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1991

THE PARLIAMENT OF THE COMMONWEALTH  
OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

PETROLEUM (SUBMERGED LANDS) AMENDMENT BILL 1991

EXPLANATORY MEMORANDUM

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



## GENERAL OUTLINE

1. The Petroleum (Submerged Lands) Amendment Bill 1991 provides for amendments to the Petroleum (Submerged Lands) Act 1967 (the Act) to:
  - . enable delegation of routine Joint Authority powers jointly to Commonwealth and State/NT officials provided the two delegates agree on the matter requiring a decision (Clause 3)
  - . ensure that any operations preparatory to, or knowingly connected with, petroleum exploration in an adjacent area require approval under the Act rather than simply petroleum exploration (Clause 4)
  - . require consistent tests for provision of false or misleading information to include the test that the person knowingly provides such information in relation to information provided concerning dealings in petroleum titles (Clause 5)
  - . replace the current discretionary requirement for exploration permittees, retention lessees, production licences and pipeline licences to take out insurance against potential liabilities which could arise from relevant operations with a mandatory requirement for such insurance (Clause 6)
  - . clarify that a holder of an access authority is required to submit a report of operations containing a summary of facts ascertained from the relevant operations rather than all facts ascertained from the operations, to the affected titleholder (Clause 7)
  - . extend the period of confidentiality for basic data recorded under speculative non-sole risk surveys to up to five years at the discretion of the Designated Authority (Clause 8)
  - . clarify the arrangements agreed to by Western Australia and the Commonwealth with respect to the transfer of domestic gas phase royalties from the North West Shelf project (Clause 9)
  - . repeal provisions relating to prosecution of offences which duplicate relevant provisions in the Crimes Act 1914 (Clause 10)
  - . amend orders for forfeiture provisions to make them consistent with the Crimes Act 1914 (Clause 11)
  - . amend time for bringing proceedings for offences provisions to make them consistent with the Crimes Act 1914 (Clause 12)
  - . to abolish securities for exploration permittees, retention lessees, production licences and pipeline licences (Clause 13)

terminate a permit in the vicinity of the Great Barrier Reef Marine Park (Clause 14)

provide compensation provisions in the event that the amendment contained in clause 14 results in 'an acquisition of property' other than on 'just terms' (Clause 15).

#### FINANCIAL IMPACT STATEMENT

2. The amendments, other than clause 9, will have no impact on Government expenditures and will have no staffing implications for the Department of Primary Industries and Energy. Clause 9, by amending section 130 of the Act, may have the effect of deferring minimal payments of royalty to Western Australia.

NOTES ON THE CLAUSES OF THE BILL

Clause 1

Short title

3. This clause provides for the short title of the legislation.

Clause 2

Commencement

4. The Act will come into operation on the day which it receives Royal Assent.

Clause 3

Delegation

5. This clause will enable the Joint Authority to delegate administrative decisions jointly to an official representing the Commonwealth Minister and an official representing the State or Northern Territory Minister. If the two officials are not able to agree on a matter requiring a decision then the matter must be referred back to the Ministers for a decision.

Clause 4

Exploration for petroleum

6. This clause amends section 19 of the Act to ensure that unauthorised operations preparatory to, or knowingly connected with, petroleum exploration are an offence under the Act. This will ensure that section 19 of the Act also applies to operations such as speculative surveys, the aim of which is resale to potential explorers.

## Clause 5

### Power of Designated Authority to acquire information as to dealings

7. This clause amends subsection 84(2) of the Act to ensure that the offence for providing false or misleading information provided concerning dealings in petroleum titles includes the test that the person knowingly provides such information. This amendment will make subsection 84(2) consistent with the test which applies under subsection 82(1) of the Act in relation to information supplied in instruments of transfers of petroleum titles or instruments relating to dealings in titles.

## Clause 6

### Conditions relating to insurance

8. This clause amends section 97A of the Act to require all exploration permittees, retention lessees, production licencees and pipeline licencees to take out insurance against potential liabilities which could arise from relevant operations. Previously this requirement was at the discretion of the Designated Authority. The amendment to section 97A is also relevant to that contained in clause 13 to abolish securities previously required by all exploration permittees, retention lessees, production licencees and pipeline licencees.

## Clause 7

### Access authorities

9. This clause amends subsection 112(11) of the Act to clarify that a holder of an access authority is required to submit a report containing a summary of facts ascertained from the relevant operations rather than all facts ascertained from the operations, to the affected titleholder. This removes a possible ambiguity from the subsection.

Clause 8Release of information

10. This clause amends paragraph 118(4)(d) of the Act to provide the Designated Authority with the discretion to extend the period before public access can be provided to basic information, core, cutting or sample from a vacant block to up to five years at the Designated Authority's discretion, provided the information was collected for the purpose of resale on a non-exclusive basis.

Clause 9Payments to Western Australia

11. This clause amends subsections 130 (1) and 130 (3) of the Act by limiting the Commonwealth's payments to Western Australia of royalty from licence areas WA1-L, WA2-L, WA3-L, WA4-L, WA5-L and WA6-L to that obtained from the domestic gas phase of the North West Shelf project. Subclause 9 (a) amends subsection 130 (1) of the Act by including "domestic gas" within the definition section. Domestic gas royalties will be determined by the Joint Authority. Subclause 9 (b) clarifies subsection 130 (3) to specify that the royalty to be transferred shall be that derived from the "domestic gas".

Clause 10Repeal of section 132

12. This clause will replace section 132 of the Act with recent amendments to the Crimes Act 1914 concerning prosecution of offences. Sections 4G, 4J and 4K of the Crimes Act 1914 now generally provide for the matters previously contained in section 132 of the Act.

Clause 11Orders for forfeiture in respect of certain offences

13. This clause will amend provisions enabling forfeiture in respect of certain offences (section 133 of the Act) to make them consistent with the Crimes Act 1914 by enabling prosecution of inchoate (ie accessory after the fact, inciting to or urging the commission of) offences.

Clause 12Time for bringing proceedings for offences

14. This clause will amend the range of offences (section 135 of the Act) for which proceedings may be brought at any time to include inchoate offences, consistent with relevant provisions of the Crimes Act 1914.

Clause 13Removal of requirements for securities

15. This clause will remove the requirement for exploration permittees, retention lessees, production licencees and pipeline licencees to lodge securities as a condition of grant of title, renewal of title or transfer of title. Clause 6 which will require all exploration permittees, retention lessees, production licencees and pipeline licencees to take out insurance against potential liabilities which could arise from relevant operations is also relevant to this amendment.

Clause 14Termination of Permit

16. This clause terminates exploration permit Q/11P which is located in the vicinity of the Great Barrier Reef, partly in the Great Barrier Reef Marine Park and partly in the Torres Strait Protected Zone.

Clause 15Compensation

17. This clause contains compensation provisions in the event that the amendment contained in clause 14 of the Bill results in 'an acquisition of property' other than on 'just terms'. The words 'an acquisition of property' and 'just terms' have the same meaning as in paragraph 51(xxi) of the Constitution. Provision is made in subclause (3) for proceedings to be instituted in the Federal Court to determine compensation of a reasonable amount.

SCHEDULE

AMENDMENTS RELATING TO SECURITIES

18. These amendments arise to give effect to the removal of the requirement for exploration permittees, retention lessees, production licences or pipeline licences to lodge securities.

Section 114

19. The repeal of this section of the Act arises as a consequence of the removal of the requirement for exploration permittees, retention lessees, production licences or pipeline licences to lodge securities.