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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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PETROLEUM (SUBMERGED LANDS - MISCELLANEOUS  
AMENDMENTS) BILL 1981

EXPLANATORY MEMORANDUM



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PURPOSE

The Bill will amend the Petroleum (Submerged Lands) Act 1967, the Petroleum (Submerged Lands) Amendment Act 1980 and the Coral Sea Islands Act 1969. The Petroleum (Submerged Lands) Amendment Act 1980 was enacted last year as part of the offshore constitutional settlement. Complementary State legislation will be proclaimed at the same time as the Commonwealth legislation. During the drafting of the State Bills it became apparent that certain changes were required to the Commonwealth Act to avoid anomalies between State and Commonwealth legislation. The Bill does that and corrects certain drafting errors in the 1980 Act. It also amends the boundary of the Queensland Adjacent Area and extends the legislation to the Coral Sea area.

PART I

Clause 1

Short Title etc.

The Act may be cited as the Petroleum (Submerged Lands -Miscellaneous Amendments) Act 1981.

Clause 2

Commencement

Parts I and II will come into operation on the day the Act receives the Royal Assent. Parts III and IV will come into effect at the same time as the Petroleum (Submerged Lands) Amendment Act 1980 on a date to be proclaimed.

Part II

Clause 3

Reference to Principal Act

In Part II the Principal Act referred to is the Petroleum (Submerged Lands) Act 1967.

Clause 4

Commencement

This clause amends section 2 of the Principal Act to omit the reference to section 3 of that Act which was repealed by the 1980 Act.

Clause 5Sections 97 and 98 to have effect subject to this Act etc.

The 1980 Act introduced a new section 97A. This clause ensures that the reference to "preceding " sections in section 99 of the Principal Act remains a reference to sections 97 and 98.

Clause 6Prosecution of Offences

The 1980 Act introduced the penalty of imprisonment for certain offences under the Act. The effects of the amendments to section 132 of the Principal Act are that a court of summary jurisdiction may impose a penalty of a fine up to a certain maximum, while the Supreme Court may impose the maximum penalty, including imprisonment, provided by the Act. Offences may be tried summarily without a jury by either court.

Clause 7Orders for forfeiture in respect of certain offences

This amendment ensures that the forfeiture provisions of section 133 of the Principal Act will apply in cases where a court imposes a penalty of imprisonment (introduced by the 1980 Act) as well as where it imposes a fine.

Clause 8Second Schedule

This clause amends the boundaries of the Queensland Adjacent Area. The requirement to do this arises out of the fact that when the boundary of the Adjacent Area was established in 1967 it intersected the territorial seas of five islands in the Torres Strait resulting in some areas of territorial sea of those islands lying outside the Queensland Adjacent Area. This has not been a practical problem. However, under the provisions of the Coastal Waters (State Powers) Act, legislative powers are to be granted to States only in territorial seas which lie within Adjacent Areas. It is therefore necessary to amend the Queensland Adjacent Area boundary to encompass these territorial sea areas, to ensure that State legislative powers are extended to those areas.

When the Torres Strait Treaty is ratified (probably later this year), the adjacent area boundary will be amended to correspond

to the Treaty seabed line, which is considerably further south than the present boundary. As an interim measure, the Adjacent Area boundary has been amended so that it is outside Papua New Guinea territorial seas.

### Part III

#### Clause 9

##### Reference to Principal Act

In part III the Principal Act referred to is the Petroleum (Submerged Lands) Amendment Act 1980.

#### Clause 10

##### Adjacent areas

This clause extends the application of the Act to the continental shelf of the Coral Sea Islands and provides that it is to be administered as if it were part of the Queensland adjacent area, i.e. the new area will be under the control of the Commonwealth/Queensland Joint Authority with day-to-day administration being carried out by Queensland.

#### Clause 11

##### Certain Territories

Section 8G has been redrafted to clarify its meaning. The intent of the section is that the Designated Authority in respect of the Adjacent Areas of Commonwealth Territories, i.e. the Commonwealth Minister, shall exercise the powers and functions that the Joint Authorities exercise in respect of the Adjacent Areas of States. This intent was not clearly expressed in the 1980 Act and is corrected by this clause.

#### Clause 12

##### Transitional Provisions

New subsection (2A) to section 63 of the 1980 Act is designed to ensure that, where a location was declared prior to the 1980 Act coming into operation, sections 23 and 47 of the 1967 Act continue to be fully operative in respect of the portion of the location which remains within the jurisdiction

of the Commonwealth after the 1980 Act comes into operation.

New subsection (2B) will allow the cancellation of permits and pipeline licences in those cases where the permits or pipeline licences come within the transitional provisions of section 63 and the permittees or licencees have not honoured their obligations prior to the transitioning of the permits or pipeline licences.

#### Clause 13

#### Schedule 4

Schedule 4 to the 1980 Act sets out the transitional arrangements where part of a permit or licence currently under the Commonwealth Act will pass under the jurisdiction of a State Act. Paragraph (a) re-defines "commencing date" by taking into account that the 1980 Act is amended by this Act. Paragraph (b) re-defines "State Act". At the time the 1980 Act was passed it was contemplated that the States would amend their existing offshore petroleum legislation, but it has now been decided on legal advice to re-enact amended State legislation and "State Act" has been re-defined accordingly. Paragraph (c) is a consequential amendment to paragraph (b).

#### Clause 14

#### Formal Amendments

Several errors of a drafting nature in the 1980 Act are corrected as set out in Schedule 2.

#### PART IV

#### Clause 15

#### Reference to Principal Act

In Part IV the Principal Act referred to is the Coral Sea Islands Act 1969.

#### Clause 16

#### Courts having jurisdiction in the Territory

This is an amendment consequential to the amendment in Clause 10 the effect of which is, inter alia, to confer

jurisdiction on Queensland courts in respect of matters in the Coral Sea area arising under the Petroleum (Submerged Lands) Act. This amendment provides that the courts of Norfolk Island, which have jurisdiction in the Coral Sea Island Territory in respect of other matters, shall not have jurisdiction in respect of matters arising under the Petroleum (Submerged Lands) Act.

