

1984

THE PARLIAMENT OF THE COMMONWEALTH  
OF AUSTRALIA

THE SENATE

PETROLEUM (SUBMERGED LANDS) AMENDMENT BILL 1984

EXPLANATORY MEMORANDUM

(Circulated by the Authority of  
the Minister for Resources and Energy,  
Senator the Hon. Peter Walsh)



## PETROLEUM (SUBMERGED LANDS) AMENDMENT BILL 1984

### Purpose

This Bill will amend the Petroleum (Submerged Lands) Act 1967 to:

- . establish in Bass Strait an area to be avoided by Australian ships over 200 tons gross tonnage and into which, in times of heightened terrorist threat, entry of all unauthorised Australian ships will be prohibited. Penalties for unauthorised entry and the grant of powers of enforcement to authorised persons are provided for in the Bill. The present Act allows 500 metre safety zones to be declared around offshore installations, but the larger area to be avoided will further reduce the risk of collision by large vessels with the petroleum installations in Bass Strait. The area to be avoided was approved by the International Maritime Organisation (IMO) in 1981. Advisory measures were promulgated by the IMO from October 1982 and general compliance with the measures has been achieved. Clauses 24 and 28 deal with the area to be avoided;
- . empower the Joint Authority (the Commonwealth and relevant State/NT Ministers) to direct a licensee to vary the rate of petroleum production from a well or petroleum pool within a licence area for reasons which include Commonwealth revenue considerations. This will remove an inconsistency in

the present Act which provides that the Joint Authority direct licensees to recover petroleum when they are not doing so, but allows the Designated Authority (the relevant State/NT Minister alone) to direct licensees to vary the rate of production. The amendment will also allow the Joint Authority to specify the rates of production from individual petroleum pools within a licence area, whereas the current provisions in the Act restrict that power to a licence area as a whole. Clause 12 deals with these amendments;

- . make those provisions of the Act dealing with variations to work and expenditure conditions of licences subject to the provisions of Sections 8E of the Act which enable individual cases to be referred to the Joint Authority at the direction of the Commonwealth Minister. This would be consistent with arrangements for handling variations to conditions of permits and licences, which are already subject to the provisions of Section 8E. Clause 27 deals with this amendment;
- . remove a number of drafting inconsistencies and ambiguities which, in the main, were identified during preparation of the complementary State offshore legislation. The remaining Clauses deal with these amendments.

These amendments will result in the more effective administration of the Act. They have no direct financial impact.

NOTES ON THE CLAUSES OF THE BILLClause 1Short title etc

This clause provides for the short title of the legislation.

Clause 2Commencement

This clause indicates that the provisions of the legislation will come into operation on such dates as are fixed by Proclamation. In particular, this is to allow for the Victorian Government to pass complementary legislation regarding the area to be avoided in the Bass Strait.

Clause 3Interpretation

In order to clarify and maintain consistency of terminology throughout the Act, the expression "in force" is substituted for the expression "have effect", and specification of the relevant day is clarified. Similar drafting amendments are made to sub-sections 51(6)(b), 54(2)(b), 54(3), 68(2)(b), 68(3), 96(1), 96(2)(b), 111(6), 112(7), 146(3), and 147(3) of the existing Act.

Clause 4

Term of Permit

Section 29 of the Act is amended to allow a permit to come into force on the date it is granted or at a later specified date. Some ambiguity exists which is removed by allowing a distinction between the date of grant of a permit and the date that the permit comes into force. Similar drafting amendments are made to section 53, and sub-sections 67(2), 76(5), and 95(1) of the existing Act, which relate to production licences and pipeline licences.

Clause 5

Declaration of location

This is a drafting amendment to section 37 of the Act which is necessary for consistency with the proposed changes to Section 46 of the Act (see Clause 8).

Clause 6

Grant of a licence

This is a drafting amendment to section 44 of the Act (see Clause 3).

Clause 7Variation of licence area

This is a drafting amendment to section 45 of the Act to clarify the date of commencement of the variation of a licence area and hence the permit area. Similar amendments to clarify commencement dates are made to section 95.

Clause 8Determination of permit as to block not taken up by licence

This is an amendment to clarify the ambit of sub-section 46(3) of the Act. Section 46 was intended to require the Designated Authority to revoke the declaration of a 'location' over blocks which are no longer the subject of a permit because of expiry, surrender or cancellation of the permit. However, under the existing sub-section 46(3), the revocation can be applied where a production licence has been granted over those blocks and the permit has therefore ceased to be in force over those blocks. Such a revocation would have no purpose but could place the validity of a licence in question. The amendment therefore specifically excludes blocks which are the subject of a licence, or an application for a licence, from the revocation processes under section 46. A transition provision is included to ensure that any revocations made under the existing Act have not jeopardised the validity of any licences.

Clause 9

Grant of licence in respect of individual blocks

This is a drafting amendment to section 51 of the Act (see Clause 3).

Clause 10

Term of licence

This is a drafting amendment to section 53 of the Act (see Clause 4).

Clause 11

Application for renewal of licence

This is a drafting amendment to section 54 of the Act (see Clause 3).



Clause 12Directions as to recovery of petroleum

This amendment to section 58 transfers the power to direct licensees to vary the rate of recovery of petroleum in a licence from the Designated Authority (ie, the State/NT Minister) to the Joint Authority (ie, the Commonwealth Minister and the State/NT Minister) and ensures that such directions can be made for reasons related to Commonwealth revenue considerations. Sub-sections (3) and (4) are also amended to empower the Joint Authority to direct a licensee to vary the rate of production from individual pools of petroleum within a licence area, whereas the current provisions of the Act restrict such directions to the licence area as a whole. A transition provision is included to ensure that directions currently in force and made by the Designated Authority under the existing Act remain valid.

Clause 13Unit development

This amendment to section 59 is to correct a drafting error. It ensures that any direction made under sub-section (3) must be given in writing.

Clause 14

Terms of pipeline licence

This is a drafting amendment to section 67 of the Act (see Clause 4).

Clause 15

Application for renewal of pipeline licence

This is a drafting amendment to section 68 of the Act (see Clause 3).

Clause 16

Register of certain instruments to be kept

Sub-section 76(5) is to be omitted from the Act as it is inconsistent with other provisions in the Act relating to the date on which a permit, production licence, pipeline licence, access authority or instrument enters into force.

Clause 17

Date of effect of surrender, etc, of permits, etc

This is a drafting amendment to section 95 of the Act (see Clause 7).

Clause 18

Commencement of works

This is a drafting amendment to section 96 of the Act (see Clause 3).

Clause 19

Directions

This amendment to section 101 of the Act makes it clear that the penalty applies only to a failure to comply with a direction in force under sub-section (1) and not to the whole of the section.

Clause 20

Payments by instalments

This is a drafting amendment to section 109 of the Act to render it consistent with terminology in other parts of the Act, notably section 42.

Clause 21

Special prospecting authorities

This is a drafting amendment to section 111 of the Act (see Clause 3) and an amendment to clarify the imposition of the penalty.

Clause 22

Access authorities

This is a drafting amendment to section 112 of the Act (see Clause 3).

Clause 23

Release of information

This amendment to sub-section 118(4) is consequential to the amendment of sub-section 46(3) dealing with revocation of blocks in a location (see Clause 8).

Clause 24Division 6A - Area to be avoided and safety zones

This amendment introduces the new Division 6A which establishes an area to be avoided around the offshore platforms in Bass Strait. It prohibits entry of unauthorised Australian ships over 200 tons into the area and, in times of terrorist threat, as declared by the Minister for Resources and Energy on the advice of the Special Minister of State, all unauthorised Australian ships would be excluded from the area. The principal features of the new Division are as follows:

Interpretation

Section 140A defines a number of terms introduced by the provisions of this new Division and also explains certain references and actions mentioned in these provisions. The area to be avoided is defined as the area described in Schedule 6, excluding safety zones and excluding the 3 nautical mile territorial sea. The vessels to which the new provisions apply are defined as Australian vessels over 200 tons gross tonnage or vessels the length of which is equal to or greater than 24 metres.

Emergency periods

Section 140B details the circumstances and procedures whereby a state of emergency exists in relation to the area to be avoided. The section includes provision for the Commonwealth Minister to consult with the Designated Authority. When a state of emergency is declared all unauthorised Australian vessels are prohibited from the area.

Designated Authority may authorise entry into area to be avoided

Section 140C allows the Designated Authority to permit entry into the area to be avoided by a vessel upon application by its owner, subject to such conditions as may be specified. Provision is also made, in sub-section (4), for revocation of such an authority.

Unauthorised vessel not to enter area to be avoided

Section 140D provides that where a vessel enters or remains in the area to be avoided without proper authorisation, the owner and the master may be liable to a fine of up to \$50,000 and/or imprisonment up to 5 years. Under sub-section (2) provision is made for a possible defence on the grounds that the vessel entered or remained in the area to be avoided due to an unforeseen emergency endangering the safety of the vessel or of human life or because of circumstances beyond the control of the person in charge.

### Powers of authorised persons

Section 140E sets out the powers of an authorised person, as defined in sub-section 140A(1), in respect of vessels in or near a safety zone or the area to be avoided or suspected of having contravened the provisions of sections 119 or 140D. These powers include boarding such vessels, requesting or searching for relevant information or documents, requiring removal of a vessel from the area to be avoided or safety zone, measuring a vessel, requiring a disabled vessel to accept a tow or any other assistance considered necessary, or detaining a suspected vessel.

Under sub-section (2), persons who fail to facilitate the boarding of a vessel by an authorised person, refuse to allow a search to be made or to comply with another requirement under sub-section (1), give false or misleading information, or resist or obstruct an authorised person in the performance of his functions under sub-section (1) may be fined up to \$5 000.

### Search Warrants

Section 140F sets out the circumstances under which a warrant may be issued to empower authorised persons to exercise all or any of the powers referred to in 140E (1) (a), (b), (e) and (g). The terms of the warrant must be specified.

### Exercise of powers in serious circumstances

Section 140G allows an authorised person to exercise powers referred to in 140E (1) (a), (b), (e) and (g) without a warrant in emergency circumstances.



Clause 25

Barracouta and Marlin Fields Petroleum Production Licences

This is a drafting amendment to section 146 of the Act (see Clause 3).

Clause 26

Barracouta and Martin Fields Pipeline Licences etc

This is a drafting amendment to section 147 of the Act (see Clause 3).

Clause 27

Schedule 5

This amendment enables proposals to grant exemptions from licence requirements by the Designated Authority to be referred to the Joint Authority at the discretion of the Commonwealth Minister.

Clause 28

Insertion of new Schedule

A new Schedule 6 is added to the Principal Act setting out the boundaries of the area that includes the area to be avoided referred to in section 140A (see Clause 24).











