

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

OFFSHORE MINERALS (CONSEQUENTIAL PROVISIONS) BILL 1993

EXPLANATORY MEMORANDUM

Circulated by the authority of the Minister for Resources, the Hon Michael Lee, MP)



General Outline

The purpose of this Bill is to repeal the *Minerals (Submerged Lands) Act 1981* (the 1981 Act) when the Offshore Minerals Bill 1993 receives the Royal Assent and commences operation. The *Offshore Minerals Bill 1993*, not only extensively amends the 1981 Act, but also completely redrafts it in the "plain English" style, thus making it redundant.

This Bill also amends a number of the 1981 Act's associated Acts to bring their provisions into line with those of the *Offshore Minerals Bill 1993*.

Financial Impact Statement

There will be no effect on revenue to the Commonwealth.

Notes On Clauses

Part 1 – Preliminary

Clauses 1 & 2 – Short title and commencement

The two clauses are standard preliminary provisions. They provide that this Bill may be known as the *Offshore Minerals (Consequential Provisions) Act 1993* which will commence operation immediately after the principal Act, the *Offshore Minerals Act 1993* (the 1993 Act) commences operation.

Part 2 – Repeal Of The 1981 Act

Clause 3 – Repeal of the 1981 Act

This repeals the *Minerals (Submerged Lands) Act 1981* which will be replaced by the *Offshore Minerals Act 1993* when it commences operation.

Part 3 – Consequential Amendments Of Other Acts

Clause 4 – Consequential amendments of other Acts

This provides that those Acts listed in the Schedule are amended as set out in the Schedule. The Acts listed in the Schedule are associated Acts of the 1981 Act which will be repealed. The amendments will bring their respective provisions into line with those of the 1993 Act.

Schedule

Consequential Amendments Of Other Acts

Minerals (Submerged Lands) (Exploration Permit Fees) Act 1981

Long title

The long title is amended to reflect the following two changes:

- 1) an exploration permit under the 1981 Act will be called an exploration licence under the 1993 Act;
- 2) the change of name of the principal Act from *Minerals (Submerged Lands) Act 1981* to *Offshore Minerals Act 1993*.

Section 1 – Short title

The short title of this Act is changed from *Minerals (Submerged Lands) (Exploration Permit Fees) Act 1981* to *Offshore Minerals (Exploration Licence Fees) Act 1981* so as to bring it into line with the change of name of the principal Act.

Section 3 – Interpretation

This repeals the existing section and replaces it with a new two part section which:

- . includes a definition of a "year" to mean 12 months commencing on the day when the grant of an exploration licence is accepted by the applicant and every year or part of a year thereafter while the licence remains in force;
- . provides that the expressions used in this Act are consistent with those in the principal Act unless otherwise specified.

Section 4 – Fees

The existing section is repealed and replaced with three provisions to ensure consistency with those in the principal Act. The new three provisions are:

Clause 4 – Exploration licence fees.

This ensures that the holder of an exploration licence pays an annual fee for each year the licence is in force and that the manner in which the fee is calculated will be set out in regulations. It also fixes the maximum amount of the fee payable that may be set by regulations.

Clause 4A – Holder liable to pay fee

This is a new provision. It ensures that where there are 2 or more holders of a licence, all the holders are severally and jointly liable to pay the fee. This is to provide for the situation where either one or more licence holders default, the remaining licence holders will pay the fee.

Clause 4B – Time for payment

This provides that the fee becomes due for payment one month after the commencement of each year.

Section 5 – Penalty for late payment

This section is amended to reflect that the exploration permit is replaced by an exploration licence. It deletes the terms "permittee" and "permit" and replaces them with "holder of an exploration licence" and "licence".

Section 6 – Fees and penalties debts due to Commonwealth

The first subsection is amended to account for the change in the name of the exploration permit to an exploration licence. Therefore, the words "licence holder" are substituted for "permittee".

The second subsection is amended to remove the gender bias with the substitution of the word "him" by the more impersonal title "the Designated Authority".

A new additional section is included.

Clause 7 – Regulations

This empowers the Governor-General to make regulations in respect of determining the level of fees to be charged.

Minerals (Submerged Lands) (Production Licence Fees) Act 1981

Long title

Under the 1981 Act the only offshore mineral title called a licence was the production licence and where the word "licence" was used it automatically referred to a production licence. Under the 1993 Act, four of the five titles are called licences and the production licence is renamed the mining licence to describe its function more accurately. Accordingly, the long title is amended to make it clear that this associated Act is referring to a mining licence by inserting the adjective "mining".

The long title is also amended to recognise the change in the name of the principal Act from *Minerals (Submerged Lands) Act 1981* to *Offshore Minerals Act 1993*.

Section 1 – Short title

The short title of this Act is changed from *Minerals (Submerged Lands) (Production Licence Fees) Act 1981* to *Offshore Minerals (Mining Licence Fees) Act 1981* so as to bring it into line with the change of name of the principal Act.

Section 3 – Interpretation

This repeals the existing section and replaces it with a new two part section which:

- includes a definition of a "year" to mean 12 months commencing on the day when the grant of a mining licence is accepted by the applicant and every year or part of a year thereafter while the licence remains in force;
- provides that the expressions used in this Act are consistent with those in the principal Act unless otherwise specified.

Section 4 – Licence fees

The existing section is repealed and replaced with three provisions to ensure consistency with those in the principal Act. The new three provisions are:

Clause 4 – Licence fees.

This ensures that the holder of a mining licence pays an annual fee for each year the licence is in force and that the manner in which the fee is calculated will be set out in regulations. It also fixes the maximum amount of the fee that may be set by regulations.

Clause 4A – Holder liable to pay fee

This is a new provision. It ensures that where there are 2 or more holders of a licence, all the holders are severally and jointly liable to pay the fee.

This is to provide for the situation where either one or more licence holders default, the remaining licence holders will pay the fee.

Clause 4B – Time for payment

This provides that the fee becomes due for payment one month after the commencement of each year.

Section 5– Penalty for late payment

The word "licensee" is replaced with the words "holder of a mining licence" and "holder" to be consistent with the use of those words in the principal Act.

Section 6 –Fees and penalties debts due to Commonwealth

The word "licensee" is replaced with the more specific "holder of a mining licence" to make it clear that this provision refers to the holder of a mining licence and not just to the holder of any licence that can be issued under the 1993 Act.

The second subsection is amended to remove the gender bias with the substitution of the word "him" by the more impersonal title "the Designated Authority".

A new additional section is included.

Clause 7 – Regulations

This empowers the Governor-General to make regulations in respect of determining the level of fees to be charged.

Minerals (Submerged Lands) (Registration Fees) Act 1981

Long title

The long title is amended to reflect more accurately the fact that fees are payable for the lodgement for registration of documents under the 1993 Act. For each document lodged a registration fee is payable.

Section 1 – Short title

The short title of this Act is changed from *Minerals (Submerged Lands) (Registration Fees) Act 1981* to *Offshore Minerals (Registration Fees) Act 1981* so as to bring it into line with the change of name of the principal Act.

Section 3 – Interpretation

The existing short title of the principal Act, *Minerals (Submerged Lands) Act 1981* is deleted and replaced with *Offshore Minerals Act 1993* so as to bring it into line with the change of name of the principal Act.

Section 4 – Imposition of registration fees

The existing subsection 4(1) fixes the basis for assessing the level of registration fees, namely it is 1.5% of the value of consideration for the change in the interest in a title or of the value of the interest which is dealt with, whichever is the greater.

This subsection has been deleted and replaced with a provision in which the basis for assessing the level of registration fee will be prescribed by regulations. While it is not intended to change the 1.5% level, the new provision sets a ceiling whereby the percentage prescribed by regulation shall not exceed 10%.

The new provision also refers specifically to the documents to which the registration fees are applicable, namely:

- "section 338 documents" which are concerned with transfers of interests in a licence;
- "section 339 documents" which concern any other dealings in a licence.

The other sub-sections (2) to (7) are also amended to delete the words "memorandum" and "instrument" and replace them with the words "section 338 document" or "section 339 document" as the case may be.

They also delete the specific dollar amounts of the fees to be imposed and replace them with a provision to allow the fees to be prescribed by regulations. They also impose an absolute maximum amount in dollar terms of any fees that may be prescribed by regulation.

A new additional section is included.

Clause 5 – Regulations

This empowers the Governor-General to make regulations in respect of determining the level of fees to be charged.

Minerals (Submerged Lands) (Works Authority Fees) Act 1981

Long title

The long title is amended to reflect two changes:

- 1) the change in the short title of the principal Act from *Minerals (Submerged Lands) Act 1981* to *Offshore Minerals Act 1993*;
- 2) the change in the name from works authority to works licence.

Section 1 – Short title

The short title of this Act is changed from *Minerals (Submerged Lands) (Works Authority Fees) Act 1981* to *Offshore Minerals (Works Licence Fees) Act 1981* so as to bring it into line with the change of name of the principal Act.

Section 3 – Interpretation

This repeals the existing section and replaces it with a new two part section which:

- . includes a definition of a "year" to mean 12 months commencing on the day when the grant of a mining licence is accepted by the applicant and every year or part of a year thereafter while the licence remains in force;
- . provides that the expressions used in this Act are consistent with those in the principal Act unless otherwise specified.

Section 4 – Works authority fees

The existing section is repealed and replaced with three provisions to ensure consistency with those in the principal Act. The new three provisions are:

Clause 4 – Licence fees.

This ensures that the holder of a works licence (formerly a works authority) pays an annual fee for each year the licence is in force and that the manner in which the fee is calculated will be set out in regulations. It also fixes the maximum amount of the fee that may be set by regulations.

Clause 4A – Holder liable to pay fee

This is a new provision. It ensures that where there are 2 or more holders of a licence, all the holders are severally and jointly liable to pay the fee.

This is to provide for the situation where either one or more licence holders default, the remaining licence holders will pay the fee.

Clause 4B – Time for payment

This provides that the fee becomes due for payment one month after the commencement of each year.

Section 5– Penalty for late payment

This omits the word "registered" which is redundant and substitutes the word "authority" with that of "licence" so as to be consistent with the use of that word in the principal Act.

Section 6 – Fees and penalties debts due to Commonwealth

This omits the word "registered" which is redundant and substitutes the word "authority" with that of "licence" so as to be consistent with the use of that word in the principal Act.

The second subsection is amended to remove the gender bias with the substitution of the word "him" by the more impersonal title "the Designated Authority".

A new additional section is included.

Clause 7 – Regulations

This empowers the Governor-General to make regulations in respect of determining the level of fees to be charged.

