

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

PRIMARY INDUSTRIES AND ENERGY LEGISLATION
AMENDMENT BILL (No.2) 1989

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister
for Primary Industries and Energy,
the Hon John Kerin MP)

PRIMARY INDUSTRIES AND ENERGY LEGISLATION AMENDMENT BILL
(No.2) 1989

GENERAL OUTLINE

This Bill is an omnibus bill for legislation administered within the Primary Industries and Energy portfolio. Its purpose is to make a number of amendments to existing legislation and repeal redundant legislation.

2. The Bill makes the following amendments.

Dairy Produce Act 1986

3. The amendment to this Act will clarify the intention of the Act that any person, including purchasers and State statutory authorities, responsible for forwarding payment of the milk fat levies imposed by the Dairy Produce Levy No.1 Act 1986, but who do not do so by the due date, are liable for the 20% per annum late payment penalty imposed by the Act.

Live-stock Slaughter Levy Collection Act 1964

4. The Primary Industries (Recovery of Levy Collection Expenses) Act 1988 enables the Commonwealth to recover from agricultural industries the cost of collecting and disbursing funds raised through industry levies and charges.

5. In the case of the livestock industry the levies collected by the Commonwealth are allocated to more than one fund, including the National Cattle Disease Eradication Trust Account. The intention is that the costs may be withdrawn from any of these funds at the discretion of that industry.

6. The Amendment to this Act will clarify the fact that industry may choose to pay the costs or a portion of them from the National Cattle Disease Eradication Trust Account.

Plant Variety Rights Act 1987

7. The Plant Variety Rights Act 1987 gives the grantee the sole rights to propagate and sell plants and reproductive material but does not prevent someone else propagating the variety if they are going to sell the product (fruit, cut flowers, grain) and not the plants.

8. The amendments to this Act give the grantee sole right to asexually propagate, or license others to asexually propagate, the variety for commercial production of cut flowers, fruit and other products.

9. Amendments are also made to the public notice provisions to reflect the fact that the journal in which notices are to be published, the "Plant Variety Journal", is published quarterly.

Petroleum (Submerged Lands) Legislation

10. The Bill provides for amendments to the Petroleum (Submerged Lands) Act 1967 and five subsidiary Acts, Petroleum (Submerged Lands) (Exploration Permit Fees) Act 1967, Petroleum (Submerged Lands) (Pipeline Licence Fees) Act 1967, Petroleum (Submerged Lands) (Production Licence Fees) Act 1967, Petroleum (Submerged Lands) (Registration Fees) Act 1967 and Petroleum (Submerged Lands) (Retention Lease Fees) Act 1985.

11. The amendments to the Petroleum (Submerged Lands) legislation involve:

- . enabling the level and form of fees and securities provided for in the Petroleum (Submerged Lands) legislation to be established in Regulations
- . abolishing refunds of application fees under sections 21, 22A, 24, 48 and 64 of the Petroleum (Submerged Lands) Act 1967
- . enabling the charging of a fee for the granting of a special prospecting authority under section 111 of the Petroleum (Submerged Lands) Act 1967
- . enabling the offering of a grant to renew a title to the registered holders of the title at the time of the offer, thereby enabling a transfer of the title to be registered prior to the offer to grant a title
- . enabling the Designated Authority to grant an access authority to a holder of a special prospecting authority
- . enabling the Designated Authority to grant an access authority over areas in adjoining adjacent areas subject to the Designated Authority gaining approval from the Designated Authority responsible for the other area
- . repealing section 57 of the Petroleum (Submerged Lands) Act 1967 which requires production licence holders to spend \$300,000 per block per year or to recover production to that value
- . removing an unintended consequence of the Petroleum Resource Rent Tax (Miscellaneous Provisions) Act 1988 by replacing "Designated Authority" with "Joint Authority" in subsection 47(2) of the Petroleum (Submerged Lands) Act 1967

- removing a typographical error in subsection 22A(1) of the Petroleum (Submerged Lands) Act 1967

Tobacco Marketing Act 1965

12. The amendments to this Act will effect the name change of the Australian Tobacco Board (the Board) to the Australian Tobacco Marketing Advisory Committee. The change follows a review of the Board carried out in conjunction with Government consideration of the assistance arrangements to apply to the tobacco growing and manufacturing industries.

13. The name change emphasises the Board's major function of advising Ministers' on prices and quotas and more readily distinguishes it from the main body of statutory marketing authorities within the Primary Industries and Energy portfolio to which recent major policy and legislative reforms were directed.

14. As the Australian Tobacco Board is named in complementary State legislation the name change will not take effect for six months so that States may legislate for a common date of effect.

Derby Jetty Agreement Act 1962

Oil Companies (Stock Loss Reimbursement) Act 1986

Pipeline Construction (Dalton to Canberra) Act 1980

Pipeline Construction (Young to Wagga Wagga) Act 1980

South Australian Grant (Fruit Canneries) Act 1971

States and Northern Territory Grants (Bluetongue Virus Control) Act 1978

States Grants (Fruit Canneries) Act 1976

States Grants (Fruit-growing Reconstruction) Act 1972

States Grants (Fruit-growing Reconstruction) Act 1973

States Grants (Fruit-growing Reconstruction) Act 1974

States Grants (Fruit-growing Reconstruction) Act 1976

Victoria Grant (Shepparton Preserving Company Limited) Act 1971

Wheat Industry Stabilization Fund (Disposal) Act 1962

15. The amendments will repeal these Acts which have all become redundant.

FINANCIAL IMPACT STATEMENT

16. None of the amendments made by the Bill have any significant financial impact. All fees collected under the Petroleum (Submerged Lands) Legislation in respect of the State and Northern Territory Adjacent Areas are paid to the States/Northern Territory in recognition of the costs incurred in administering day-to-day petroleum activities in these areas.

PART 1 - PRELIMINARY

NOTES ON INDIVIDUAL CLAUSES

Clause 1: Short Title

17. Formal.

Clause 2: Commencement

18. Subclause 2(1) provides that subject to subclauses (2) and (3) the Bill will come into operation on the day on which it receives the Royal Assent.

19. Subclause 2(2) provides that, subject to subclause 2(3), the amendments to the Petroleum (Submerged Lands) Act 1967, Petroleum (Submerged Lands) (Exploration Permit Fees) Act 1967, Petroleum (Submerged Lands) (Pipeline Licence Fees) Act 1967, Petroleum (Submerged Lands) (Production Licence Fees) Act 1967, Petroleum (Submerged Lands) (Registration Fees) Act 1967, Petroleum (Submerged Lands) (Retention Lease Fees) Act 1985 and Tobacco Marketing Act 1965 commence on a day or days to be fixed by proclamation.

20. The amendments to the various Petroleum Acts will remove the specification of administrative fees from those Acts and provide for fees to be set by regulation. The commencement of the amendments will be by proclamation because of the need to set the level and form of fees.

21. The amendments to the Tobacco Marketing Act 1965 will commence by proclamation because those amendments will reflect the name change of the Australian Tobacco Board. The Board is referred to in complementary State legislation and it is desirable that that legislation be amended contemporaneously with the commencement of these amendments.

22. Subclause 2(3) provides that if an Act referred to in subclause 2(2) does not commence by proclamation within a period of six months beginning on the day on which the Act receives the Royal Assent, it commences on the first day after the end of that period.

Clause 3: Amendment of Acts

23. This clause provides that the Acts specified in Schedule 1 are amended as set out in that Schedule.

Clause 4: Repeal

24. This clause provides that the Acts specified in Schedule 2 are repealed.

SCHEDULE 1AMENDMENTS OF ACTSDairy Produce Act 1986

25. Section 62 of the Principal Act is amended by:

- . providing for a purchaser of a producer's milk to deduct an amount equivalent to the milk fat levies payable on that milk
- . including the above category of person within subsection 62(4) relating to the liability of a producer to pay a purchaser the amount of milk fat levy due
- . discharging the producer from further liability for milk fat levies where they have been deducted by persons described above
- . discharging the producer from further liability for milk fat levies where they have been recovered by the Commonwealth from those persons described previously

26. Section 63 is amended to extend the liability to the penalty for the late payment of milk fat levies to those persons who have deducted from payments to producers amounts equivalent to the milk fat levies payable but who have not paid them to the Commonwealth by the due date.

Live-stock Slaughter Levy Collection Act 1964

27. The proposed new paragraph 10C (a) will clarify the livestock industry's ability to elect to pay some or all of its levy collection costs to the Commonwealth from the National Cattle Disease Eradication Trust Account.

Plant Variety Rights Act 1987

28. The proposed amendments to subsection 12(1) will give the grantee of plant variety rights the right to asexually produce (or licence to others) plants or reproductive material for the commercial production of fruit, flowers or other products of the variety.

29. The proposed amendments to subsection 12(3) will require the grantee of plant variety rights to grant a licence to asexually propagate for the commercial production of flowers, fruit or other product unless the person refuses to comply with reasonable licence provisions.

30. The proposed amendments to subsection 18(2) and section 28 are designed to take into account that the "Plant Varieties Journal", used for giving public notice, is published quarterly.

31. Section 38 lists exceptions to the provisions of section 12 and is amended consequentially to the amendment to subsection 12(1).

32. Section 40 defines infringements of plant variety rights. Paragraphs (da) and (db) are added to make it an infringement to asexually produce plants or reproductive material for the commercial production of flowers, fruit or other product of those plants without being licensed by the grantee.

Petroleum (Submerged Lands) Act 1967

33. The proposed amendments to sections 21(1)(f), 22A(5)(h), 24(1)(a), 30(2)(c), 38A(2)(e), 38F(2)(d), 41(1)(e), 48(1)(a), 51(2)(e), 54(2)(d), 64(1)(f), 68(2)(c), 71(2)(e), 79, 86(1), 87(2), 87(3), 112(4), 114(1)(a), 118(1B), 118(2), 118(3), 118(5), and 118(5A) will enable the level and form of fees and securities provided for in the Act to be covered by Regulation.

34. The proposed repeal of subsections 21(5), 22A(7) and 65(12) and proposed new subsections 24(2) and 48(2) abolish a refund of 90% of application fees to unsuccessful applicants for titles under sections 22A, 24, 48 and 64 of the Act.

35. The proposed amendment to subsection 111(2)(b) and 111(2)(c) enable the charging of a fee to cover administrative costs involved in awarding special prospecting authorities.

36. The proposed amendments to sections 32, 38F, 38G, 40, 55, 65 and 69 and the proposed new sections 38BA and 44A enable the Joint Authority to offer a grant of renewal of a title, or grant of a licence or lease to a permit holder, to the registered holders of the title at the time of the offer. This will enable the transfer of a title registered after an application for renewal of the title has been lodged. This will avoid delays in considering transfers of titles until after renewal of a title or grant of a licence or lease.

37. The proposed amendment to subsection 112(3)(a) will enable the Designated Authority to grant an access authority to a holder of a special prospecting authority. However, the Designated Authority will be expected to take account of the views of affected titleholders before granting an access authority. Also, the holder of a special prospecting authority will be expected to comply with any obligations pertaining to the access authority and not interfere with the activities of titleholders.

38. The proposed new subsections 112(1B) and 112(1C) will enable a Designated Authority to grant a titleholder, or holder of a special prospecting authority, an access authority over an area in an adjoining adjacent area. However, the proposed new subsection 112(4) will require Designated Authorities wishing to grant such access authorities to gain approval of the Designated Authority for the adjoining adjacent area before granting such an access authority. The holders of such authorities will be expected to comply with any special conditions applying to the area covered by the access authority as well as any conditions imposed by the Designated Authority for the adjoining Adjacent Area while conducting activities in that Adjacent Area.

39. The Bill provides for the repeal of section 57 of the Act. This section requires production licence holders to spend \$300,000 per block per year or to recover production to that value, as a condition of the licence.

40. The proposed amendment to subsection 47(2) removes an unintended consequence of the Resource Rent Tax (Miscellaneous Provisions) Act 1988 (the Miscellaneous Provisions Act) which replaced "Joint Authority" with "Designated Authority" in that section. This unintended consequence arose because the Miscellaneous Provisions Act received Royal Assent after, rather than prior to, the Petroleum (Submerged Lands) Legislation Amendment Act 1987 as was originally intended.

41. The proposed amendment of subsection 22A(1) corrects a typographical error.

Petroleum (Submerged Lands) (Exploration Permit Fees) Act 1967

Petroleum (Submerged Lands) (Pipeline Licence Fees) Act 1967

Petroleum (Submerged Lands) (Production Licence Fees) Act 1967

Petroleum (Submerged Lands) (Registration Fees) Act 1967

Petroleum (Submerged Lands) (Retention Lease Fees) Act 1985

42. The proposed amendment to subsections 4(1) of the Petroleum (Submerged Lands) (Exploration Permit Fees) Act 1967, Petroleum (Submerged Lands) (Pipeline Licence Fees) Act 1967, Petroleum (Submerged Lands) (Production Licence Fees) Act 1967, subsections 4(2), (3), (4), (6) and (6A) of the Petroleum (Submerged Lands) (Registration Fees) Act 1967 and subsection 4(1) of the Petroleum (Submerged Lands) (Retention Lease Fees) Act 1985 are to enable the level and form of fees and securities provided for in the Acts to be covered by Regulation. In the case of registration fees determined by the Petroleum (Submerged Lands) (Registration Fees) Act 1967, only the minimum fees are included in this proposed amendment. Ad valorem registration fees based on a percentage of the value of the transaction remain in the Act.

43. The proposed new sections 7 of the Petroleum (Submerged Lands) (Exploration Permit Fees) Act 1967, Petroleum (Submerged Lands) (Pipeline Licence Fees) Act 1967, section 8 of the Petroleum (Submerged Lands) (Production Licence Fees) Act 1967, section 5 of Petroleum (Submerged Lands) (Registration Fees) Act 1967, and section 7 of the Petroleum (Submerged Lands) (Retention Lease Fees) Act 1985 will enable the making of regulations in respect of the Acts.

Tobacco Marketing Act 1965

44. The proposed amendments to sections 4,5,6,7,8,9,10, 11,13,14,15,16,17,18,19,20,21,22,23,24,25,26,28 and the headings to Parts 11 and 111 are amended to reflect the fact that the name of the Australian Tobacco Board is being changed to the Australian Tobacco Marketing Advisory Committee.

45. The proposed amendments to subsection 17(2) require the Minister instead of the Public Service Board to approve the terms and conditions of employment of Committee staff. This amendment reflects the abolition of the Public Service Board.

SCHEDULE 2

46. Schedule 2 repeals the following redundant Acts:

Derby Jetty Agreement Act 1962

Oil Companies (Stock Loss Reimbursement) Act 1986

Pipeline Construction (Dalton to Canberra) Act 1980

Pipeline Construction (Young to Wagga Wagga) Act 1980

South Australia Grant (Fruit Canneries) Act 1971

States and Northern Territory Grants (Bluetongue Virus Control) Act 1978

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