, s. 52; 1992, c. 1, s. 144(F).

Her Majesty

Binding on Her Majesty **53.** This Part is binding on Her Majesty in right of Canada or a province.

Designations and Appointments

Delegation **54.** The Board may designate any person to exercise the powers and perform the duties and functions under 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.

Advisory bodies	<p>55. (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.</p>
Remuneration	<p>(2) The members of any advisory body appointed under subsection (1) may be paid for their services such remuneration and expenses as are fixed by the Board.</p>
Appointment of representative	<p>56. (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, but such holders may, with the consent of the Board, appoint different representatives for different purposes.</p>
Designation of representative	<p>(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.</p>
Acts or omissions of representative binding	<p>(3) An interest owner is bound by the acts or omissions of the appointed or designated representative of the interest owner with respect to any matter to which the authority of the representative extends.</p>
Duties of representative	<p>(4) A representative of an interest owner appointed or designated under 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.</p>

General Rules Respecting Interests

No issuance of interests in respect of certain areas	<p>57. (1) Subject to sections 32 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.</p>
Exclusive decision of Federal Minister	<p>(2) The Federal Minister may, by order, in the case of a disagreement with any foreign 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.</p>
Surrender of interests	<p>58. (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.</p>
Debts due to Her Majesty not affected	<p>(2) Any liability of an interest owner or interest holder to Her Majesty in right of Canada, either direct or by way of indemnity, that exists at the time of any surrender under subsection (1) is not affected by the surrender.</p>

Orders to prohibit activities in certain circumstances

59. (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 on all or any portion of the offshore area subject to the interest.

Fundamental decisions

(2) An order of the Board made in a case referred to in paragraph (1)(a) is subject to sections 32 to 37.

Order of Federal Minister

(3) The Federal Minister may, in the case of a disagreement with any foreign 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 on all or any portion of the offshore area subject to the interest.

Suspension of requirements in relation to interest

(4) Where, by reason of an order made under 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 term of interest

(5) Notwithstanding any other provision in this Act, the term of an interest that is subject to an order under 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.

Relieving authority not affected

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

DIVISION II GENERAL RULES RELATING TO ISSUANCE OF INTERESTS

Authority to Issue Interests

Authority to issue interests

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

Fundamental decision

(2) The issuance of an interest by the Board is subject to sections 32 to 37 unless the interest is issued pursuant to subsection 76(1) or paragraph 84(1)(a).

Application of interest may be limited

(3) Subject to subsection (4), the application of any interest may be restricted to such geological formations and to such substances as may be specified in the interest.

Non-retrospective effect of subsection (3)

(4) Subsection (3) 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 paragraph (a) in relation to that portion of the offshore area where that portion was not a Crown reserve area on the expiration of the interest referred to in paragraph (a).

Issuance of Interests in Relation to Crown Reserve Areas

Calls for bids

61. (1) Subject to section 64, the Board shall not issue an interest in relation to Crown reserve areas unless

(a) prior thereto, the Board has made a call for bids in relation to those Crown reserve areas by publishing a notice in accordance with this section and section 66; 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 62(1).

Fundamental decision

(2) The making of a call for bids by the Board is subject to sections 32 to 37.

Requests for postings of portions of the offshore area

(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.

Contents of call

(4) A call for bids shall specify

(a) the interest to be issued and the portions of the offshore area to which the interest is to apply;

(b) where applicable, the geological formations and substances to which the interest is to apply;

(c) the other terms and conditions subject to which the interest is to be issued;

(d) 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.

Time of publishing call

(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.

Selection of bid

62. (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 bid selected

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

Interest to be consistent with bid

(3) Where an interest is to be issued as a result of a call for bids, the terms and conditions of the interest shall be substantially consistent with any terms and conditions in respect of the interest specified in the call.

Publication of terms and conditions of interest

(4) The Board shall publish a notice in accordance with section 66 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.

Issuance of interest not required

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

New call required

(2) Subject to section 64, 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.

Exception to call for bids

64. (1) Subject to sections 32 to 37, the Board may issue an interest, in relation to any Crown reserve area, without making a call for bids where

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

(b) the Board is issuing the interest to an interest owner in exchange for the surrender by the interest owner, at the request of the Board, of 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.

Notice

(2) Where the Board proposes to issue an interest under subsection (1), the Board shall, not later than ninety days before issuing the interest, publish a notice in accordance with section 66 setting out the terms and conditions of the proposed interest.

Interest not vitiated by failure to comply with call procedures

65. 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 61 to 64 respecting the form and content of, and time and manner of publishing, any notice required by those sections in relation to that interest.

Manner of publication of notices

66. Any notice required to be published by the Board pursuant to subsection 61(1), 62(2) or (4), 64(2) or 71(2) shall be published in the *Canada 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.

Regulations

67. Subject to section 6, the Governor in Council may, for the purposes of section 61, 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.

DIVISION III EXPLORATION

Exploration Licences

Rights under
exploration licences

68. An exploration licence confers, with respect to the portions of the offshore area to which the licence applies,

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

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

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

Shares

69. 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.

Terms and
conditions

70. (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 32 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.

Amendment of
exploration licence

71. (1) The Board, subject to sections 32 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.

Exception

(2) The Board shall not amend an exploration licence to include any portion of the offshore area that, immediately prior to the inclusion, was a Crown reserve area unless the Board would be able to issue an interest to that interest owner in relation to that area under subsection 64(1) and a notice has been published in accordance with section 66 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 32 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.

Effective date of exploration licence

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

Non-renewable term of nine years

(2) Subject to subsection (3) and section 73, 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.

Exception

(3) Subject to section 73, 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.

Crown reserve areas on expiration of licence

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

Continuation of exploration licence where drilling commenced

73. (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.

Deemed pursued diligently

(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.

Drilling of second well deemed commenced

(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.

Significant Discoveries

Application for declaration of significant discovery

74. (1) Subject to section 127, 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 69, the Board shall, on the application of the interest holder of the interest or 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 on initiative of Board

(2) Where a significant discovery has been made on any portion of the offshore area, the Board may, by order subject to section 127, make a declaration of significant discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe the significant discovery may extend.

Description of offshore area subject to declaration

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

Amendment or revocation 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 127 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.

Idem

(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 76(1), the date on which the exploration licence referred to in that subsection expires; and

(b) in the case of a significant discovery area that is subject to a significant discovery licence issued pursuant to subsection 76(2), three years after the effective date of the significant discovery licence.

Notice

(6) A copy of a declaration of significant discovery and of any amendment or revocation thereof made under 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.

Significant Discovery Licences

Rights under significant discovery licence

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

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

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

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

Significant discovery licence in relation to areas subject to exploration licences

76. (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 69, the Board shall, on 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.

Significant discovery licence in relation to Crown reserve areas

(2) Where a declaration of significant discovery is in force and the significant discovery area extends to a Crown reserve area, the Board may, after making a call for bids in relation to that Crown reserve area or any portion thereof and selecting a bid submitted in response to the call in accordance with subsection 62(1), issue a significant discovery licence to the person who submitted that bid in relation to the Crown reserve area specified in the call.

Fundamental decision

(3) 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 32 to 37.

Terms and conditions of significant discovery licence

(4) 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 32 to 37, and the interest owner of the significant discovery licence.

Reduction of area subject to significant discovery licence

77. (1) Where a significant discovery area in relation to a declaration of significant discovery is decreased pursuant to an amendment made under subsection 74(4), any significant discovery licence that was issued on the basis of that declaration shall be amended by decreasing accordingly the portions of the offshore area subject to that licence.

Increase in area subject to significant discovery licence

(2) Where a significant discovery area in relation to a declaration of significant discovery is increased pursuant to an amendment made under subsection 74(4), 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.

Exploration licence ceases to have effect

78. (1) On the issuance of a significant discovery licence pursuant to subsection 76(1) with respect to a significant discovery area, any exploration licence ceases to have effect in relation to that significant discovery area.

Effective 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 88(1), 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.

Crown reserve area on expiration of 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 a Crown reserve area.

Drilling Orders

Drilling orders

79. (1) Subject to subsections (2) to (4) and sections 32 to 37, the Board may, at any time after making a declaration of significant discovery, by order subject to section 127, 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.

Exception	(2) No order may be made under 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.
Condition	(3) No order may be made under subsection (1) within the three years immediately following the well termination date of the well indicating the relevant significant discovery.
Idem	(4) No order made under subsection (1) may require an interest owner to drill more than one well at a time on the relevant portion of the offshore area.
Definition of "well termination date"	(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.
Information may be disclosed	80. (1) The Board may, notwithstanding section 122, 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 under subsection 79(1).
Idem	(2) An interest owner shall not disclose any information or documentation provided to that interest owner under subsection (1) except to the extent necessary to enable the interest owner to comply with an order made under subsection 79(1).

DIVISION IV PRODUCTION

Commercial Discoveries

Application for declaration of commercial discovery	81. (1) Subject to section 127, 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 69, 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 on initiative of Board	(2) Subject to section 127, 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.
Application of certain provisions	(3) Subsections 74(3), (4) and (6) apply, with such modifications as the circumstances require, with respect to a declaration made pursuant to subsection (1) or (2).

Development Orders

Notice of order to reduce term of interest

82. (1) Subject to sections 32 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.

Opportunity for submissions

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

Order reducing term of interest

(3) Notwithstanding any other provision of this Act but subject to sections 32 to 37, 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 under subsection (1), by order subject to section 127, 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.

All interests cease

(4) Notwithstanding any other provision of this Act but subject to subsections (5) and (6), where an order is made under 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.

Order ceases to have effect where production commences

(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 under subsection (3) or the period extended pursuant to subsection (6), the order ceases to have effect and is deemed to have been vacated.

Extension of period

(6) Subject to sections 32 to 37, the Board may extend the period specified in an order made under subsection (3) or may revoke the order.

Issuance of Production Licences

Rights under production licence

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

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

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

(c) the exclusive right to produce petroleum from those portions of the offshore area; and

(d) title to the petroleum so produced.

Exception

(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 the portions of the offshore area

subject to the interest or share for use in the exploration or drilling for or development of petroleum on any portion of the offshore area.

Issuance of production licence

84. (1) Subject to section 90, 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 such terms and conditions as may be agreed on by the Board and the relevant interest owners and to sections 32 to 37, 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 in relation to Crown reserve areas

(2) Where a declaration of commercial discovery is in force and the commercial discovery area extends to a Crown reserve area, the Board may, after making a call for bids in relation to that Crown reserve area or any portion thereof and selecting a bid submitted in response to the call in accordance with subsection 62(1), issue a production licence to the person who submitted that bid in relation to the Crown reserve area specified in the call.

Fundamental decision

(3) The making of a call for bids and the issuance of a production licence by the Board pursuant to subsection (2) is subject to sections 32 to 37.

Terms and conditions of production licence

(4) 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 32 to 37, and the interest owner of the production licence.

1988, c. 28, s. 84; 1993, c. 47, s. 13.

Consolidation of production licences

85. Subject to sections 32 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.

Reduction of area subject to production licence

86. (1) Where a commercial discovery area in relation to a declaration of commercial discovery is decreased pursuant to an amendment made under subsections 74(4) and 81(3), any production licence that was issued on the basis of that declaration shall be amended by decreasing accordingly the portions of the offshore area subject to that licence.

Increase in area subject to production licence

(2) Where a commercial discovery area in relation to a declaration of commercial discovery is increased pursuant to an amendment made under subsections 74(4) and 81(3), 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.

Term of production licence

87. (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.

Idem

(2) Where a declaration of commercial discovery on the basis of which a production licence was issued is, pursuant to subsections 74(4) and 81(3), revoked or amended to exclude all portions of the commercial discovery area in relation to which the production licence was issued, the production licence ceases to be in force.

Automatic 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.

Discretionary extension of term

(4) Subject to sections 32 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 portions 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 portions of the offshore area will recommence; or

(b) the Board has reasonable grounds to believe that commercial production of petroleum from such portions 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.

Lapsing of other interests

88. (1) On the issuance of a production licence, any interest in relation to the portions 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 portions of the offshore area, but otherwise continues to have effect according to its terms and the provisions of this Act.

Areas become Crown reserve areas on expiration of term

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

Subsurface Storage Licences

Licence for subsurface storage

89. (1) Subject to sections 32 to 37, the Board may, subject to any terms and conditions the Board considers appropriate, issue a licence for the purpose of subsurface storage of petroleum or any other substance approved by the Board in portions of the offshore area at depths greater than twenty metres.

Prohibition

(2) No portion of the offshore area shall be used for a purpose referred to in subsection (1) without a licence referred to therein.

Qualification for Production Licence

Qualification for production licence

90. No production licence or share in a production licence may be held by any person other than a corporation incorporated in Canada.

1988, c. 28, s. 90; 1993, c. 47, s. 14.

DIVISION V

[Repealed, 1993, c. 47, s. 15]

DIVISION VI ROYALTIES

Reservation of Royalties

Royalties reserved

99. (1) There is hereby reserved to Her Majesty in right of Canada, and each holder of a share in a production licence is liable for and shall pay to Her Majesty in right of Canada, in accordance with subsection (3), the royalties, interest and penalties that would be payable in respect of petroleum under the Offshore Petroleum Royalty Act if the petroleum were produced from Nova Scotia lands within the meaning of the Provincial Act.

Exception

(2) Notwithstanding subsection (1), where petroleum is subject to a royalty under the Offshore Petroleum Royalty Act, that petroleum is not subject to a royalty under subsection (1).

Application of Nova Scotia legislation

(3) Subject to this Act and the regulations, the Offshore Petroleum Royalty Act and any regulations made thereunder apply, with such modifications as the circumstances require, for the purposes of this section and, without limiting the generality of the foregoing,

(a) a reference in that Act to Her Majesty in right of the Province shall be deemed to be a reference to Her Majesty in right of Canada;

(b) a reference in that Act to the Province of Nova Scotia or the Province or Nova Scotia lands shall be deemed to be a reference to the offshore area; and

(c) a reference in that Act to the Minister responsible for the administration of that Act shall be deemed to be a reference to the Federal Minister.

Remedies for unpaid royalties

(4) Notwithstanding any other provision of this Act, but subject to subsection (5), for the purposes of this section, 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 under this section in respect of any interest issued in relation to any portion of the offshore area, the Provincial 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 Part III, 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 under subsections 126(1) and (2).

Idem	(5) Notwithstanding any other provision of this Act, a decision of the Board made in accordance with a direction of the Provincial Minister pursuant to subsection (4) is not a fundamental decision.
No remedy pending appeals	(6) No remedy may be exercised pursuant to subsection (4) in respect of a default in payment of an amount pending any assessment, reassessment, appeal or review in respect of that default under the Offshore Petroleum Royalty Act and any regulations made thereunder or otherwise provided by law.
No Crown share	(7) No provision of this Act or the Provincial Act or any regulation made thereunder shall apply so as to reserve to Her Majesty a Crown share in any interest issued in respect of any portion of the offshore area.
Power to collect	100. (1) Subject to subsection (6), where an agreement is entered into pursuant to subsection (3), royalties, interest and penalties payable under section 99 may be collected and administered and refunds in respect thereof may be granted on behalf of the Government of Canada in accordance with the terms and conditions of the agreement, as amended from time to time pursuant to subsection (4).
Negotiation of agreement	(2) The Federal Minister shall, on the request of the Government of the Province or the Board, negotiate an agreement with the Provincial Minister and the Board with respect to the collection and administration of the royalties, interest and penalties payable under section 99.
Agreement	(3) On completion of the negotiation of an agreement pursuant to subsection (2), the Federal Minister, with the approval of the Governor in Council, shall, on behalf of the Government of Canada, enter into an agreement with the Government of the Province and the Board with respect to the collection and administration, on behalf of the Government of Canada, of the royalties, interest and penalties payable under section 99 and, without limiting the generality of the foregoing, with respect to the granting of refunds or the making of other payments in respect of those royalties, interest and penalties in accordance with the terms and conditions set out in the agreement.
Amendments to the agreement	(4) The Federal Minister, with the approval of the Governor in Council, may, on behalf of the Government of Canada, enter into an agreement amending the terms and conditions of any agreement entered into pursuant to subsection (3).
Proof of provision of agreement	(5) A document purporting to be an agreement entered into pursuant to subsection (3) or (4) that is (a) published in the <i>Canada Gazette</i> , or (b) certified as such by, or on behalf of, the Minister of National Revenue, the

Receiver General, the Deputy Receiver General or the Federal Minister

is, in the absence of evidence to the contrary, evidence of the contents thereof and is admissible in evidence without proof of the signature or official character of the person purporting to have certified it.

No further liability

(6) An administration agreement may provide that, where any payment is received by the Government of the Province on account of any royalties, interest, penalties or other sum payable by a person under section 99, or under both section 99 and the Offshore Petroleum Royalty Act, the payment so received may be applied by the Government of the Province towards the royalties, interest, penalties or other sums payable by the person under any such provision or Act in such manner as is specified in the agreement, notwithstanding that the person directed that the payment be applied in any other manner or made no direction as to its application.

Idem

(7) Any payment or part thereof applied by the Government of the Province in accordance with an administration agreement towards the royalties, interest, penalties or other sums payable by a person under section 99

(a) relieves that person of liability to pay such royalties, interest, penalties or other sums to the extent of the payment or part thereof so applied; and

(b) shall be deemed to have been applied in accordance with a direction made by that person.

Remittance to Receiver General

101. (1) All royalties, interest and penalties payable under section 99, including the proceeds of any royalty payable in kind, shall be made payable and remitted to the Receiver General.

Consolidated Revenue Fund

(2) On the collection or receipt of any royalties, interest and penalties by the Board pursuant to this section, the royalties shall be deposited as soon as practicable to the credit of the Receiver General and paid into the Consolidated Revenue Fund in the manner prescribed by the Treasury Board under the *Financial Administration Act*.

Liability and Collection of Royalties

Debts due to Her Majesty

102. All royalties, interest and penalties payable under section 99 are debts due to Her Majesty in right of Canada and are recoverable as such from the person required to pay the royalties in accordance with this Division.

DIVISION VII ENVIRONMENTAL STUDIES RESEARCH FUND

Fund continued

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

Rates subject to Board's approval

(2) The rates fixed by the Federal Minister pursuant to section 80 of the *Canada Petroleum Resources Act*, as they apply to the offshore area, are subject to approval by the Board.

Appointment by Board of one of members of Environmental Studies Management Board

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

Reports and recommendations to Board

(4) The Environmental Studies Management Board referred to in subsection (3) shall submit to the Board

(a) a copy of every annual report and recommendation submitted to the Federal Minister pursuant to paragraph 79(1)(d) or (e) of the *Canada Petroleum Resources Act*, and

(b) a copy of that part of every budget submitted to the Federal Minister pursuant to paragraph 79(1)(c) of that Act that relates to the offshore area

at the same time the report or recommendation is submitted to the Federal Minister.

Interest owner exempt from payment

104. The interest owner of an interest in relation to lands situated in that portion of the offshore area that is described in Schedule IV is, in respect of those lands, exempt from the payment under section 81 of the *Canada Petroleum Resources Act* of any amount in respect of any period mentioned in subsection 141(1) or specified in a notice issued pursuant to subsection 141(7).

DIVISION VIII TRANSFERS, ASSIGNMENTS AND REGISTRATION

Interpretation

Definitions

105. (1) In this Division,

"assignment of security interest"
«cession de sûreté»

"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 under this Division;

"court" « tribunal »

"court" means the Supreme Court of Nova Scotia and includes a judge of that Court;

"Deputy Registrar"
«directeur adjoint»

"Deputy Registrar" means such person as the Board may designate as the Deputy Registrar for the purposes of this Division;

"discharge"
«mainlevée»

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

"instrument" «acte»

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

"operator's lien"
«privilège de l'exploitant»

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

(a) that arises under a contract

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

(ii) 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 portions of the offshore area to which the interest or share applies, and

(iii) 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

(b) that secures the payments referred to in subparagraph (a)(iii);

"postponement"
«cession de priorité»

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

"Registrar"
«directeur»

"Registrar" means such person as the Board may designate as the Registrar for the purposes of this Division;

"secured party"
«partie garantie»

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

"security interest"
«sûreté»

"security interest" means any charge on or right in relation to an interest or a share in an interest that secures

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

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

(c) 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 paragraph (a) or all or any part of a bond, debenture or other security of a corporation,

and includes a security given under section 426 of the *Bank Act*, but does not include an operator's lien;

"security notice"
Version anglaise
seulement

"security notice" means a notice of a security interest;

"transfer" «transfert»

"transfer" means a transfer of an interest or a share in an interest.

Assignees deemed
secured parties

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

1988, c. 28, s. 105; 1991, c. 46, s. 586; 1999, c. 31, s. 30.

Transfer and Assignment

Notice of disposition
of any interest

106. 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.

107. and 107.1 [Repealed, 1993, c. 47, s. 16]

Registration

Establishment of register

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

Duties of Registrar and Deputy Registrar

(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 under this Division as may be prescribed.

Prohibition against registration of documents except instruments

109. (1) No document other than an interest or instrument may be registered under this Division.

Requirements of registration

(2) No instrument may be registered under this Division 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 this Division and the regulations.

110. [Repealed, 1993, c. 47, s. 17]

Requirements of registering security notice

111. (1) No security notice may be registered under this Division unless the security notice specifies

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

Notice of official address

(2) No instrument may be registered under this Division unless a notice of official address for service in respect of that instrument is filed with the Registrar in prescribed form.

Revision of notice 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.

Security notice carries forward to new interests

112. 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 a Crown reserve area immediately before that time, the registration under this Division of a security notice in respect of the interest in force immediately preceding the 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.

Registration

113. (1) Every document submitted for registration under this Division shall be examined by the Registrar and where the Registrar determines that the document is an instrument that meets all the requirements for the registration thereof prescribed by this Division and the regulations, the Registrar shall register the instrument in accordance with this Division and the regulations.

Refusal to register

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

Memorandum of registration

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

Chronological order of receipt for registration

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

Deemed notice

114. The registration of an instrument under this Division 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 under section 116 in respect of the security notice of the contents of the documents specified in the security notice.

Priority of rights

115. (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 under this Division 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 under this Division,

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

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

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

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

Transitional

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

Idem

(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.

Idem

(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.

Operator's lien

(5) An operator's lien, in relation to an interest or share therein, shall, without registration of any document evidencing the operator's 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 under this Division, whether an instrument in respect of that other right was registered before or after the acquisition of the operator's lien or the operator's lien was acquired before or after that other right, unless the operator's lien is postponed with respect to such other rights by the registration under this Division of a postponement in respect of the operator's lien and a discharge in respect of that postponement has not been registered under this Division.

Demand for information

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

(d) is a member of a class of persons prescribed by the regulations for the purposes of this subsection; or

(e) obtains leave to do so from the court.

Contents of demand notice

(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

(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.

Court order where failure to comply

(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.

Where failure to comply with court order

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

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

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

Definition of "document"

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

Notice to take proceedings

117. (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 116(1) may

(a) serve on the secured party under the security notice a notice to take proceedings, in prescribed form, directing that secured party to apply to the court within 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.

Order to shorten notice to take proceedings

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

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

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

Order to extend notice to take proceedings

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

Service

(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 of security notice

(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.

No further registration after 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 under this Division another security notice in respect of that security interest without leave of the court to do so.

Cancellation of registration on order of court

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

Transfer effective on registration

118. A transfer of an interest or a share therein is not effective against the Crown prior to the registration of the transfer.

No restriction on rights of Board or Her Majesty

119. For greater certainty, the registration of an instrument

(a) does not restrict or in any manner affect any right or power of the Board or of the Ministers under 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 Canada has under this Act in respect of any portion of the offshore area.

No action for acts done in performance of official functions

120. 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 under this Division.

Regulations

121. Subject to section 6, the Governor in Council may make regulations for carrying out the purposes and provisions of this Division 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 this Division and the time when, and manner and circumstances in which, they are to be exercised, and providing for the designation by the Board of 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 this Division and the particulars of interests, instruments and portions of the offshore area and the orders and declarations made in relation to interests to be recorded therein;

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

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

(e) prescribing 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 this Division, and requiring such fees to be paid for such services; and

(f) prescribing any other matter or thing that is by this Division to be prescribed.

DIVISION IX ADMINISTRATION AND ENFORCEMENT

Disclosure of Information

Definitions

122. (1) In this section,

"delineation well" «puits de délimitation»	"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;
"development well" «puits d'exploitation»	"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;
"engineering research or feasibility study" «recherches ou études techniques»	"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;
"environmental study" «études de l'environnement»	"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;
"experimental project" «opération expérimentale»	"experimental project" means work or activity involving the utilization of methods or equipment that are untried or unproven;
"exploratory well" «puits d'exploration»	"exploratory well" means a well drilled on a geological feature on which a significant discovery has not been made;
"geological work" «travaux de géologie»	"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;
"geophysical work" «travaux de géophysique»	"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;
"geotechnical work" «travaux de géotechnique»	"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;
"well site seabed survey" «levé marin»	"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;
"well termination date" «date d'abandon du forage»	"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 under Part III.
Privilege	(2) Subject to section 19 and this section, information or documentation provided for the purposes of this Part or Part III or any regulation made under either Part, whether or not such information or documentation is required to be provided under 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.
Idem	(3) No person shall be required to produce or give evidence relating to any information or documentation that is privileged under subsection (2) in connection with any legal proceedings, other than proceedings relating to the administration or enforcement of this Part or Part III.
Registration of documents	(4) For greater certainty, this section does not apply to a document that has been registered under Division VIII.
Information that may be disclosed	(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 under Part III, namely, information or documentation in respect of <ul style="list-style-type: none"> (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 <ul style="list-style-type: none"> (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 paragraph (a) or the later period referred to in subparagraph (b)(i) or (ii) or (c)(i) or (ii), according to whether paragraph (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 paragraph (a) or the later period referred to in subparagraph (b)(i) or (ii) or (c)(i) or (ii), according to whether paragraph (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 areas, whichever occurs first;

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

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

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

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

(i) where it relates to a well and the well has been drilled, after the expiration

of the period referred to in paragraph (a) or the later period referred to in subparagraph (b)(i) or (ii) or (c)(i) or (ii), according to whether paragraph (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.

1988, c. 28, s. 122; 1992, c. 35, s. 87.

Arbitration

123. [Repealed, 1992, c. 35, s. 88]

Operating agreements

124. (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 under 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.

Application

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

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

(b) interests immediately succeeding the interests referred to in paragraph (a) in relation to that portion of the offshore area where that portion of the offshore area was not a Crown reserve area on the expiration of the interests referred to in paragraph (a).

Arbitration order

(3) An order of an arbitrator made pursuant to arbitration under subsection (1) is binding on all interest holders specified in the order from the date specified in the order, and the terms and conditions of the order are deemed to be terms and conditions of the interest to which the matters relate.

Regulations

125. (1) Subject to section 6, the Governor in Council may make regulations for carrying out the purposes and provisions of section 124 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 enforcement of arbitration orders.

Application of regulations

(2) Regulations made under subsection (1) may apply generally to the offshore area or to any portion thereof.

1988, c. 28, s. 125; 1992, c. 35, s. 89.

Cancellation of Rights

Notice to comply

126. (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 under this Part or Part III or any regulation made under either Part, 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.

Default

(2) Notwithstanding anything in this Part but subject to sections 32 to 37, where an interest owner or holder fails to comply with a notice under subsection (1) within the period specified in the notice and the Board considers that the failure to comply warrants cancellation of the interest of the interest owner or holder or 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 section 127, cancel that interest or share, and where the interest or share is so cancelled, the portions of the offshore area thereunder become Crown reserve areas.

Hearings and Judicial Review

Definition of "Committee"

127. (1) In this section, "Committee" means the Oil and Gas Committee established pursuant to section 145.

Notice

(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 under 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 to give notice thereof to the person who requested the hearing.

Hearing

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

Powers of Committee

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

Recommendations of 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.

Order of Board

(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 order and reasons

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

Effective date of order

(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 under subsection (3); or

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

Fundamental decisions

(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 paragraph 33(1)(a) do not commence prior to the day referred to in paragraph (9)(a) or (b), as the case may be, and the order, decision or action takes effect subject to section 33.

Judicial review

(11) Any order, decision or action in respect of which a hearing is held under this section is subject to review and to be set aside by the Supreme Court of Nova Scotia in accordance with the practice and procedure established by or pursuant to the Provincial Act.

1988, c. 28, s. 127; 1999, c. 31, s. 31.

Regulations

Regulations

128. (1) 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) not inconsistent with the *Canada Lands Surveys Act* 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 and 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.

Publication of proposed regulations

(2) Subject to subsection (3), a copy of each regulation that the Governor in Council proposes to make under this Part shall be published in the *Canada Gazette* and a reasonable opportunity shall be afforded to interested persons to make representations to the Federal Minister with respect thereto.

Single publication required

(3) No proposed regulation need be published more than once under subsection (2) whether or not it is altered or amended after such publication as a result of

representations made by interested persons as provided in that subsection.

Forms	<p>129. (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.</p>
Forms prescribed or authorized	<p>(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 under this Part unless called in question by the Board or some person acting for the Board or Her Majesty in right of Canada or the Province.</p>
Forms not regulations	<p>(3) Where a form or information to be given on a form is prescribed by the Board pursuant to this Part, it shall be deemed not to be a regulation within the meaning of the <i>Statutory Instruments Act</i>.</p>

DIVISION X TRANSITIONAL

Exploration agreements extant are continued	<p>130. (1) Where an exploration agreement in relation to any portion of the offshore area was entered into or negotiations in respect thereof were completed under the <i>Canada Oil and Gas Act</i> 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.</p>
Declarations of significant discovery are continued	<p>(2) Where a declaration of significant discovery was made under section 44 of the <i>Canada Oil and Gas Act</i> and is in force on the coming into force of this section, it continues in force as if it were made pursuant to section 74 of this Act.</p>
Deemed significant discovery licence	<p>(3) Where, on the coming into force of this section, an exploration agreement is continuing in force pursuant to subsection 16(4) of the <i>Canada Oil and Gas Act</i>, it shall be deemed to be a significant discovery licence issued under this Part on the coming into force of this section and is subject to this Part.</p>
Replacement of rights	<p>131. (1) Subject to section 130 and subsection 132(2), the interests provided for under 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.</p>
No compensation	<p>(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 Canada 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.</p>
Regulations continue in force	<p>132. (1) The <i>Canada Oil and Gas Land Regulations</i> remain in force to the extent that they are consistent with this Part until they are revoked or replaced by regulations made under this Part.</p>
Former interests	<p>(2) All interests provided by the <i>Canada Oil and Gas Land Regulations</i> that are in force on the coming into force of this section continue in force subject to sections</p>

133 to 136.

Petro-Canada rights
abrogated

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

Idem

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

Dealings not vitiated
for failure to comply
with regulations

(5) Where a person acquires, disposes of or otherwise deals in an interest or a share in an interest in respect of which Petro-Canada would, but for the circumstances described in paragraph (a) or (b), have had any right under section 33, 120 or 121 of the *Canada Oil and Gas Land Regulations*, no such acquisition, disposition or dealing is vitiated by reason only of

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

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

Retrospective
application

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

Definition of "Petro-
Canada"

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

Former permits,
former special
renewal permits and
former exploration
agreements

133. (1) Subject to sections 135 and 136, the interest owner of a former permit, former special renewal permit or former exploration agreement shall, on or before the first anniversary date of any such interest following March 5, 1982 or on or before six months following such date, whichever is the later, negotiate an exploration licence with the Board, subject to sections 32 to 37.

Surrender

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

Extension

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

Where drilling
commitment exits

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

Former leases

134. (1) Subject to sections 135 and 136, the interest owner of a former lease shall, on or before the first anniversary date of the former lease following March 5, 1982 or on or before six months following such date, whichever is the later, negotiate an exploration licence with the Board, subject to sections 32 to 37.

Surrender	(2) Where an interest owner referred to in subsection (1) does not comply with that subsection, the portion of the offshore area under the former lease is deemed to be surrendered and becomes a Crown reserve area.
Application	(3) Subsection 133(3) applies, with such modifications as the circumstances require, to lands that may be included in an exploration licence under subsection (1).
Extension of time	135. Where an exploration licence required to be negotiated under section 133 or 134 cannot be negotiated within the period provided in those sections for any reason not attributable to the interest owner, the Board shall extend that period to allow for such negotiation within a reasonable time.
Consolidated exploration licence	136. (1) One or more interest owners of former permits, former special renewal permits, former exploration agreements or former leases may, for the purposes of complying with subsection 133(1) or 134(1), negotiate together a single exploration licence that would consolidate any number or combination of such interests held by those interest owners.
Terms and conditions of exploration licence	(2) Subject to sections 32 to 37, an exploration licence negotiated pursuant to subsection (1) shall contain any terms and conditions that may be agreed on by the Board and the interest owners thereof.
Crown share abrogated	137. For greater certainty, the reservation to Her Majesty in right of Canada of a Crown share in any interest granted or entered into under the <i>Canada Oil and Gas Act</i> prior to the coming into force of this section is abrogated as of the day this section comes into force.

PART III PETROLEUM OPERATIONS

Interpretation

Definitions	138. In this Part,
"Chief Conservation Officer" « <i>délégué à l'exploitation</i> »	"Chief Conservation Officer" means the person designated as the Chief Conservation Officer pursuant to section 144;
"Chief Safety Officer" « <i>délégué à la sécurité</i> »	"Chief Safety Officer" means the person designated as the Chief Safety Officer pursuant to section 144;
"Committee" « <i>Comité</i> »	"Committee" means the Oil and Gas Committee established pursuant to section 145;
"lease" « <i>concession</i> »	"lease" means an oil and gas lease issued pursuant to regulations made in accordance with the <i>Territorial Lands Act</i> and the <i>Public Lands Grants Act</i> and includes a production licence issued under Part II;
"permit" « <i>permis</i> »	"permit" means an exploratory oil and gas permit issued pursuant to regulations made in accordance with the <i>Territorial Lands Act</i> and the <i>Public Lands Grants</i>

Act and includes an exploration agreement entered into under the *Canada Oil and Gas Land Regulations* and any exploration agreement or licence that is subject to Part II;

"pipeline" «*pipe-line*»

"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;

"well" «*puits*»

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

(a) for the production of petroleum,

(b) for the purpose of searching for or obtaining petroleum,

(c) for the purpose of obtaining water to inject into an underground formation,

(d) for the purpose of injecting gas, air, water or other substance into an underground formation, or

(e) for any purpose, if made through sedimentary rocks to a depth of at least one hundred and fifty metres.

1988, c. 28, s. 138; 1992, c. 35, s. 91.

Purpose

Purpose

138.1 The purpose of this Part is to promote, in respect of the exploration for and exploitation of petroleum,

(a) safety, particularly by encouraging persons exploring for and exploiting petroleum to maintain a prudent regime for achieving safety;

(b) the protection of the environment;

(c) the conservation of petroleum resources; and

(d) joint production arrangements.

1992, c. 35, s. 92.

Application

Application

139. This Part applies in respect of the exploration and drilling for and the production, conservation, processing and transportation of petroleum in those portions of the offshore area not within the Province.

Oil and Gas Administration Advisory Council

Designation

139.1 The Provincial Minister may designate one of the members of the Oil and Gas Administration Advisory Council established by the *Canada Oil and Gas Operations Act*.

1992, c. 35, s. 93.

Offshore Oil and Gas Training Standards Advisory Board

Approval

139.2 The Provincial Minister may approve the establishment of the Offshore Oil and Gas Training Standards Advisory Board by the federal Ministers pursuant to subsection 5.5(1) of the *Canada Oil and Gas Operations Act*.

1992, c. 35, s. 93.

Prohibition

Prohibition

140. 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 under paragraph 142(1)(a);

(b) that person is the holder of an authorization issued, before the commencement of operations, under paragraph 142(1)(b) for each such work or activity; and

(c) where it is required, that person is authorized or entitled to carry on business in the place where that person proposes to carry on the work or activity.

1988, c. 28, s. 140; 1992, c. 35, s. 94.

Prohibition

141. (1) No person shall, on or before January 1, 2000, in that portion of the offshore area described in Schedule IV, explore or drill for or produce, conserve or process petroleum or transport petroleum produced in that portion of the offshore area.

Public review by panel	(2) A public review of the environmental and socio-economic impact of exploration and drilling activities in that portion of the offshore area described in Schedule IV shall be conducted by a panel that is to be established for that purpose, in accordance with this section, on or before January 1, 1996.
Panel	(3) The panel referred to in subsection (2) shall consist of not more than five members.
Appointment of members and chairman	(4) Two members of the panel referred to in subsection (2) may be appointed by the Federal Minister and two by the Provincial Minister, and the chairman of the panel is to be appointed by both the Federal Minister and the Provincial Minister.
Appointment of chairman where Ministers fail to agree	(5) Where the two Ministers fail to agree on the appointment of the chairman of the panel referred to in subsection (2) within sixty days after the first appointment of a member of the panel, the chairman shall be selected by an arbitration panel, constituted in accordance with section 47, within thirty days after the appointment of the chairman of the arbitration panel, unless at any time prior thereto the two Ministers agree on the appointment.
Panel to prepare report	(6) A report containing the results of the public review conducted pursuant to subsection (2), including any recommendations of the panel made in respect of those results, shall be prepared by the panel referred to in that subsection and submitted to the Federal Minister and the Provincial Minister on or before July 1, 1999.
Prohibition for further period	(7) On or before January 1, 2000, the Federal Minister and Provincial Minister may, after consideration of the report submitted to them pursuant to subsection (6), jointly issue a written notice prohibiting, for such further period as is specified in the notice, in all or any part of that portion of the offshore area described in Schedule IV, the exploration or drilling for and the production, conservation and processing of petroleum and the transportation of petroleum produced in that portion of the offshore area.
Publication of notice	(8) The Federal Minister shall cause a copy of any notice issued pursuant to subsection (7) to be published in the <i>Canada Gazette</i> forthwith after the notice has been issued.

Delegation

141.1 The Board may delegate any of the Board's powers under section 142, 142.2, 142.3, 143.1, 143.2 or 168 to any person, and the person shall exercise those powers in accordance with the terms of the delegation.

1992, c. 35, s. 95.

Licences and Authorizations

Operating Licences and Authorization for Work

Licences and authorizations

142. (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.

Term and renewals

(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 operating 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

(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 143.1(1) or (2);

(c) subsection 143.1(3), 143.2(2) or 168(1.1); or

(d) any applicable regulation.

1988, c. 28, s. 142; 1992, c. 35, s. 96.

Right of entry

142.1 (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 under paragraph 142(1)(b).

Restriction

(2) Where a person occupies a portion of the offshore area under a lawful right or title, other than an authorization under paragraph 142(1)(b) or an interest as defined in Part II, no person may enter on or use that portion for a purpose referred to in subsection (1) without the consent of the occupier or, where consent has been refused, except in accordance with the terms and conditions imposed by a decision of an arbitrator made in accordance with the regulations.

1992, c. 35, s. 96.

Safety of Works and Activities

Safety

142.2 The Board shall, before issuing an authorization for a work or activity referred to in paragraph 142(1)(b), consider the safety of the work or activity by reviewing, in consultation with the Chief Safety Officer, the system as a whole and its components, including its structures, facilities, equipment, operating procedures and personnel.

1992, c. 35, s. 96.

Financial Responsibility

Compliance with subsection 168(1)

142.3 The Board shall, before issuing an authorization for a work or activity referred to in paragraph 142(1)(b), ensure that the applicant has complied with the requirements of subsection 168(1) in respect of that work or activity.

1992, c. 35, s. 96.

Development Plan Approval

Approval of general approach of development

143. (1) No approval that is

(a) applicable to an authorization under paragraph 142(1)(b) to carry on work or activity in relation to developing a pool or field, and

(b) prescribed by the regulations for the purposes of this subsection

shall be granted, except with the 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 paragraphs (4)(a) and (b).

Application and submission of development plan

(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, together with the proposed development plan in the form and containing the information described in subsection (3).

Development plan in two parts

(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 development 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 32 to 37, Part I of the development plan; and

(b) Part II of the development plan.

Approval of amendments 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 paragraph (4)(a) or (b), as the case may be.

Application of certain provisions

(6) Subsections (2) to (5) apply, with such modifications as the circumstances require, with respect to a proposed amendment to a development plan.

1988, c. 28, s. 143; 1992, c. 35, s. 97.

Declarations

Declaration by applicant

143.1 (1) Subject to subsection (2), no authorization under paragraph 142(1)(b) shall be issued unless the Board has received, from the applicant for the authorization, a declaration in the form fixed by the Board that states that

(a) the equipment and installations that are to be used in the work or activity to be authorized are fit for the 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.

Declaration by owner

(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 a form fixed by the Board and shall state that

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

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

Changes (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.

Immunity (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 under this section.

1992, c. 35, s. 98.

Certificates

Certificate **143.2** (1) No authorization under paragraph 142(1)(b) 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.

Continuing obligation (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 142(4), whether they are imposed by regulation or by the Board.

Validity of 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

(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.

Definition of "certifying authority"

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

Immunity

(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 under this section.

1992, c. 35, s. 98.

Chief Safety Officer and Chief Conservation Officer

Designation

144. 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.

1988, c. 28, s. 144; 1992, c. 35, s. 99.

Statutory Instruments Act

Orders

144.1 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 statutory instrument as defined in the *Statutory Instruments Act*.

1992, c. 35, s. 99.

Extended Formation Flow Tests

Title

144.2 (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 under paragraph 142(1)(b), 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 under Part II.

Conditions

(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.

Limitation

(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. 35, s. 99.

Oil and Gas Committee

Constitution

Oil and Gas Committee	<p>145. (1) The Board may, for the purposes of this Act and the Provincial Act, establish a committee 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 Canada or of the Province.</p>
Appointment of members and chairman	<p>(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.</p>
Re-appointment permitted	<p>(3) A retiring chairman or retiring member may be re-appointed to the Committee in the same or another capacity.</p>
Qualification of members	<p>146. (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.</p>
Idem	<p>(2) The members and employees of the Board and the Chief Conservation Officer are not eligible to be members of the Committee.</p>
Staff	<p>(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 two Ministers.</p>
Remuneration	<p>(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.</p>
Expenses	<p>(5) All members of the Committee are entitled to be paid reasonable travel and living expenses while absent from their ordinary place of residence in the course of their duties.</p>
Interest in petroleum properties	<p>147. 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.</p>
Quorum	<p>148. (1) A majority of the members, including one member who is not an employee in the public service of Canada or of the Province, constitutes a quorum of the Committee.</p>

Powers of
Committee

(2) The Committee may make general rules not inconsistent with this Act regulating its practice and procedure and the places and times of its sittings.

Jurisdiction and Powers

Jurisdiction

149. (1) Where, under this Act, 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 Act the Committee is authorized to make or give or with respect to any matter, act or thing that by this Act 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 Act, the Committee has, regarding the attendance, swearing and examination of witnesses, the production and inspection of documents, the entry on and inspection of property, the enforcement of its orders and regarding other matters necessary or proper for the due exercise of its jurisdiction pursuant to this Act, all such powers, rights and privileges as are vested in a superior court of record.

Finding of fact
conclusive

(3) The finding or determination of the Committee on any question of fact within its jurisdiction is binding and conclusive.

Deputing member to
hold inquiry

150. (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.

Powers of deputed
member

(2) Where an inquiry is held by a member under 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.

Advisory functions

151. The Board may at any time refer to the Committee for a report or recommendation any question, matter or thing arising under this Part or relating to the conservation, production, storage, processing or transportation of petroleum.

Enforcement

Enforcement of
Committee orders

152. (1) Any order made by the Committee may, for the purpose of enforcement of the order, be made an order of the Supreme Court of Nova Scotia and shall be enforced in like manner as any order of that Court.

Procedure for
enforcement

(2) To make an order of the Committee an order of the Supreme Court of Nova Scotia, the practice and procedure established by or pursuant to the Provincial Act for making any order an order of that Court may be followed.

When order
rescinded or
replaced

(3) When an order of the Committee has been made an order of the Supreme Court of Nova Scotia, any order of the Committee, or of the Board under section 191, rescinding or replacing the first mentioned order of the Committee, shall be deemed to cancel the order of the Court and may in like manner be made an order

of the Court.

1988, c. 28, s. 152; 1999, c. 31, s. 32.

DIVISION I REGULATION OF OPERATIONS

Regulations

Regulatory power of
Governor in Council

153. (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 petroleum resources, make regulations

(a) defining "oil" and "gas" for the purposes of Divisions I and II, "installation" and "equipment" for the purposes of sections 143.1 and 143.2 and "serious" for the purposes of section 170;

(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 142.1(2), including the costs of or incurred in relation to such arbitrations;

(e) concerning the approvals to be granted as conditions of authorizations issued under paragraph 142(1)(b);

(f) concerning certificates for the purposes of section 143.2;

(g) prohibiting the introduction into the environment of substances, classes of substances and forms of energy, in prescribed circumstances;

(h) authorizing the discharge, emission or escape of petroleum for the purposes of subsection 165(1) 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 of standards or specifications	<p>(2) Unless otherwise provided in this Part, a regulation made under subsection (1) incorporating by reference the standards or specifications of any government, person or organization may incorporate such standards or specifications as amended from time to time.</p> <p>1988, c. 28, s. 153; 1992, c. 35, s. 101.</p>
Publication of proposed regulations	<p>154. (1) Subject to subsection (2), a copy of each regulation that the Governor in Council proposes to make under this Division shall be published in the <i>Canada Gazette</i> and a reasonable opportunity shall be afforded to interested persons to make representations to the Federal Minister with respect thereto.</p>
Single publication required	<p>(2) No proposed regulation need be published more than once under subsection (1) whether or not it is altered or amended after such publication as a result of representations made by interested persons as provided in that subsection.</p>
Equivalent standards and exemptions	<p>155. (1) Subject to subsection (2), the Chief Safety Officer and Chief Conservation Officer may</p> <p style="padding-left: 40px;">(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</p> <p style="padding-left: 40px;">(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.</p>
One officer authorizations	<p>(2) The Chief Safety Officer alone may exercise the powers referred to in paragraph (1)(a) or (b) if the regulatory requirement referred to in that paragraph does not relate to protection of the environment or conservation, and the Chief Conservation Officer alone may exercise those powers if the regulatory requirement does not relate to safety.</p>
No contravention	<p>(3) No person contravenes the regulations if that person acts in compliance with an authorization or exemption under subsection (1) or (2).</p> <p>1988, c. 28, s. 155; 1992, c. 35, s. 102.</p>
Guidelines and interpretation notes	<p>156. (1) 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, 142 and 143 and any regulations made under section 153.</p>
Deemed not to be statutory instruments	<p>(2) Guidelines and interpretation notes issued pursuant to subsection (1) shall be deemed not to be statutory instruments for the purposes of the <i>Statutory Instruments Act</i>.</p>
Definitions	<p>157. (1) In this section,</p>

"marine installation or structure"
«*ouvrage en mer*»

"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 paragraph (5)(a),

but does not include any vessel that provides any supply or support services to a ship, installation, structure or work described in paragraph (a) or (b);

"Nova Scotia social legislation" «*lois sociales*»

"Nova Scotia social legislation" means the *Labour Standards Code*, Chapter 10 of the Statutes of Nova Scotia, 1972, as amended from time to time, the *Occupational Health and Safety Act*, Chapter 3 of the Statutes of Nova Scotia, 1985, as amended from time to time, the *Trade Union Act*, Chapter 19 of the Statutes of Nova Scotia, 1972, as amended from time to time, and the *Workers' Compensation Act*, Chapter 65 of the Statutes of Nova Scotia, 1968, as amended from time to time.

Application of Nova Scotia social legislation

(2) The Nova Scotia social legislation and any regulations made thereunder apply on any marine installation or structure that is within the offshore area in connection with the exploration or drilling for or the production, conservation or processing of petroleum within the offshore area.

Exemption

(3) Notwithstanding subsection (2), any provision of any Act or regulation referred to in that subsection that is in relation to a matter in respect of which a regulation may be made under paragraph 153(1)(d), (m), (o) or (p) of this Act as it read before the coming into force of section 103 of *An Act to amend the Oil and Gas Production and Conservation Act and other Acts in consequence thereof*, or under any provision of this Act respecting occupational health or safety does not apply on marine installations or structures referred to in subsection (2) during such time as those installations or structures are within the offshore area in connection with a purpose referred to in that subsection.

Non-application of certain provisions of the *Canada Labour Code*

(4) Notwithstanding subsection 123(1) of the *Canada Labour Code* and any other Act of Parliament

(a) Parts II and III of the *Canada Labour Code* do not apply on any marine installation or structure referred to in subsection (2), and

(b) in respect of any marine installation or structure referred to in subsection (2) 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,

(i) Part I of the *Canada Labour Code* does not apply, and

(ii) the *Trade Union Act*, Chapter 19 of the Statutes of Nova Scotia, 1972, as amended from time to time, applies

during such time as the marine installation or structure is within the offshore area in connection with a purpose referred to in that subsection.

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) prescribing, for the purpose of subsection (2), any Act of the Legislature of the Province or excluding any such Act from the application of that subsection.

1988, c. 28, s. 157; 1992, c. 35, s. 103; 1999, c. 31, s. 33.

Production orders

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

Ceasing production

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

Investigation and appeal

(3) Subsections 160(2) to (4) and section 162 apply, with such modifications as the circumstances require, to an order under subsection (1) or (2) as if it were an order under subsection 160(1).

Access to files and records

(4) A person subject to an order under 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.

1988, c. 28, s. 158; 1992, c. 35, s. 104.

Waste

Waste prohibited

159. (1) Subject to subsection 199(5), any person who commits waste is guilty of an offence under this Division, but a prosecution may be instituted for such an offence only with the consent of the Board.

Definition of "waste"

(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.

Prevention of waste

160. (1) Where the Chief Conservation Officer on reasonable grounds is of the opinion that waste, other than waste as defined in paragraph 159(2)(f) or (g), 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

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

Peremptory order

(3) Notwithstanding subsection (2), the Chief Conservation Officer may, without an investigation, make an order under this section requiring all operations to be shut down if in the opinion of the Chief Conservation Officer it is necessary to do so to prevent damage to persons or property or to protect the environment, but as soon as possible after making 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.

Order after inquiry

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

1988, c. 28, s. 160; 1992, c. 35, s. 105.

Taking over management

161. (1) For the purpose of giving effect to an order made under section 160, 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.

Controlling operations and costs thereof

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

1988, c. 28, s. 161; 1992, c. 35, s. 106(F).

Appeal to Committee

162. (1) A person aggrieved by an order of the Chief Conservation Officer after

an investigation under section 160 may appeal to the Committee to have the order reviewed.

Powers on appeal

(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 Division or the regulations; or

(c) make such other or further order as the Committee considers appropriate.

1988, c. 28, s. 162; 1992, c. 35, s. 107(F).

Waste by failure to utilize gas or to use appropriate recovery methods

163. (1) When the Chief Conservation Officer on reasonable grounds is of the opinion that waste as defined in paragraph 159(2)(f) or (g) is occurring in the recovery of petroleum from a pool, the Chief Conservation Officer may apply to the Committee for an order requiring the operators within the pool to show cause at a hearing to be held on a day specified in the order why the Committee should not make a direction in respect thereof.

Hearing

(2) On the day specified in the order under subsection (1), the Committee shall hold a hearing at which the Chief Conservation Officer, the operators and other interested persons shall be given an opportunity to be heard.

1988, c. 28, s. 163; 1992, c. 35, s. 108(F).

Order

164. (1) If, after the hearing referred to in section 163, the Committee is of the opinion that waste as defined in paragraph 159(2)(f) or (g) is occurring in the recovery of petroleum from a pool, the Committee may, by order,

(a) direct the introduction of a scheme for the collection, processing, disposition or reinjection of 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.

Continuation pending approval of scheme

(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 under 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.

Spills and Debris

Definition of "spill" **165.** (1) In sections 166 to 170, "spill" means a discharge, emission or escape of petroleum, other than one that is authorized under the regulations or any other federal law or that constitutes a discharge from a ship to which Part XV of the *Canada Shipping Act* or Part 6 of the *Marine Liability Act* applies.

Definition of "debris" (2) In sections 167 and 170, "debris" means any installation or structure that was put in place in the course of any work or activity required to be authorized under paragraph 142(1)(b) 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 been jettisoned or displaced in the course of any such work or activity.

Definition of "actual loss or damage" (3) In section 167, "actual loss or damage" includes loss of income, including future income, and, with respect to any aboriginal peoples of Canada, includes loss of hunting, fishing and gathering opportunities.

Immunity (4) Her Majesty in right of Canada 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.

1988, c. 28, s. 165; 1992, c. 35, s. 110; 2001, c. 6, s. 111.

Spills prohibited **166.** (1) No person shall cause or permit a spill on or from any portion of the offshore area.

Duty to report spills (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.

Duty to take reasonable measures (3) Every person required to report a spill under subsection (2) shall, as soon as possible, take all reasonable measures consistent with safety and the protection of the environment to prevent 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.

Taking emergency action (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 under subsection (3),

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

Taking over management (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.

Managing work or activity (6) A person authorized and directed to take over the management and control of any work or activity under subsection (5) shall manage and control that work or

activity and take all reasonable measures in relation to the spill that are referred to in subsection (3).

Costs

(7) Any costs incurred under subsection (6) shall be borne by the person who obtained an authorization under paragraph 142(1)(b) 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

(7.1) 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 Canada the costs and expenses reasonably incurred by that person in taking the action.

Appeal

(8) Section 162 applies, with such modifications as the circumstances require, to any action or measure taken or authorized or directed to be taken under subsections (4) to (6) as if it were taken or authorized or directed to be taken by order under subsection 160(1) and as if such order were not subject to an investigation.

Personal liability

(9) No person required, directed or authorized to act under this section is personally liable either civilly or criminally 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.

1988, c. 28, s. 166; 1992, c. 35, s. 111.

Recovery of loss,
damage, costs or
expenses

167. (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 who is required to obtain an authorization under paragraph 142(1)(b) in respect of the work or activity from which the spill or authorized discharge, emission or escape of petroleum emanated is liable, without proof of fault or negligence, up to 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 the Board or Her Majesty in right of Canada or the Province or any other person in taking any action or measure in relation to the spill or the authorized discharge, emission or escape of petroleum; and

(b) all persons to whose fault or negligence the spill or the authorized discharge, emission or escape of petroleum is attributable or who are by law responsible for others to whose fault or negligence the spill or the authorized discharge, emission or escape of petroleum is attributable are jointly and 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.

Recovery of loss,
damage, costs or
expenses caused by
debris

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

(a) the person who is required to obtain an authorization under paragraph 142(1)(b) in respect of the work or activity from which the debris originated is liable, without proof of fault or negligence, up to any prescribed 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.

No double liability

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

Claims

(3) All claims under this section may be sued for and recovered in any court of competent jurisdiction in Canada 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).

Saving

(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 under this Division or gives rise to liability under 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 period

(5) Proceedings in respect of claims under 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.

1988, c. 28, s. 167; 1992, c. 35, s. 112.

Financial responsibility

168. (1) An applicant for an authorization under paragraph 142(1)(b) 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.

Continuing obligation

(1.1) The holder of an authorization issued under paragraph 142(1)(b) shall ensure that the proof of financial responsibility remains in force for the duration of the work or activity in respect of which the authorization is issued.

Payment of claims

(2) The Board may require that moneys 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 under section 167, whether or not such proceedings have been instituted.

Manner of payment (3) Where payment is required under 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 (4) Where a claim is sued for under section 167, there shall be deducted from any award made pursuant to the action on that claim any amount received by the claimant under this section in respect of the loss, damage, costs or expenses claimed.

1988, c. 28, s. 168; 1992, c. 35, s. 113.

Review committee **169.** (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 Provincial Act to review and monitor the application of sections 167 and 168 and any claims and the payment thereof made under 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 Parliament and an Act of the Legislature of the Province.

Promotion of 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.

Inquiries

Inquiries **170.** (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.

Mandatory inquiry (1.1) 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 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.

Power of person conducting inquiry (2) For the purposes of an inquiry under subsection (1), a person authorized by the Board under that subsection has and may exercise all the powers of a person appointed as a commissioner under Part I of the *Inquiries Act*.

Report (3) As soon as possible after the conclusion of an inquiry under 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 (4) A report made pursuant to subsection (3) shall be published by the Board within thirty days after the Board has received it.

Copies of report

(5) The Board may supply copies of a report published pursuant to subsection (4) in such manner and on such terms as the Board considers proper.

1988, c. 28, s. 170; 1992, c. 35, s. 114.

DIVISION II PRODUCTION ARRANGEMENTS

Definitions	171. In this Division,
"pooled spacing unit" « <i>unité d'espacement mise en commun</i> »	"pooled spacing unit" means the area that is subject to a pooling agreement or a pooling order;
"pooled tract" « <i>parcelle mise en commun</i> »	"pooled tract" means the portion of a pooled spacing unit defined as a tract in a pooling agreement or a pooling order;
"pooling agreement" « <i>accord de mise en commun</i> »	"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;
"pooling order" « <i>arrêté de mise en commun</i> »	"pooling order" means an order made under section 173 or as altered pursuant to section 175;
"royalty interest" « <i>droit à redevance</i> »	"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;
"royalty owner" « <i>titulaire de redevance</i> »	"royalty owner" means a person, including Her Majesty, who owns a royalty interest;
"spacing unit" « <i>unité d'espacement</i> »	"spacing unit" means the area allocated to a well for the purpose of drilling for or producing petroleum;
"tract participation" « <i>fraction parcellaire</i> »	"tract participation" means the share of production from a unitized zone that is allocated to a unit tract under a unit agreement or unitization order or the share of production from a pooled spacing unit that is allocated to a pooled tract under a pooling agreement or pooling order;
"unit agreement" « <i>accord d'union</i> »	"unit agreement" means an agreement to unitize the interests of owners in a pool or part thereof exceeding in area a spacing unit, or such an agreement as varied by a unitization order;
"unit area" « <i>secteur unitaire</i> »	"unit area" means the area that is subject to a unit agreement;
"unit operating agreement" « <i>accord d'exploitation unitaire</i> »	"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;
"unit operation" « <i>exploitation unitaire</i> »	"unit operation" means those operations conducted pursuant to a unit agreement or a unitization order;
"unit operator" « <i>exploitant unitaire</i> »	"unit operator" means a person designated as a unit operator under a unit operating agreement;
"unit tract" « <i>parcelle unitaire</i> »	"unit tract" means the portion of a unit area that is defined as a tract in a unit agreement;
"unitization order" « <i>arrêté d'union</i> »	"unitization order" means an order of the Committee made under section 181;
"unitized zone" « <i>terrain</i> »	"unitized zone" means a geological formation that is within a unit area and subject to a unit agreement;
"working interest" « <i>intérêt économique direct</i> »	"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 under a lease, 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;
"working interest owner" « <i>détenteur</i> »	"working interest owner" means a person who owns a working interest. 1988, c. 28, s. 171; 1992, c. 35, s. 115(F).

Pooling

Voluntary pooling	172. (1) Where one or more working interest owners have leases or separately owned working interests within a spacing unit, the working interest owners and the royalty owners who own all of the interests in the spacing unit may pool their working interests and royalty interests in the spacing unit for the purpose of drilling for or producing, 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.
Pooling agreement by Her Majesty	(2) The Board may, on behalf of Her Majesty, enter into a pooling agreement on any terms and conditions that it deems advisable and, despite anything in Part II or this Part, the <i>Federal Real Property and Federal Immovables Act</i> or any regulations made under those Parts or that Act, the pooling agreement is binding on Her Majesty. 1988, c. 28, s. 172; 1991, c. 50, s. 25; 2001, c. 4, s. 153.
Application for pooling order	173. (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.
Hearing by	(2) An application under subsection (1) shall be made to the Board which shall

Committee	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.
Matter to be supplied Committee on hearing	(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.
Order of Committee	(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.
Contents of pooling order	<p>(5) Every pooling order shall provide</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(f) for the sale by the operator of petroleum allocated pursuant to paragraph (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.</p>
Provision of 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 the working interest owner as the 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 owner's share of such costs.

Recovery of costs and penalty

(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, that portion of the costs and the penalty, if any, are recoverable only out of the share of production from the spacing unit and not in any other manner.

Effect of pooling order

174. Where a pooling order is made, all working interest owners and royalty owners having interests in the pooled spacing unit shall, on the making of the pooling order, be 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 175, are binding on and enforceable against the parties thereto, including Her Majesty.

Application to alter pooling order

175. (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.

Alteration of pooling 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.

Tract participation ratios protected

(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.

Prohibition

176. (1) No person shall produce any petroleum within a spacing unit in which there are two or more leases or two or more separately owned working interests unless a pooling agreement has been entered into in accordance with section 172 or in accordance with a pooling order made under section 173.

Saving

(2) Subsection (1) does not prohibit the production of petroleum for testing in any quantities approved by the Chief Conservation Officer.

Unitization

Unit operation

177. (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.

Board may enter into unit agreement

(2) The Board may enter into a unit agreement binding on Her Majesty, on any terms and conditions that it may deem advisable, and any of the regulations under Part II or this Part or the *Federal Real Property and Federal Immovables Act* that may be in conflict with the terms and conditions of the unit agreement stand varied or suspended to the extent necessary to give full effect to the terms and conditions of the unit agreement.

Unit operator's relationship to parties

(3) Where a unit agreement filed under this section provides that a unit operator shall be the agent of the parties thereto with respect to their powers and

responsibilities under 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 under this Part.

1988, c. 28, s. 177; 1991, c. 50, s. 26; 2001, c. 4, s. 154.

Requiring unitization to prevent waste

178. (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.

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.

Order

(3) If, after the hearing referred to 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.

Cessation of operations

(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.

Permit to continue operations

(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.

Compulsory Unitization

Who may apply for unitization order

179. (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 for unitization order

(2) An application under subsection (1) shall be made to the Board which shall refer the application to the Committee for the purpose of holding a hearing thereon in accordance with section 181.

Application by proposed unit operator

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

Contents of unitization application

180. (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 under the provisions of the unit agreement.

Details required 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.

Details required of
unit operating
agreement

(3) The unit operating agreement referred to in subsection (1) shall make provision

(a) for the 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) for the charging of the costs and expenses of the unit operation to the working interest owners;

(c) for the supervision of the unit operation by the working interest owners through an operating committee composed of their 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) for the determination of the percentage value of the vote of each working interest owner; and

(e) for the determination of the method of voting on any motion before the operating committee and the percentage value of the vote required to carry the motion.

Hearing on application

181. (1) Where an application made under section 179 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.

Unitization order

(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 on 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 on and enforceable against all such owners,

and, subject to section 182, the unit agreement and the unit operating agreement have the effect given them by the order of the Committee.

Variation by unitization order

(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.

Effective date of unitization order

182. (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 when unit agreement or unit operating agreement varied

(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 subparagraph 181(2)(a)(i), 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 subparagraph 181(2)(a)(ii); 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 subparagraph 181(2)(a)(i).

Revocation of order

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

1988, c. 28, s. 182; 1992, c. 35, s. 116(E).

Technical defects in unitization order

183. 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.

Amending unitization order

184. (1) A unitization order may be amended on 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.

Voluntary proposal for amendment by owners

(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.

Protection of tract participation ratios

185. No amendment shall be made under section 184 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.

Production prohibited except in accord with unitization order

186. 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.

How percentages of interests to be determined

187. The percentages of interests referred to in subsections 179(1), 181(2), 182(2) and 184(2) shall be determined

(a) as to royalty interests, on a prorated area basis; and

(b) as to working interests, on the basis of tract participations shown in the unit agreement.

General

Pooled spacing unit included in unit area

188. (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.

Effect of including pooled spacing unit in unit area

(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.

Exceptions

(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 under the pooling order;

(b) the costs and expenses of the unit operation that are allocated to the pooled spacing unit shall be shared and borne by the owners of the working interests therein on the same basis and in the same proportion as would apply under the pooling order; and

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

DIVISION III APPEALS AND ADMINISTRATION

Appeals

Orders and decisions final

189. (1) Except as provided in this Division, every decision or order of the Committee is final and binding.

Decision or order defined

(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 an order of the Committee.

Stated case for Supreme Court of Nova Scotia

190. (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 on any question that in the opinion of the Committee is a question of law or of the jurisdiction of the Committee.

Proceedings thereon

(2) The Appeal Division of the Supreme Court of Nova Scotia shall hear and

determine the case stated, and remit the matter to the Committee with the opinion of the Court thereon.

Board may review orders of Committee

191. The Board may, at any time, in its discretion, either on petition of any interested person or of its own motion, vary or rescind any decision or order of the Committee made under this Part, whether such order is made between parties or otherwise and any order that the Board makes with respect thereto becomes a decision or order of the Committee and, subject to section 192, is binding on the Committee and on all parties.

Appeal to Supreme Court of Nova Scotia

192. (1) An appeal lies from a decision or order of the Committee to the Supreme Court of Nova Scotia on a question of law, in the manner prescribed on leave for the appeal being obtained from that Court, on 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.

Staying order

(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.

Powers of the Court

(3) After the hearing of the appeal, the Supreme Court of Nova Scotia shall certify its opinion to the Committee and the Committee shall make any order necessary to comply with that opinion.

Order subject to section 191

(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 191, shall be subject to that section.

1988, c. 28, s. 192; 1999, c. 31, s. 34.

Safety and Conservation Officers

Officers

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

1988, c. 28, s. 193; 1992, c. 35, s. 117.

Powers of officers

194. 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.

1988, c. 28, s. 194; 1992, c. 35, s. 117.

Certificate to be produced

195. 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.

1988, c. 28, s. 195; 1992, c. 35, s. 117.

Assistance to officers

196. The owner, the person in charge of any place referred to in section 194 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 under this Part or the regulations.

1988, c. 28, s. 196; 1992, c. 35, s. 117.

Obstruction of officers and making of false statements

197. 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 under this Part or the regulations.

1988, c. 28, s. 197; 1992, c. 35, s. 117.

Power of safety officer when dangerous operation detected

198. (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

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

Expiration of order

(3) An order made by a safety officer under subsection (1) expires seventy-two hours after it is made unless it is confirmed before that time by order of the Chief Safety Officer.

Modification or

(4) A safety officer who makes an order under subsection (1) shall immediately

revocation	so advise the Chief Safety Officer, and the Chief Safety Officer may modify or revoke the order.
Reference	(5) The person carrying out the operation to which an order under 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 Supreme Court of Nova Scotia for review, and the Chief Safety Officer shall do so.
Inquiry	(6) The Supreme Court of Nova Scotia shall inquire into the need for the order.
Burden of proof	(7) Where an order has been referred to the Supreme Court of Nova Scotia 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.
Supreme Court judge's decision conclusive	(8) The Supreme Court of Nova Scotia may confirm or set aside the order, and the decision of that Court is final and conclusive.
Operations in respect of which order made	(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 Supreme Court of Nova Scotia pursuant to this section.

1988, c. 28, s. 198; 1992, c. 35, s. 117; 1999, c. 31, s. 35.

Priority	198.1 An order made by a safety officer or the Chief Safety Officer prevails over an order made by a conservation officer or the Chief Conservation Officer to the extent of any inconsistency between the orders.
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1992, c. 35, s. 117.

Installation Manager

Installation manager	198.2 (1) Every holder of an authorization under paragraph 142(1)(b) 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	(2) Subject to this Act and any other Act of Parliament, 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 <ul style="list-style-type: none"> (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.
Emergency	(3) In a prescribed emergency situation, an installation manager's powers are extended so that they also apply to each operator of a vessel, vehicle or aircraft that is at the installation or that is leaving or approaching it.

1992, c. 35, s. 117.

Offences and Penalties

Offences	<p>199. (1) Every person is guilty of an offence who</p> <p>(a) contravenes this Part or the regulations;</p> <p>(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;</p> <p>(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;</p> <p>(d) produces any petroleum from a pool or field under the terms of a unit agreement within the meaning of Division II, or any amended unit agreement, before the unit agreement or amended unit agreement is filed with the Chief Conservation Officer;</p> <p>(e) undertakes or carries on a work or activity without an authorization under paragraph 142(1)(b) or without complying with the approvals or requirements of such an authorization; or</p> <p>(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.</p>
Punishment	<p>(2) Every person who is guilty of an offence under subsection (1) is liable</p> <p>(a) on summary conviction, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding one year, or to both; or</p> <p>(b) on conviction on indictment, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding five years, or to both.</p> <p>(3) and (4) [Repealed, 1992, c. 35, s. 118]</p>
Presumption against waste	<p>(5) No person commits an offence under subsection 159(1) by reason of committing waste as defined in paragraph 159(2)(f) or (g) unless that person has been ordered by the Committee to take measures to prevent the waste and has failed to comply.</p>
	<p>1988, c. 28, s. 199; 1992, c. 35, s. 118.</p>
	<p>200. [Repealed, 1992, c. 35, s. 119]</p>
Order to comply	<p>201. Where a person is guilty of an offence under 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.</p>

Continuing offences

202. Where an offence under 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.

203. [Repealed, 1992, c. 35, s. 120]

Time limited for proceedings

204. A prosecution for an offence under this Part may be instituted at any time within two years after the time when the subject-matter of the complaint arose.

Evidence

205. In any prosecution for an offence under 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.

Jurisdiction of judge or justice

206. Any complaint or information in respect of an offence under 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.

Action to enjoin not prejudiced by prosecution

207. (1) Notwithstanding that a prosecution has been instituted in respect of an offence under 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 not affected

(2) No civil remedy for any act or omission is suspended or affected by reason that the act or omission is an offence under this Part.

Regulations

Regulations

208. 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 Divisions I and 11 the terms "oil" and "gas".

Application

Application

209. 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 Canada or a province.

Transitional

Operating licences

210. (1) Where an operating licence was issued under subsection 3.2(1) of the *Oil and Gas Production and Conservation Act* and is in force on the coming into force of this section, it shall be deemed to be an operating licence issued by the Board under this Part.

Authorizations and development plan approval

(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 under subsection 3.2(1) of the *Oil and Gas Production and Conservation Act* or any regulation made under that Act, the authorization or approval shall be deemed to have been given by the Board under this Part.

PART IV REVENUE SHARING

Interpretation

Definitions

211. In this Part,

"Nova Scotia Consumption Tax Acts" «*lois sur l'impôt indirect*»

"Nova Scotia Consumption Tax Acts" means the *Health Services Tax Act*, Chapter 126 of the Revised Statutes of Nova Scotia, 1967, as amended from time to time, the *Gasoline and Diesel Oil Tax Act*, Chapter 116 of the Revised Statutes of Nova Scotia, 1967, as amended from time to time, and any other Act of the Legislature of the Province, as amended from time to time, as may be prescribed;

"Nova Scotia Income Tax Act" «*loi sur l'impôt direct*»

"Nova Scotia Income Tax Act" means the *Income Tax Act*, Chapter 134 of the Revised Statutes of Nova Scotia, 1967, as amended from time to time;

"Nova Scotia Insurance Premiums Tax Act" «*loi sur la taxation des primes d'assurance*»

"Nova Scotia Insurance Premiums Tax Act" means the *Insurance Premiums Tax Act*, Chapter 149 of the Revised Statutes of Nova Scotia, 1967, as amended from time to time;

"Revenue Account" «*Compte de recettes*»

"Revenue Account" means the account established under section 219.

Imposition of Consumption Taxes

Imposition of consumption taxes in offshore area

212. (1) There shall be imposed, levied and collected under this Part in respect of the offshore area, in accordance with subsection (3), the taxes, interest, penalties and other sums that would be imposed, levied and collected under the Nova Scotia Consumption Tax Acts if the offshore area were in the land portion of the Province.

Exception

(2) Notwithstanding subsection (1), where taxes are imposed in respect of any matter under any of the Nova Scotia Consumption Tax Acts and taxes would, but for this subsection, be imposed under subsection (1) in respect of that matter, no taxes shall be imposed under subsection (1) in respect of that matter.

Application of Nova Scotia legislation

(3) Subject to this Act and the regulations, the Nova Scotia Consumption Tax Acts and any regulations made thereunder apply, with such modifications as the circumstances require, for the purposes of this Part and, without limiting the generality of the foregoing,

(a) a reference in those Acts to Her Majesty in right of the Province shall be

deemed to be a reference to Her Majesty in right of Canada;

(b) a reference in those Acts to the Province of Nova Scotia or the Province shall be deemed to be a reference to the offshore area; and

(c) a reference in those Acts to the Minister responsible for the administration of any of those Acts or to the Provincial Tax Commissioner shall be deemed to be a reference to the Minister of Finance.

Binding on certain
Crown corporations

(4) This section is binding on

(a) the corporations mentioned in Schedule A to the *Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977*, where the Province is a participating province within the meaning of subsection 34(1) of that Act; and

(b) the corporations mentioned in Schedule B to that Act.

Imposition of Insurance Premiums Tax

Insurance premiums
tax in offshore area

213. (1) There shall be imposed, levied and collected under this Part in respect of the insurance premiums received by any company with respect to property situated in the offshore area at the time the insurance premiums become payable, in accordance with subsection (3), the taxes, interest, penalties and other sums that would be imposed, levied and collected under the Nova Scotia Insurance Premiums Tax Act if the property were situated in the land portion of the Province.

Exception

(2) Notwithstanding subsection (1), where taxes are imposed in respect of any matter under the Nova Scotia Insurance Premiums Tax Act and taxes would, but for this subsection, be imposed under subsection (1) in respect of that matter, no taxes shall be imposed under subsection (1) in respect of that matter.

Application of Nova
Scotia legislation

(3) Subject to this Act and the regulations, the Nova Scotia Insurance Premiums Tax Act and any regulations made thereunder apply, with such modifications as the circumstances require, for the purposes of this Part and, without limiting the generality of the foregoing,

(a) a reference in that Act to Her Majesty in right of the Province shall be deemed to be a reference to Her Majesty in right of Canada;

(b) a reference in that Act to the Province of Nova Scotia or the Province shall be deemed to be a reference to the offshore area; and

(c) a reference in that Act to the Minister responsible for the administration of that Act or to the Provincial Secretary shall be deemed to be a reference to the Minister of Finance.

Definition of
"company"

(4) In this section, "company" has the same meaning as is assigned to the expression "insurance company" by the Nova Scotia Insurance Premiums Tax Act.

Tax Administration Agreement

Power to collect	<p>214. (1) Subject to subsection 217(1), where a tax administration agreement is entered into pursuant to subsection (3), taxes, interest, penalties and other sums payable under section 212 or 213 may be collected and administered and refunds in respect thereof may be granted by the Government of the Province on behalf of the Government of Canada in accordance with the terms and conditions of the agreement, as amended from time to time pursuant to subsection (4).</p>
Negotiation of tax administration agreement	<p>(2) The Minister of Finance shall, on the request of the Government of the Province, negotiate with the Minister of Finance of the Province a tax administration agreement with respect to the taxes, interest, penalties and other sums imposed under sections 212 and 213.</p>
Tax administration agreement	<p>(3) On completion of the negotiation of a tax administration agreement pursuant to subsection (2), the Minister of Finance, with the approval of the Governor in Council, shall, on behalf of the Government of Canada, enter into a tax administration agreement with the Government of the Province pursuant to which the Government of the Province shall, on behalf of the Government of Canada, collect and administer the taxes, interest, penalties and other sums payable under sections 212 and 213 and, without limiting the generality of the foregoing, grant refunds or make other payments in respect of those taxes, interest, penalties and other sums in accordance with the terms and conditions set out in the agreement.</p>
Amendments to the agreement	<p>(4) The Minister of Finance, with the approval of the Governor in Council, may, on behalf of the Government of Canada, enter into an agreement amending the terms and conditions of any tax administration agreement entered into pursuant to subsection (3).</p>
No further liability	<p>(5) A tax administration agreement may provide that, where any payment is received by the Government of the Province on account of any taxes, interest, penalties or other sums payable by a person under</p> <ul style="list-style-type: none"> (a) section 212 or 213, or (b) both <ul style="list-style-type: none"> (i) section 212 or 213, and (ii) the Nova Scotia Consumption Tax Acts or the Nova Scotia Insurance Premiums Tax Act, <p>the payment so received may be applied by the Government of the Province towards the taxes, interest, penalties or other sums payable by the person under any such provision or Act in such manner as is specified in the agreement, notwithstanding that the person directed that the payment be applied in any other manner or made no direction as to its application.</p>
Idem	<p>(6) Any payment or part thereof applied by the Government of the Province in accordance with a tax administration agreement towards the taxes, interest, penalties or other sums payable by a person under section 212 or 213</p> <ul style="list-style-type: none"> (a) relieves that person of liability to pay such taxes, interest, penalties or other sums to the extent of the payment or part thereof so applied; and

(b) shall be deemed to have been applied in accordance with a direction made by that person.

Proof of provision of tax administration agreement

(7) A document purporting to be an agreement entered into pursuant to subsection (3) or (4) that is

(a) published in the *Canada Gazette*, or

(b) certified as such by, or on behalf of, the Receiver General, the Deputy Receiver General or the Minister of Finance

is, in the absence of evidence to the contrary, evidence of the contents thereof and is admissible in evidence without proof of the signature or official character of the person purporting to have certified it.

Transfer of powers and duties

215. (1) Where a tax administration agreement is entered into, the Provincial Minister, on behalf of, or as agent for, the Minister of Finance, is hereby authorized to perform all the duties and to exercise all the powers and any discretion that the Minister of Finance or the Deputy Minister of Finance has under section 212 or 213.

Idem

(2) Where a tax administration agreement is entered into,

(a) the Provincial Tax Commissioner of the Province may

(i) perform the duties and exercise any power or discretion that the Minister of Finance of the Province has under subsection (1) or otherwise under this Part in relation to the Nova Scotia Consumption Tax Acts, and

(ii) designate personnel of the Department of Finance of the Province to carry out such functions, perform such duties and exercise such powers as are similar to those that are carried out, exercised or performed by them on behalf of that Minister under the Nova Scotia Consumption Tax Acts; and

(b) the Minister of Consumer Affairs of the Province or such other Minister of the Crown in right of the Province as may be designated by the Provincial Government for the purpose may

(i) perform the duties and exercise any power or discretion that the Minister of Finance of the Province has under subsection (1) or otherwise under this Part in relation to the Nova Scotia Insurance Premiums Tax Act, and

(ii) designate personnel of the Department of Consumer Affairs of the Province to carry out such functions, perform such duties and exercise such powers as are similar to those that are carried out, exercised or performed by them on behalf of that Minister under the Nova Scotia Insurance Premiums Tax Act.

Imposition of Corporate Income Taxes

Imposition of corporate income tax in offshore area

216. (1) There shall be imposed, levied and collected under this Part in respect of the taxable income of a corporation earned in a taxation year in the offshore area, in accordance with subsection (3), the taxes, interest, penalties and other sums that

would be imposed, levied and collected under the Nova Scotia Income Tax Act in respect of that taxable income if the offshore area were in the land portion of the Province.

Exception

(2) Notwithstanding subsection (1), where taxes are imposed under the Nova Scotia Income Tax Act in respect of taxable income of a corporation earned in a taxation year in the Province and taxes would, but for this subsection, be imposed under subsection (1) in respect of that taxable income, no taxes shall be imposed under subsection (1) in respect of that taxable income.

Application of Nova Scotia Income Tax Act

(3) Subject to this Act and the regulations made thereunder, the Nova Scotia Income Tax Act and any regulations made thereunder apply, with such modifications as the circumstances require, for the purposes of this Part and, without limiting the generality of the foregoing,

(a) a reference in that Act to Her Majesty in right of the Province shall be deemed to be a reference to Her Majesty in right of Canada;

(b) a reference in that Act to the Province of Nova Scotia or the Province shall be deemed to be a reference to the offshore area;

(c) a reference in that Act to the "Minister of Finance" shall be deemed to be a reference to

(i) in relation to the remittance of any amount as or on account of tax payable under that Act, the Receiver General of Canada, and

(ii) in relation to any other matter, the Minister of National Revenue for Canada; and

(d) a reference in that Act to the "Minister of National Revenue" shall be deemed to be a reference to the Minister of National Revenue for Canada.

Determination of taxable income earned in the offshore area

(4) For the purposes of this section, the taxable income of a corporation earned in a taxation year in the offshore area or in the Province shall be determined in accordance with regulations made under section 221 of the *Income Tax Act* for the purpose of paragraph 124(4)(a) of that Act.

Remittance to Receiver General

217. (1) All taxes, interest, penalties or other sums payable under section 212, 213 or 216 are payable and shall be remitted to the Receiver General.

Consolidated Revenue Fund

(2) On the collection or receipt of any taxes, interest, penalties or other sums by the Government of the Province pursuant to this Part, the taxes, interest, penalties or other sums shall be deposited as soon as practicable to the credit of the Receiver General and paid into the Consolidated Revenue Fund in the manner prescribed by the Treasury Board under the *Financial Administration Act*.

Collection of excess sums

(3) Every person who knowingly collects or receives any sum of money as taxes under this Part in circumstances where the sum is not payable shall forthwith

(a) refund the sum to the person from whom the taxes were collected; or

(b) if the person referred to in paragraph (a) is not known or readily ascertainable, pay the sum to the Receiver General.

Liability and Collection of Tax

Debts due to Her Majesty

218. All taxes, interest, penalties or other sums payable under section 212, 213 or 216 are debts due to Her Majesty in right of Canada and are recoverable as such from the person required to pay the taxes, interest, penalties or other sums in any court of competent jurisdiction or in any other manner provided by the laws made applicable by this Part.

Revenue Account

Revenue Account

219. (1) There shall be established in the accounts of Canada a specified purpose account to be known as the Nova Scotia Offshore Revenue Account.

Payment

(2) The Federal Minister shall, at the times and in the manner prescribed,

(a) credit the Revenue Account with

(i) where the Government of the Province has agreed to collect and is collecting in accordance with a tax administration agreement entered into pursuant to section 214, on behalf of the Government of Canada, taxes, interest, penalties and other sums payable under sections 212 and 213, an amount equal to the aggregate of the amounts on account of taxes, interest, penalties and other sums collected pursuant to those sections during any fiscal year, after taking into account any refunds, remissions or other payments that are applicable in respect of such taxes, interest, penalties and other sums,

(ii) an amount equal to the aggregate of the amounts assessed or reassessed in respect of any fiscal year on account of taxes imposed pursuant to section 216, after taking into account any credits, reductions, deductions, rebates, surtaxes and remissions that are applicable in respect of such taxes,

(iii) where the Government of the Province and the Board have entered into an agreement pursuant to section 100 and the Board is collecting, in accordance with the agreement, on behalf of the Government of Canada, royalties payable under section 99, an amount equal to the aggregate of such royalties that have been collected during any fiscal year,

(iv) an amount equal to the aggregate of any amounts, other than those referred to in subparagraph (iii), received and not required to be returned during any fiscal year under Part II or Part III or any regulations made thereunder, and

(v) an amount equal to the aggregate of the amounts that would have been payable to Her Majesty in right of Nova Scotia pursuant to section 67 of the *Canada-Nova Scotia Oil and Gas Agreement Act*, chapter 29 of the Statutes of Canada, 1984, as it read immediately prior to the day on which this section comes into force, if that section had not been repealed, on account of amounts referred to in paragraphs (e) and (f) of the definition "offshore

revenue" in subsection 63(1) of that Act if such amounts had not been transferred to the Nova Scotia Offshore Oil and Gas Resource Revenue Fund established by section 66 of that Act prior to that day or if such amounts had been so transferred prior to that day, they had not been paid to Her Majesty in right of the Province prior to that day; and

(b) pay to Her Majesty in right of the Province, at the time and in the manner prescribed, any amount credited to the Revenue Account pursuant to paragraph (a).

Excess recoverable

(3) Where, pursuant to subsection (2), Her Majesty in right of the Province has received any amount in excess of the amount to which it is entitled, the Federal Minister may recover as a debt due to Her Majesty in right of Canada an amount equal to such excess from any moneys that may be or may become payable to Her Majesty in right of the Province pursuant to subsection (2) or under any other Act of Parliament.

Jurisdiction of Courts

Jurisdiction of courts

220. (1) Every court in the Province has jurisdiction in respect of matters arising in the offshore area under this Part or Division VI of Part II or under any laws made applicable by this Part or that Division to the offshore area, to the same extent as the court has jurisdiction in respect of matters arising within its ordinary territorial division.

Presumption

(2) For the purposes of subsection (1), the offshore area shall be deemed to be within the territorial limits of the county of Halifax.

Saving

(3) Nothing in this section limits the jurisdiction that a court may exercise apart from this section.

Definition of "court"

(4) In this section, "court" includes a judge thereof and any provincial court judge or justice.

Regulations

Regulations

221. The Governor in Council may, on the recommendation of the Minister of Finance, make regulations

(a) excluding, for the purposes of this Act, any provision or any part thereof of the Nova Scotia Consumption Tax Acts, the Nova Scotia Income Tax Act, the Nova Scotia Insurance Premiums Tax Act or the Offshore Petroleum Royalty Act or of any regulation made thereunder that is inconsistent with this Act, the Accord or any bilateral or international treaty, convention or agreement respecting taxation, tariffs or trade to which the Government of Canada is a signatory; and

(b) prescribing anything that is by this Part to be prescribed.

Appropriation

Appropriation

222. In respect of any fiscal year, the Federal Minister may pay out of the Consolidated Revenue Fund, at such times and in such manner as may be prescribed,

(a) an amount to Her Majesty in right of the Province on account of amounts that have been refunded or reimbursed during that fiscal year by the Government of the Province to taxpayers in respect of taxes paid under this Part; and

(b) amounts payable during that fiscal year to Her Majesty in right of the Province pursuant to paragraph 219(2)(b).

PART V FISCAL EQUALIZATION OFFSET PAYMENTS AND DETERMINATION OF PER CAPITA FISCAL CAPACITY

Interpretation

Definitions

223. (1) In this Part,

"commencement of commercial production of petroleum" «*début de la production commerciale d'hydrocarbures*»

"commencement of commercial production of petroleum" means the earlier of

(a) the date designated by the Federal Minister as the first day on which a volume of gas equal to four million cubic metres or a volume equivalent thereto of natural gas liquids or oil, as determined by the Minister of Finance in accordance with the regulations, has, during that day, flowed through the first sales meter for sale and delivery, and

(b) the date designated by the Provincial Minister;

"first fiscal year of offshore production" «*premier exercice de production extracôtière*»

"first fiscal year of offshore production" means, at the option of the Government of the Province, exercised by filing a notice in writing with the Federal Minister before the commencement of commercial production of petroleum in the offshore area,

(a) the earliest of

(i) the fiscal year beginning on the first day of April next following the day that is three years immediately following the commencement of commercial production of petroleum in the offshore area, and

(ii) any one of the three fiscal years immediately preceding the fiscal year referred to in subparagraph (a)(i), if a request for the designation of such year as the first fiscal year of offshore production is made in writing to the Federal Minister by the Provincial Minister prior to the beginning of such year, or

(b) the fiscal year beginning on the first day of April next following the commencement of commercial production of petroleum in the offshore area;

"Fiscal Arrangements Act"

"Fiscal Arrangements Act" means the *Federal-Provincial Fiscal Arrangements and*

«loi de 1977»

Federal Post-Secondary Education and Health Contributions Act, 1977;

"national average per capita fiscal capacity" «*moyenne nationale*»

"national average per capita fiscal capacity" means the per capita fiscal capacity of all of the provinces;

"offshore revenue" «*recettes extracôticières*»

"offshore revenue", in respect of any fiscal year, means the aggregate of amounts paid during that fiscal year to Her Majesty in right of the Province pursuant to paragraph 219(2)(b);

"phase-in portion" «*fraction progressive*»

"phase-in portion" means

(a) in respect of the first fiscal year of offshore production and, where applicable, the fiscal year immediately preceding the first fiscal year of offshore production, ten per cent,

(b) in respect of the first fiscal year following the first fiscal year of offshore production, twenty per cent,

(c) in respect of the second fiscal year following the first fiscal year of offshore production, thirty per cent,

(d) in respect of the third fiscal year following the first fiscal year of offshore production, forty per cent,

(e) in respect of the fourth fiscal year following the first fiscal year of offshore production, fifty per cent,

(f) in respect of the fifth fiscal year following the first fiscal year of offshore production, sixty per cent,

(g) in respect of the sixth fiscal year following the first fiscal year of offshore production, seventy per cent,

(h) in respect of the seventh fiscal year following the first fiscal year of offshore production, eighty per cent, and

(i) in respect of the eighth fiscal year following the first fiscal year of offshore production, ninety per cent;

"province" «*province*»

"province" does not include the Northwest Territories, the Yukon Territory or Nunavut.

Determination of population

(2) For the purposes of this Part, the population of a province for a fiscal year is the population of that province for that fiscal year, as determined for the purposes of Part I of the Fiscal Arrangements Act.

1988, c. 28, s. 223; 1993, c. 28, s. 78; 1998, c. 15, s. 18.

Fiscal Equalization Offset Payments

Fiscal equalization
offset payments

224. The Federal Minister may pay to Her Majesty in right of the Province, at the time and in the manner prescribed, in respect of

(a) the first fiscal year of offshore production,

(b) each of the eight fiscal years following the first fiscal year of offshore production, and

(c) where the first fiscal year of offshore production has the meaning assigned to that expression by paragraph (b) of the definition of that expression in subsection 223(1), the fiscal year immediately preceding the first fiscal year of offshore production,

a fiscal equalization offset payment not exceeding the amount computed in accordance with section 225.

Calculation of fiscal
equalization offset
payment

225. (1) The fiscal equalization offset payment that may be paid to Her Majesty in right of the Province for a fiscal year pursuant to section 224 is the amount, as determined by the Minister of Finance, equal to the amount, if any, by which

(a) the fiscal equalization payment that may be made to Her Majesty in right of the Province for the fiscal year under Part I of the Fiscal Arrangements Act

is less than

(b) the fiscal equalization payment to Her Majesty in right of the Province for the fiscal year referred to in paragraph (a) adjusted by

(i) excluding that portion of the offshore revenue in respect of the fiscal year that is included in the computation of that fiscal equalization payment, and

(ii) including in the computation of that fiscal equalization payment the phase-in portion of the offshore revenue in respect of the fiscal year.

Limitation on fiscal
equalization offset
payment

(2) Notwithstanding subsection (1), where the first fiscal year of offshore production has the meaning assigned to that expression by paragraph (a) of the definition of that expression in subsection 223(1), the amount of the fiscal equalization offset payment that may be paid to Her Majesty in right of the Province for a fiscal year determined in accordance with subsection (1) shall be reduced by the amount equal to the product of

(a) the population of the Province for the fiscal year, and

(b) the amount, if any, by which

(i) the aggregate of

(A) the per capita fiscal capacity of the Province for the fiscal year as determined in accordance with section 226,

(B) an amount equal to the quotient obtained by dividing the fiscal equalization

payment that may be made to Her Majesty in right of the Province for the fiscal year under Part I of the Fiscal Arrangements Act, by the population of the Province for the fiscal year, and

(C) an amount equal to the quotient obtained by dividing the fiscal equalization offset payment for the Province for the fiscal year as determined under subsection (1) by the population of the Province for the fiscal year,

exceeds

(ii) the national average per capita fiscal capacity for the fiscal year as determined in accordance with section 226.

Determination of Per Capita Fiscal Capacity

Determination of
fiscal capacity

226. (1) For the purposes of paragraph 225(2)(b), the per capita fiscal capacity of the Province and the national average per capita fiscal capacity in respect of any fiscal year shall be determined by the Minister of Finance by dividing the aggregate of the estimated revenues of the Province or of all provinces, as the case may be, in respect of the fiscal year, as determined in accordance with subsection (2), by the population of the Province or of all provinces, as the case may be, in respect of the fiscal year.

Estimated revenues
determined in
accordance with a
representative tax
system

(2) The aggregate of the estimated revenues of the Province or of all provinces, as the case may be, in respect of any fiscal year shall be determined by

(a) describing the sources from which are or may be derived the aggregate of the following revenues, namely,

(i) the aggregate of the revenues derived by all provinces in respect of the fiscal year from all sources described in the definition "revenue source" in subsection 4(2) of the Fiscal Arrangements Act as it read on April 1st, 1982,

(ii) the aggregate of the revenues that are

(A) derived by all municipalities, boards, commissions and other local authorities from the sources described in paragraphs (z) and (bb) of the definition "revenue source" in subsection 4(2) of the Fiscal Arrangements Act as it read on April 1st, 1982, and

(B) deemed by virtue of subsection 4(5) of the Fiscal Arrangements Act as it read on April 1st, 1982 to be derived by a province in respect of the fiscal year, and

(iii) the aggregate of the revenues derived by all provinces in respect of the fiscal year and by all municipalities, boards, commissions and other local authorities in respect of their financial years ending in the fiscal year that

(A) are not included in subparagraph (i) or (ii), and

(B) are included in the computation of fiscal equalization payments for the fiscal

year under the Fiscal Arrangements Act,

as those sources are described in the definition "revenue source" in subsection 4(2) of the Fiscal Arrangements Act, varying the description of such sources to take into account the changes and factors referred to in subsection (3);

(b) defining the expression "revenue base", in respect of each distinct source described pursuant to paragraph (a), for a province in respect of the fiscal year, that relates to the measure of the relative capacity of the province to derive revenue from such source for that fiscal year,

(i) as that expression is defined in respect of such source, in section 6 of the *Federal-Provincial Fiscal Arrangements and Established Programs Financing Regulations, 1982*, and

(ii) varying that definition to take into account the changes and factors referred to in subsection (3);

(c) estimating the amount of each revenue base defined pursuant to paragraph (b), in respect of each source described pursuant to paragraph (a), for the Province or all provinces, as the case may be, for the fiscal year;

(d) estimating the amount of the revenues of the Province or all provinces, as the case may be, in respect of each source described pursuant to paragraph (a) for the fiscal year by multiplying

(i) the national average rate of tax for the fiscal year in respect of that source, and

(ii) the amount of the revenue base estimated pursuant to paragraph (c) in respect of that source for the Province or all provinces, as the case may be, for the fiscal year; and

(e) adding the amounts of the revenues of the Province or of all provinces, as the case may be, estimated pursuant to paragraph (d) in respect of all sources described pursuant to paragraph (a).

Changes and factors
to be taken into
account in
representative tax
system

(3) For the purposes of paragraph (2)(a) and subparagraph (2)(b)(ii), the following changes and factors should be taken into account, namely,

(a) changes in any laws of a province relating to taxation that apply in respect of fiscal years subsequent to the fiscal year beginning on April 1, 1982;

(b) changes to improve the accuracy of comparisons among provinces of relative capacity to derive revenue from any source described pursuant to paragraph (2)(a);

(c) changes made by statistical agencies to statistical data or methods used to measure the relative capacities of provinces to derive revenue from any such source; and

(d) any other factors that, in the opinion of the Minister of Finance, are relevant

to the circumstances.

Average rate of tax

(4) For the purposes of paragraph (2)(d) the national average rate of tax for a fiscal year in respect of a source is the quotient obtained by dividing

(a) the aggregate of the total revenues, as determined by the Minister of Finance, derived by all provinces for the fiscal year from that source, whether or not the total revenues or any portion thereof are included in the computation of the fiscal equalization payments to provinces for the fiscal year under Part I of the Fiscal Arrangements Act

by

(b) the revenue base estimated pursuant to paragraph (2)(c) in respect of that source for all provinces for that fiscal year.

Determinations

Final determination

227. (1) The final determination, for any fiscal year, of the fiscal equalization offset payment for the Province, the per capita fiscal capacity for the Province and the national average per capita fiscal capacity shall be determined by the Minister of Finance following the end of the fiscal year, at the same time that the final computation of the amount, if any, of the fiscal equalization payment that is payable to a province is made for the fiscal year under Part I of the Fiscal Arrangements Act.

Interim determinations

(2) The Minister of Finance may make an interim determination of a fiscal equalization offset payment for the Province for a fiscal year and of the per capita fiscal capacity of the Province and the national average per capita fiscal capacity for a fiscal year, at the time and in the manner prescribed, prior to any final determination made under subsection (1).

Advance Payments

Advance payments

228. The Federal Minister may, at the times and in the manner prescribed, pay to Her Majesty in right of the Province an amount on account of a fiscal equalization offset payment that may be payable or may become payable to Her Majesty in right of the Province under this Part in respect of any fiscal year.

Accounting of advance on account

229. Where an amount has been paid to Her Majesty in right of the Province pursuant to section 228 on account of a fiscal equalization offset payment for a fiscal year, the amount shall be accounted for and shall be deemed to be a portion of the fiscal equalization offset payment in respect of the fiscal year as determined by the Minister of Finance in the manner prescribed, notwithstanding that the fiscal equalization offset payment was not determined by the Minister of Finance in accordance with section 225.

Appropriation

Appropriation

230. The amounts authorized to be paid by sections 224 and 228 shall be paid out of the Consolidated Revenue Fund at such times and in such manner as may be

prescribed.

Report to Parliament

Report to Parliament

231. On or before the 31st day of December next following the end of each fiscal year during the term of the Accord, the Federal Minister shall cause to be prepared a report in respect of that fiscal year, relating to

(a) every fiscal equalization offset payment, and

(b) every determination of the per capita fiscal capacity for the Province or the national average per capita fiscal capacity

that has been made under this Part, and shall cause the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the day the report is prepared.

Regulations

Regulations

232. The Governor in Council may, on the recommendation of the Minister of Finance, make regulations

(a) prescribing the time and manner of making any payment under this Part;

(b) respecting the determination of any matter that under this Part is to be determined by the Minister of Finance or the Federal Minister;

(c) prescribing the time and manner of making any interim determination of a fiscal equalization offset payment or of the per capita fiscal capacity of the Province and the national average per capita fiscal capacity under this Part;

(d) providing for the payment to Her Majesty in right of the Province of advances on account of a fiscal equalization offset payment for a fiscal year that may be payable or may become payable to Her Majesty in right of the Province pursuant to this Part, the adjustment of other payments by reason of such advances and the recovery of over-payments;

(e) prescribing anything that, by virtue of any other provision of this Part, is to be prescribed; and

(f) generally for carrying into effect the purposes and provisions of this Part.

PART VI CANADA-NOVA SCOTIA DEVELOPMENT FUND

Interpretation

Definitions	233. In this Part,
"amount" « <i>montant</i> »	"amount" means, except in section 237, an amount of money for infrastructural costs directly or indirectly relating to the exploration for or development, production or transportation of petroleum in the offshore area;
"Development Fund" « <i>Fonds de développement</i> »	"Development Fund" means the account continued by section 234;
"Provincial Minister" « <i>ministre provincial</i> »	"Provincial Minister" means the Minister of Development of the Province or such other Minister of the Crown in right of the Province as may be designated by the Provincial Government for the purpose of entering into an agreement pursuant to this Part.

Development Fund

Development Fund	234. There is hereby continued in the accounts of Canada the account known as the Canada-Nova Scotia Development Fund and established by the <i>Canada-Nova Scotia Oil and Gas Agreement Act</i> , chapter 29 of the Statutes of Canada, 1984.
Agreement with the Provincial Government	235. (1) The Federal Minister may, with the approval of the Federal Government, enter into an agreement with the Provincial Minister, having the approval of the Provincial Government, providing for <ul style="list-style-type: none"> (a) the procedure to be followed in making, and the criteria of, proposals for the payment of amounts to Her Majesty in right of the Province; and (b) the terms and conditions of the payment of the amounts or part thereof.
Agreement continued	(2) The agreement entered into under section 85 of the <i>Canada-Nova Scotia Oil and Gas Agreement Act</i> , chapter 29 of the Statutes of Canada, 1984, continues in force in accordance with its terms and conditions until it is replaced by an agreement entered into under subsection (1).
Power to make payment	236. (1) On a proposal by the Provincial Minister to the Federal Minister for the payment of an amount made in accordance with the terms of an agreement entered into or continued under section 235 the Federal Minister may, where he approves the proposal, subject to subsection (2), section 237 and the terms of the agreement, pay to Her Majesty in right of the Province in a lump sum or by instalment the amount, or any amount on account thereof.
Limitation	(2) Only amounts incurred or specified in a proposal referred to in subsection (1) made prior to the day that is the earlier of <ul style="list-style-type: none"> (a) the day on which the production of petroleum commences in the offshore area, as determined by the Federal Minister and the Provincial Minister, and (b) the day on which the cumulative volume of production in the offshore area has reached an amount equal to one billion cubic metres of gas or an amount equivalent thereto of natural gas liquids or oil, as determined by the Federal

Minister in accordance with the regulations,

whether or not the proposal has been approved prior thereto, may be paid by the Federal Minister under this section.

Appropriation

Appropriation

237. (1) There may be paid out of the Consolidated Revenue Fund, for the purpose of making payments pursuant to this Part, amounts not exceeding, in the aggregate, the sum of two hundred million dollars less the aggregate of all amounts charged to the Development Fund before its continuation by section 234.

Charges to
Development Fund

(2) All amounts paid to Her Majesty in right of the Province pursuant to this Part shall be charged to the Development Fund.

Forgiveness of debt

(3) The debts and obligations of Her Majesty in right of the Province due to the Government of Canada under section 68 of the *Canada-Nova Scotia Oil and Gas Agreement Act*, chapter 29 of the Statutes of Canada, 1984, are hereby forgiven.

Report to Parliament

Report to Parliament

238. On or before the 31st day of December next following the end of each fiscal year during the term of the Accord, the Federal Minister shall cause to be prepared a report in respect of the operation of the Development Fund account during that fiscal year and shall cause the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the day the report is prepared.

PART VII DRILLING FUND

Interpretation

Definitions

239. In this Part,

"Canadian
development
expense" «*frais
d'aménagement au
Canada*»

"Canadian development expense" has the meaning assigned by paragraph 66.2(5)(a) of the *Income Tax Act*, except that

(a) there shall be excluded from that meaning any Canadian exploration and development overhead expense, and

(b) all that portion of that paragraph following clause (vii)(C) thereof shall be read as follows:

"but any amount of assistance or benefit that a taxpayer has received, is entitled to receive or can reasonably be expected to receive after May 25, 1976 from a government, municipality or other public authority in respect of or related to his Canadian development expense, whether as a grant, subsidy, forgivable loan,

deduction from royalty or tax, investment allowance or any other form of assistance or benefit, other than an investment tax credit in respect of a qualified Canadian exploration expenditure, shall reduce the amount of any of the expenses described in any of subparagraphs (i) to (v); and";

"Canadian exploration and development overhead expense"
«frais généraux d'exploration et d'aménagement au Canada»

"Canadian exploration and development overhead expense" has the meaning assigned by subsection 1206(1) of the *Income Tax Regulations*;

"Canadian exploration expense"
«frais d'exploration au Canada»

"Canadian exploration expense" has the meaning assigned by paragraph 66.1(6)(a) of the *Income Tax Act*, except that

(a) there shall be excluded from that meaning any Canadian exploration and development overhead expense and any expense referred to in subparagraph (i) thereof,

(b) any reference in that paragraph to any expense incurred in drilling or completing an oil or gas well in Canada shall be read as including, with such modifications as the circumstances require, a reference to

(i) any expense incurred in respect of an exploratory probe in the offshore area, and

(ii) any expense incurred in respect of a well in relation to a three dimensional seismic survey, an engineering study or an analytical study for the purpose of determining the location or extent of an accumulation of petroleum in the offshore area, and

(c) all that portion of that paragraph following clause (vii)(C) thereof shall be read as follows:

"but any amount of assistance or benefit that a taxpayer has received, is entitled to receive or can reasonably be expected to receive after May 25, 1976 from a government, municipality or other public authority in respect of or related to a Canadian exploration expense, whether as a grant, subsidy, forgivable loan, deduction from royalty or tax, investment allowance or any other form of assistance or benefit, other than an investment tax credit in respect of a qualified Canadian exploration expenditure, shall reduce the amount of any of the expenses described in any of subparagraphs (i) to (v); and";

"investment tax credit" «crédit d'impôt à l'investissement»

"investment tax credit" has the meaning assigned by subsection 127(9) of the *Income Tax Act*;

"Nova Scotia Resources (Ventures) Limited"
«Société»

"Nova Scotia Resources (Ventures) Limited" means the company incorporated on November 20, 1981 under the *Companies Act*, Chapter 42 of the Revised Statutes of Nova Scotia, 1967;

"qualified Canadian exploration expenditure"
«dépense admissible

"qualified Canadian exploration expenditure" has the meaning assigned by subsection 127(9) of the *Income Tax Act*.

d'exploration au
Canada»

Drilling Assistance

Assistance to Nova
Scotia Resources
(Ventures) Limited

240. (1) Subject to subsection (2), the Federal Minister may, on application, make payments to Nova Scotia Resources (Ventures) Limited in respect of Canadian exploration expenses and Canadian development expenses incurred by Nova Scotia Resources (Ventures) Limited that could contribute to early development of petroleum in the offshore area.

Limitation

(2) Payments made by the Federal Minister pursuant to subsection (1) shall not exceed fifty per cent of the aggregate of the Canadian exploration expenses and Canadian development expenses incurred in respect of wells

(a) subject to paragraph (b), the drilling of which began during the period commencing on August 27, 1986 and ending on December 31, 1991, or

(b) in the case of expenses referred to in subparagraph (b)(ii) of the definition "Canadian exploration expense" in section 239, during the period referred to in paragraph (a),

to the extent that those expenses are reasonable in the circumstances.

Transitional
assistance

241. The Federal Minister may, on application, make payments to Nova Scotia Resources (Ventures) Limited equal, in the aggregate, to the amount of interest incurred by Nova Scotia Resources (Ventures) Limited on money borrowed in order to finance activities in relation to the exploration or development of oil or gas in the offshore area to the extent that

(a) the cost of the interest is reasonable in the circumstances;

(b) the interest was incurred during the period commencing on August 27, 1986 and ending on the date on which this Part comes into force; and

(c) the interest is in respect of borrowed money that, in the aggregate, is equal to or less than the aggregate of all amounts payable by the Federal Minister pursuant to section 240 in respect of expenses incurred during the period referred to in paragraph (b).

Appropriation

Appropriation

242. There may be paid out of the Consolidated Revenue Fund, for the purpose of making payments pursuant to sections 240 and 241, amounts not exceeding, in the aggregate, the sum of twenty-five million dollars.

Administration

Documents, records
and books

243. Nova Scotia Resources (Ventures) Limited shall keep documents, records and books of account at a place of business or other prescribed place in Canada in

such form and containing such information as will enable the Federal Minister to determine the amount of any payment that should be made pursuant to section 240 or 241.

Audit or examination

244. Nova Scotia Resources (Ventures) Limited shall, for the purpose of audit or examination,

(a) make the documents, records and books of account kept pursuant to section 243 available at all reasonable times to any person authorized by the Federal Minister for the purpose; and

(b) give all reasonable assistance to a person authorized by the Federal Minister to carry out the audit or examination, provide access to all relevant sites, answer, orally or in writing, as required, all questions relating to the audit or examination and provide all information, documentation and copies required for the purpose of the audit or examination.

Regulations

Regulations

245. 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) prescribing the manner of making an application for payment under this Part and the time when it is to be made;

(b) where the Federal Minister has made an overpayment under this Part, requiring Nova Scotia Resources (Ventures) Limited to repay such overpayment and interest thereon to the Federal Minister in accordance with the regulations and prescribing the amount of interest to be paid in respect of such an overpayment and the manner in which and time when the amount of any such overpayment and any interest thereon is to be repaid; and

(c) permitting, in the calculation of Canadian development expenses or Canadian exploration expenses, any expense to be included that would otherwise be excluded pursuant to paragraph (a) of the definition of that term in section 239.

1988, c. 28, s. 245; 1994, c. 26, s. 17(F).

PART VIII CROWN SHARE ADJUSTMENT PAYMENTS

Interpretation

Definitions

246. (1) In this Part,

"average annual cost to the Province of borrowing money"

"average annual cost to the Province of borrowing money" means the average annual rate of interest, determined in the manner prescribed, that would be

«coût d'emprunt annuel moyen»	incurred by the Province on borrowed money if the money were borrowed during the period of twelve months immediately preceding the date of the determination of the threshold rate of return;
"deemed profit" <i>Version anglaise seulement</i>	"deemed profit" means the amount of profit, estimated in the manner prescribed, that Her Majesty in right of the Province would have received had a portion of a Crown share in a field been acquired pursuant to section 17 of the former Act;
"fiscal incentive" <i>Version anglaise seulement</i>	"fiscal incentive" means a fiscal incentive or any other benefit, other than a fiscal incentive or other benefit generally prevailing in Canada, that is established by or pursuant to an Act of Parliament and is prescribed for the purposes of this Part;
"former Act" « <i>loi précédente</i> »	"former Act" means the <i>Canada-Nova Scotia Oil and Gas Agreement Act</i> , chapter 29 of the Statutes of Canada, 1984, as it read immediately prior to the coming into force of subsection 266(1) of this Act;
"offshore revenue threshold" <i>Version anglaise seulement</i>	"offshore revenue threshold" means an aggregate amount, calculated in the manner prescribed, of revenues to which Her Majesty in right of Canada is entitled that were derived from the production of petroleum in the offshore area, equal to two hundred million dollars;
"project" « <i>projet</i> »	"project" means a work or activity resulting in the production of petroleum in the offshore area that is required to be authorized pursuant to paragraph 142(1)(b);
"threshold rate of return" <i>Version anglaise seulement</i>	"threshold rate of return" means an annual rate of return on invested capital equal to the lesser of <p style="margin-left: 40px;">(a) twenty per cent, and</p> <p style="margin-left: 40px;">(b) the aggregate of seven per cent and the average annual cost to the Province of borrowing money.</p>
Determination of per capita fiscal capacity	(2) For the purposes of this Part, the per capita fiscal capacity of the Province and the national average per capita fiscal capacity in respect of any fiscal year shall be determined in accordance with section 226.

Adjustment Payments

Adjustment payment	247. (1) Subject to this section, the Federal Minister may, on behalf of Her Majesty in right of Canada, pay an amount to Her Majesty in right of the Province equal to seventy-five per cent of the deemed profit in respect of a project.
Threshold rate of return required	(2) No payment shall be made pursuant to subsection (1) in respect of a project unless the Provincial Minister demonstrates to the satisfaction of the Federal Minister that had Her Majesty in right of the Province been able to acquire a portion of a Crown share in a field pursuant to section 17 of the former Act the rate of return in respect of that project that would have been obtained on behalf of Her Majesty in right of the Province, calculated in the manner prescribed, would have been equal to or greater than the threshold rate of return.
Reduction for fiscal incentives	(3) The aggregate amount of payments made pursuant to subsection (1) in respect of any project shall be reduced by the aggregate amount of fiscal incentives

received in respect of the project, determined in the manner prescribed.

Time of payments

(4) A payment made pursuant to subsection (1) shall be made annually, not later than six months after the end of each fiscal year.

Exception

(5) Where the per capita fiscal capacity of the Province in respect of any fiscal year is equal to or greater than the national average per capita fiscal capacity in respect of that fiscal year, no payment shall be made pursuant to subsection (1) in respect of that fiscal year.

Idem

(6) No payment shall be made pursuant to subsection (1) prior to the attainment of the offshore revenue threshold.

Regulations

Regulations

248. Subject to section 6, the Governor in Council may make regulations, on the recommendation of the Minister, prescribing anything that is, by this Part, to be prescribed.

Appropriation

Appropriation

249. In respect of any fiscal year, the Federal Minister may pay out of the Consolidated Revenue Fund, at such times and in such manner as may be prescribed, amounts payable during that fiscal year to Her Majesty in right of the Province pursuant to subsection 247(1).

PART IX CORPORATE INCOME TAX

250. to 252. [Amendments]

PART X TRANSITIONAL, CONSEQUENTIAL, REPEAL AND COMING INTO FORCE

Transitional

Initial payment to
environmental
studies fund during
transitional period

253. Notwithstanding section 49 of the *Canada Oil and Gas Act* as it read immediately before the coming into force of this section, where an exploration agreement in relation to any portion of the offshore area was entered into or negotiations in respect thereof were completed under the *Canada Oil and Gas Act* on or after August 26, 1986, and before the coming into force of Part VII of the *Canada Petroleum Resources Act*,

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

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

Consequential Amendments

254. to 265. [Amendments to other Acts]

Repeal

Repeal **266.** (1) Subject to subsections (2) and (3), the *Canada-Nova Scotia Oil and Gas Agreement Act*, chapter 29 of the Statutes of Canada, 1984, is repealed.

Idem (2) Part II of and Schedule IV to the *Canada-Nova Scotia Oil and Gas Agreement Act* are repealed with respect to sales and other transactions occurring after the day on which section 212 of this Act comes into force.

Idem (3) Part III of the *Canada-Nova Scotia Oil and Gas Agreement Act* is repealed on the day on which section 219 of this Act comes into force.

Coming into Force

Coming into force ***267.** (1) Subject to subsection (2), this Act or any provision thereof shall come into force on a day or days to be fixed by proclamation.

Idem (2) Section 216 and Part IX are applicable to taxation years commencing after December 22, 1989.

*[Note: Act, except Division VIII of Part II, in force December 22, 1989, see SI/90-9; Division VIII of Part II in force October 1, 1990, see SI/90-152.]

1988, c. 28, s. 267; 1991, c. 49, s. 238.

SCHEDULE I

(Sections 2 and 5)

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 southerly point on the low water mark at Cape Chignecto (N.S.) to a point at latitude $45^{\circ} 24' 10''$ longitude $65^{\circ} 03' 31''$, 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 southerly point on the low water mark at Cape Chignecto (N.S.) to the most northerly point on the low water mark at Long Point (N.S.);

(c) in the vicinity of St. Mary's 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. George's 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 the Tiddish River, the limit runs

northerly in a straight line to a point at latitude $46^{\circ} 01' 10''$ and longitude $64^{\circ} 02' 34''$, being approximately on the middle thread of Baie Verte;

thence easterly in a straight line to a point at latitude $46^{\circ} 02' 18''$ and longitude $63^{\circ} 49' 09''$, 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 $46^{\circ} 04' 30''$ and longitude $63^{\circ} 39' 34''$, being approximately the midpoint between Coldspring Head

(N.S.) and Maclvors 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 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 mid point 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 Île d'Entrée (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 Île 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 October 12, 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.

SCHEDULE II

(Section 2)

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 $44^{\circ} 15' 00''$, the limits run

west along the parallel of latitude $44^{\circ} 15' 00''$ to a point being the intersection of that parallel of latitude and a straight line drawn on an azimuth of $225^{\circ} 00' 00''$ from a point at latitude $44^{\circ} 25' 03''$ and longitude $66^{\circ} 38' 47''$;

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.

SCHEDULE III

(Section 2)

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 $44^{\circ} 01' 00''$ and longitude $60^{\circ} 35' 00''$, the limits run

northeasterly in a straight line to a point at latitude $44^{\circ} 03' 00''$ and longitude $60^{\circ} 25' 00''$;

thence southeasterly in a straight line to a point at latitude $43^{\circ} 58' 00''$ and longitude $60^{\circ} 00' 00''$;

thence easterly along the parallel of latitude $43^{\circ} 58' 00''$ to a point at longitude $59^{\circ} 50' 00''$;

thence northeasterly in a straight line to a point at latitude $44^{\circ} 09' 00''$ and longitude $59^{\circ} 29' 00''$;

thence southwesterly in a straight line to a point at latitude $43^{\circ} 56' 00''$ and longitude $59^{\circ} 42' 00''$;

thence southwesterly in a straight line to a point at latitude $43^{\circ} 53' 00''$ 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.

SCHEDULE IV

(Sections 104 and 141)

LIMITS OF THE PORTION OF THE OFFSHORE AREA REFERRED TO IN SECTIONS 104 AND 141

(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 a manner that they are parallel with boundaries of grid areas as defined by the Canada Oil and Gas Land Regulations.)

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 Judgement 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 Judgement;

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.

AMENDMENTS NOT IN FORCE

-- 2001, c. 26, s. 281:

1992, c. 35, s. 110(1)

281. Subsection 165(1) of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* is replaced by the following:

Definition of "spill"

165. (1) In sections 166 to 170, "spill" means a discharge, emission or escape of petroleum, other than one that is authorized under the regulations or any other federal law or that constitutes a discharge from a vessel to which Part 8 or 9 of the *Canada Shipping Act, 2001* applies or a ship to which Part XVI of the *Canada Shipping Act* applies.

-- 2001, c. 26, s. 324(9):

***(9) On the later of the coming into force of section 281 of this Act and section 111 of the other Act, subsection 165(1) of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* is replaced by the following:**

Definition of "spill"

165. (1) In sections 166 to 170, "spill" means a discharge, emission or escape of petroleum, other than one that is authorized under the regulations or any other federal law or that constitutes a discharge from a vessel to which Part 8 or 9 of the *Canada Shipping Act, 2001* applies or a ship to which Part 6 of the *Marine Liability Act* applies.

*[Note: "other Act" refers to the *Marine Liability Act*.]

-- 2002, c. 7, s. 110:

1993, c. 28, s. 78
(Sch. III, s. 8.3);
1998, c. 15, s. 18

110. The definition "province" in subsection 223(1) of the English version of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* is replaced by the following:

"province"
« *province* »

"province" does not include the Northwest Territories, Yukon or Nunavut.