

1991

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Petroleum (Submerged Lands) (Royalty) Amendment Bill 1991

EXPLANATORY MEMORANDUM

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



PETROLEUM (SUBMERGED LANDS) (ROYALTY) AMENDMENT BILL 1991

OUTLINE

The Petroleum (Submerged Lands) (Royalty) Act 1967 and the Petroleum (Submerged Lands) Act 1967 form the base legislation upon which the Commonwealth levies royalty on those offshore areas not covered by the provisions of the Petroleum Resource Rent Tax Assessment Act 1987.

2 Royalty is levied as a percentage of the wellhead value of petroleum recovered from a licence area. The wellhead value is calculated by subtracting from the sales value of all petroleum sourced from the well, the cost of transportation and processing involved in bringing the raw products from the wellhead to the point at which petroleum products are sold.

3 The Designated Authority (DA) (the relevant State Energy Minister) is responsible for the day-to-day administration of royalty collection and verification, while the Joint Authority (JA) (the Commonwealth Minister and the State Minister) is responsible for broader matters of policy and setting the framework for the calculation of the wellhead value.

4 Amendments to the Petroleum (Submerged Lands) (Royalty) Act 1967 are required to clarify a number of areas associated with the collection and verification of royalties paid by the petroleum producers. The amendments involve the following changes:

- . enabling an interim royalty to be paid by the producers in situations where a final Royalty Agreement has not been concluded between the parties. Subsequent adjustments to this interim royalty will be made after a formal Royalty Agreement has been implemented;
- . royalty paid shall be considered as an interim royalty payment until the full details of sales proceeds, allowable deductions and production are known. The Petroleum (Submerged Lands) (Royalty) Act 1967 currently

requires the DA to accept or determine, by the end of the month following the production month, a value at the wellhead and the quantity of

petroleum recovered. The current provision provides insufficient time for the DA to satisfactorily verify and audit information submitted by the producers. The amendment provides the DA with sufficient time to obtain all of the information required to verify the royalty liability; and

allows for adjustments to the royalty paid in cases of both the overpayment and underpayment of royalty resulting from the incorrect application of an agreed or determined procedure. Without this provision, no mechanism exists to correct an error that has resulted from the incorrect application or interpretation of a Royalty Agreement.

5 The amendments are integral to the correct calculation of offshore petroleum royalties.

FINANCIAL IMPACT STATEMENT

6 None of the amendments made by this Bill have any significant financial impact. The amendments provide legislative backing for procedures that are already followed in the administration of the Petroleum (Submerged Lands) (Royalty) Act 1967.

NOTES ON INDIVIDUAL CLAUSES

Clause 1 : Short title

7 This clause provides for the short title of the legislation, namely the Petroleum (Submerged Lands) (Royalty) Amendment Bill 1991. In this Bill, the Principal Act means the Petroleum (Submerged Lands) (Royalty) Act 1967.

Clause 2 : Commencement

8 The Act shall commence on the date that it receives Royal Assent.

Clauses 3 & 4 : Payment of royalty

9 Clause 3 amends sub-section 11 (3) of the Principal Act to include an adjusted royalty liability as specified under paragraph 11B (2) (a) within the scope of the penalty provisions.

10 Clause 4.1 inserts sections 11A and 11B into the Principal Act.

Provisional payment of royalty

11 Sub-clause 11A (1) of the Principal Act allows for the Designated Authority to determine a provisional value of petroleum for royalty purposes in the case where a value for the petroleum has not been determined under section 9 of the Principal Act.

12 Sub-clause 11A (2) of the Principal Act specifies that in circumstances where a provisional value of petroleum has been determined under sub-clause 11A (1) and that value has yet to be agreed or determined under section 9, then the provisional value shall be treated as the actual value for the purposes of the operation of section 9 of the Principal Act.

Adjustment of payments of royalty

13 Sub-clause 11B (1) of the Principal Act defines those categories of royalty payments for which adjustments can be effected. Sub-clause 11B (1) (a) specifies that where a provisional value of petroleum has been assessed under sub-clause 11A (2), or where an error has been made in the calculation of royalty payable, or a procedure has been incorrectly applied to calculate royalty, an adjustment to a royalty payment may be effected.

14 Sub-clause 11B (2) of the Principal Act specifies that for those categories of royalty payments for which adjustments can be made, one of the following two treatments shall apply. Sub-clause 11B (2) (a) specifies that if the actual determined level of royalty is greater than the provisional royalty paid, the difference shall be payable within 28 days. Should the determined royalty be less than the provisional royalty paid, the difference shall be deducted from the royalty payable in the following royalty period.

15 Sub-clause 11B (3) of the Principal Act defines "provisional royalty" and "determined royalty" for the purposes of section 11B. Provisional royalty is that royalty that has either been paid on a provisional basis (where paragraph 11B (1) (a) applies) or the amount of royalty demanded as the result of an incorrect calculation (where paragraph 11B (1) (b) applies). For the purposes of 11B (1) (a), determined royalty is that amount of royalty payable on the basis of the value ascertained under section 9. Determined royalty for the purposes of 11B (1) (b) is the amount of royalty which should correctly have been determined under the Principal Act.

16 Clause 4 (2) specifies that sections 11A and 11B shall apply in relation to petroleum recovered during a royalty period commencing on or after the commencement of this Bill.

17 Clause 4 (3) specifies that sections 11A and 11B shall also apply in circumstances where the value of petroleum had not been determined under section 9 of the of the Principal Act prior to the commencement of this Bill.

Clause 5: Royalty, &c., a debt to the Commonwealth

18 Clause 5 specifies that a royalty liability is created under section 13 of the Principal Act as a result of a reassessment of royalty being made under 11B (2) (a).

