

1985
THE PARLIAMENT OF THE COMMONWEALTH OF
AUSTRALIA

THE SENATE

PETROLEUM REVENUE BILL 1985

EXPLANATORY MEMORANDUM

(Circulated by Authority of the
Minister for Resources and Energy,
the Hon Gareth Evans, QC)

This memorandum takes account of amendments made by the House
of Representatives to the Bill as introduced.

PETROLEUM REVENUE BILL 1985

OUTLINE

On 25 June 1985 the Minister for Resources and Energy, Senator Evans and the Western Australian Premier, announced agreement to arrangements to introduce a Resource Rent Royalty (RRR) for petroleum produced from Barrow Island and to the introduction of general legislation offering all States the opportunity of introducing a RRR. This Bill will allow this agreement to be put into effect.

This Bill provides for the Commonwealth to consider waiving its right to levy excise if:

- . a State and producers have entered into a relevant RRR agreement
- . a State has requested the Commonwealth to enter into a relevant revenue-sharing agreement in relation to royalty paid under the resource rent royalty agreement.

Once the Minister for Resources and Energy is satisfied that the RRR proposed satisfies these conditions the Minister will advise the Minister for Industry, Technology and Commerce that liquid petroleum, produced from a project to which a RRR applies, is exempt from Commonwealth excise.

Schedule 1 of the Bill outlines the provisions of a RRR agreement which the Commonwealth considers necessary.

Schedule 2 of the Bill establishes the revenue-sharing formula that is to be applied to revenue obtained from a project under RRR to determine Commonwealth and State shares and provisions, and to protect Commonwealth revenue where States may exercise discretionary powers which affect royalty collections.

FINANCIAL IMPACT

The key principle of the revenue-sharing arrangement in this Bill is that revenue obtained from a RRR, when compared with the current excise/royalty arrangements, is to be revenue neutral. Data relating to individual projects are considered to be commercial-in-confidence and therefore estimates of revenue under a RRR regime cannot be made public.

NOTES ON CLAUSES

Clause 1:

1 Formal

Clause 2: Commencement

2 The Act is to operate on a day to be fixed by Proclamation

Clause 3: Interpretation

Sub-Clause 3(1)

3 This sub-clause defines the following terms which are used in the Bill

- . agreement
- . market petroleum
- . petroleum
- . prescribed petroleum
- . production source
- . production unit
- . relevant resource rent royalty agreement
- . relevant revenue-sharing agreement

Sub-Clause 3(2)

4 This sub-clause defines for the purposes of this Act

- (a) liquid petroleum obtained from naturally occurring petroleum gas; and
- (b) the treatment of liquefied petroleum gas obtained from either unstabilised crude petroleum oil or naturally occurring petroleum gas

Sub-Clause 3(3)

5 The ceasing of

- (a) a resource rent royalty agreement; and
- (b) a revenue-sharing agreement

is permitted when the agreement is varied such that it differs from Schedules 1 and 2 respectively

Clause 4: No Discrimination or Preference

6 The Commonwealth or Minister shall not exercise powers under this Act or under revenue-sharing agreements that would

- (a) discriminate between States or parts of States within the meaning of paragraph 51 (ii) of the Constitution
- (b) give preference to a State or part of it within the meaning of Section 99 of the Constitution

Clause 5: Relevant Revenue-Sharing Agreements

- 7 The conditions that must be satisfied before the Minister may arrange for the Commonwealth to enter into a revenue-sharing agreement are:
 - (a) the State and producers have entered into a relevant resource rent royalty agreement (as contained in Schedule 1)
 - (b) the State requests the Commonwealth to enter into a relevant revenue-sharing agreement (Schedule 2)

Clause 6: Exemption from Excise Duty

Sub-Clause 6(1)

- 8 The conditions that must be satisfied before the Minister for Resources and Energy advises the Minister administering the Excise Tariff Act 1921 (the Excise Minister) that petroleum produced from a project under a RRR be exempt from excise are:
 - (a) the State and producers have entered into a relevant resource rent royalty agreement
 - (b) the Commonwealth and State have entered into a relevant revenue-sharing agreement under a RRR
- 9 This sub-clause also describes the procedures which the Minister for Resources and Energy must follow in advising the Excise Minister of a project's meeting the conditions for exemption from Commonwealth excise

Sub-Clause 6(2)

- 10 This sub-clause describes the procedures to be followed by the Excise Minister in exempting from excise, petroleum produced from a project to which a RRR applies

Sub-Clause 6(3)

- 11 This sub-clause permits the revoking of the Minister's advice under Sub-Clause (1)

Sub-Clause 6(4)

- 12 This sub-clause allows the Excise Minister to alter his declaration under Sub-Clause (2) in response to advice under Sub-Clause (3)

Clause 7: Excise Act

Sub-Clause 7(1)

- 13 Prescribed petroleum, which by virtue of Clause 6, is exempt from excise duty, shall not be taken to be "excisable goods" within the meaning of the Excise Act 1901

Sub-Clause 7(2)

- 14 This sub-clause allows for the determination of a prescribed production area under sub-section 6B (1), 6C(1) and 6D(1) of the Excise Tariff Act 1921 when a RRR applies

Clause 8: Repayments

Sub-Clause 8(1)

- 15 Where amounts of excise are repayable under this Act, interest is not payable on those amounts

Sub-Clause 8(2)

- 16 The above is not to imply
- (a) interest would have been payable
 - (b) interest is payable on other amounts

Schedule 1: Relevant Resource Rent Royalty Agreement

- 17 This Schedule describes the arrangements which a State would need to enter into with the producers to satisfy the Commonwealth that an acceptable RRR was being implemented. The main features are:
- . the RRR will apply on and from 1 July of a given year
 - . the royalty rate will be 40 percent
 - . the threshold rate will be the sum of the long term bond rate for that year and a rate not greater than 15 percent
 - . the royalty will be payable on income from the recovery of all petroleum, including crude oil, condensate, liquefied petroleum gas (LPG), natural gas and ethane from a petroleum project
 - . the royalty will be levied prior to company income tax and will be a deduction for company tax purposes
 - . current and capital expenditures will be written off immediately in the year in which they are paid, with any excess of expenditures over receipts at the end of the year being compounded forward at the maximum threshold rate

Schedule 2: Relevant Revenue-Sharing Agreement

18 This Schedule describes a model revenue-sharing agreement which any State introducing a RRR would need to conclude with the Commonwealth before the Commonwealth's excise is waived. It also contains a formula to establish a revenue-sharing ratio for any given project as well as setting out certain Commonwealth audit requirements. Revenue will be shared as follows:

For petroleum producing projects which commenced production prior to 25 June 1985, the Commonwealth RRR share is to be based on the proportion of "old" oil sales to total crude oil sales in 1984-85. Where

- (i) the proportion of "old" oil is 50% or more the Commonwealth RRR share is 75%
- (ii) the proportion of "old" oil is less than 50% the Commonwealth RRR share is 25%

For petroleum producing projects which commenced production after 25 June 1985 the Commonwealth's RRR share is as follows:

- (i) zero when annual crude oil sales are less than 500ML
- (ii) 25 percent when sales exceeds 500ML but are less than 700ML
- (iii) 50 percent when sales exceeds 700ML but are less than 900ML
- (iv) 75 percent when sales exceeds 900ML

