

1980

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIATHE HOUSE OF REPRESENTATIVESPETROLEUM (SUBMERGED LANDS) AMENDMENT BILL 1980EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister Representing
the Minister for National Development and Energy
in the House of Representatives)

PETROLEUM (SUBMERGED LANDS) AMENDMENT BILL 1980Purpose

The Bill will amend the Petroleum (Submerged Lands) Act 1967 which has governed the search for and production of petroleum in Australia's offshore area since 1967. Following agreement between the Commonwealth and State Governments, these amendments will ensure that Commonwealth legislation alone will apply in Australia's continental shelf areas beyond a 3 mile territorial sea, within which State or Northern Territory legislation will apply. The Commonwealth legislation will be administered by Joint Authorities, to be established under provisions of the Bill, each consisting of the Commonwealth Minister and a Minister from the adjacent State or the Northern Territory. In the event of disagreement between the Joint Authority members, the views of the Commonwealth Minister will prevail. The Joint Authorities will be mainly concerned with important questions of offshore titles. While changes to current procedures have been kept to a minimum, the Bill will ensure that the Commonwealth Minister's role will be in keeping with his responsibilities and accountability to the Commonwealth Parliament, and at the same time State Ministers will continue to play an active part, with their officers being responsible for all administrative details.

The major amendments in the Bill, dealing with the Joint Authority arrangements, the application of laws, and the administration of the mining code are covered by the following key clauses:

- Clause 9: the establishment, functions and procedure of Joint Authorities;
- Clause 10: the application of laws in areas adjacent to States and Territories and the jurisdiction of State and Territory courts;
- Clause 14 and 15: Clarification of the commencement of a permit term and ascertainment of the reduced area in respect of which a permit may be renewed;
- Clause 36: Title conditions may require adequate insurance cover for oil spills and clean up costs;
- Clauses 38 to 40: giving of directions, extending terms of exempted, or suspended permits, and suspending permittees' rights in the national interest.

.../3

Clause 1

Short Title etc.

The Act may be cited as the "Petroleum (Submerged Lands) Amendment Act 1980", and the Principal Act to which it refers is the Petroleum (Submerged Lands) Act 1967.

Clause 2

Commencement

The Act comes into operation on a date to be proclaimed.

Clause 3

Preamble

The third, fourth and fifth paragraphs of the Preamble to the Principal Act are replaced by three new paragraphs, outlining the basic changes in the administration of offshore petroleum operations.

Clause 3 refers to the Seas and Submerged Lands Act 1973 and the sovereignty it vests in the Commonwealth over the territorial sea and certain internal waters and the airspace over them and the seabed and subsoil beneath them.

It also refers to the State and Northern Territory legislatures having certain legislative powers in respect of the seabed and subsoil referred to above. These include the powers to be conferred by the Coastal Waters (State Powers) Bill and the Coastal Waters (Northern Territory Powers) Bill. The preamble further refers to the Commonwealth having vested in the States and the Northern Territory certain proprietary rights in respect of those areas. (This latter action will be taken in the Coastal Waters (State Title) Bill and the Coastal Waters (Northern Territory Title) Bill).

.../4

In addition the clause outlines the new arrangements for administration of offshore exploration for and exploitation of offshore petroleum resources, which are to replace those set out in the agreement between the Commonwealth and the States dated 16 October 1967:

- Commonwealth legislation is to apply to the offshore areas beyond a three mile territorial sea, with the States and Northern Territory sharing in the administration of such legislation;
- State or Northern Territory legislation is to apply in their respective adjacent offshore areas within the three mile territorial sea;
- The Commonwealth, States and Northern Territory should try to apply, as far as possible, common principles, rules and practices in the administration of the various areas mentioned above.

Clause 4

Repeal

The Petroleum (Ashmore and Cartier Islands) Act 1967 is repealed as its provisions are covered in Clause 7 (sub-sections (3) and (4) of the new section 5A).

Clause 5

Date of effect of certain provisions

Section 3 of the Principal Act, dealing with the commencement of certain provisions is repealed because it is no longer operative.

Clause 6

Interpretation

The definitions in sec. 5 of the Principal Act are amended as follows:

- "adjacent area" is redefined (in sec. 5A) to accord with the changes in the areas brought about by the application of the Act being restricted to the area beyond the 3 mile territorial sea limit.
- a reference to islands forming part of a State or territory is included in the definition of the "Continental Shelf" to ensure that any continental shelves generated by islands belonging to a State or territory are covered under the legislation;
- a definition of "the Joint Authority" is inserted; the Joint Authority will consist of the relevant State or Territory Minister and the Commonwealth Minister;
- definitions of "the State Minister" and "the Northern Territory Minister" are inserted to identify the Ministers who will be the respective Designated Authorities under the revised arrangements.

Clause 7

Adjacent areas

A new section 5A is inserted in the Principal Act to designate the new or changed areas to be covered by the term "adjacent area":

- adjacent areas in respect of a State or the Northern Territory are the offshore areas beyond the outer limits of the territorial sea but within the outer limits of the continental shelf of Australia;
 - . the breadth of the territorial sea in this context is limited to 3 nautical miles;
- the adjacent area in respect of the Territory of Ashmore and Cartier Islands includes the sea and land areas within the

- 6 -

outer limits of the Continental Shelf (The Petroleum (Ashmore and Cartier Islands) Act 1967, which had the same effect, is repealed as no longer required);

- for administrative convenience the provisions of this legislation are to apply to the islands within the Ashmore and Cartier Islands Territory as if they were part of the offshore area.

Clause 8

Petroleum Pool extending into two licence areas

A new section 6A is inserted into the Principal Act to cover the situations where-

- a pool located in one licence area is produced from a well situated in an adjoining licence area. (An inclined well can be drilled to overcome the need for an additional platform under some circumstances);
- a pool extends under two adjacent licence areas held by the same licensee. In this case it may be necessary to determine the proportion of petroleum to be allocated to each licence when a well situated near the boundary commences production. A well producing petroleum near the boundary will draw petroleum from reserves situated in a zone around the well including petroleum lying under the adjacent licence area. It will

.../7

- 7 -

be necessary to determine by calculation the proportion derived from each licence area for royalty purposes, particularly if different rates of royalty apply.

Clause 9

A new Part 1A, dealing with the newly created Joint Authorities, is inserted after the existing Part I.

Establishment of Joint Authorities

The new section 8A sets out the composition and titles of the various Joint Authorities in respect of the adjacent areas of each State and the Northern Territory. Each Joint Authority will consist of the Commonwealth Minister and the Minister from the relevant State or the Northern Territory.

Acting Ministers

The new section 8B provides that where another Minister acts as a member of the Joint Authority in place of the Commonwealth Minister, the State Minister or the Northern Territory Minister, he shall have the same powers and functions as the Minister in whose place he acts, and any references in this part shall be read as references to the Minister so acting.

.../8

Functions of Joint Authorities

The new section 8C specifies that the functions of each Joint Authority in the adjacent area for which it was established are as set out in this legislation. The powers and functions are later referred to in Clause 8E, Schedule 4 and the Schedule on page 26.

Procedure of Joint Authorities

The new section 8D sets out the way in which the Joint Authorities are to conduct their business:

- (1) business may be conducted at meetings or through written or other communication between Joint Authority members;
- (2) in cases of disagreement between Joint Authority members or where the State or Northern Territory member fails to inform the Commonwealth member of his views, within 30 days of being given an opportunity of doing so, the Commonwealth Minister's opinion shall prevail and be taken as the Joint Authority's decision;
- (3) a reference in the Act to the opinion of the Joint Authority will be taken to be a reference to the opinion of both members of the Joint Authority or where there is disagreement between them to the opinion of the Commonwealth Minister. This is a legal requirement to ensure the effectiveness of the decisions of the Joint Authority in certain cases;

- (4) written records shall be kept of all Joint Authority decisions, and if signed by a member of the Joint Authority such record shall be taken as evidence of that decision;
- (5) documents need to be signed on behalf of the Joint Authority by the Designated Authority to be accepted as duly executed and in accordance with a decision of the Joint Authority;
- (6) the Designated Authority shall be the point of contact between all outside bodies and the Joint Authority;
- (7) courts shall take judicial notice of a signature signed as in (6) above;
- (8) courts, in this context, include all Federal, State and Territory courts as well as persons authorised by law or by consent of parties to receive evidence;
- (9) this sub-section provides that the Agreement between the Prime Minister and the Premier of Western Australia has the force of law. The Agreement is set out in Schedule 4 (see clause 59).

Reference of certain matters by Designated Authority to Joint Authority

The new Section 8E sets out the procedure to be followed if the Designated Authority proposes to take action on a matter which ordinarily is subject to his decision, but where the Commonwealth member of the Joint Authority may wish to intervene, and have the matter referred to the Joint Authority for decision.

In such cases (the sections etc. involved are listed in Schedule 5) the Designated Authority shall give notice and full particulars of the proposed action to the Commonwealth Minister who may within 30 days request submission of the matter to the Joint Authority for decision. Where a matter is submitted to the Joint Authority it may give directions to the Designated Authority in respect of that matter.

If the Commonwealth Minister signifies his agreement or does not reply within the 30 day period the Designated Authority may proceed with the matter as proposed.

Notification by Designated Authority of decisions by Joint Authority

The new Section 8F provides that any execution or issue of documents and any communications by the Joint Authority, shall be made on its behalf by the Designated Authority. The Designated Authority will thus be the point of contact and communication between the general public and the Joint Authority. This maintains the current administrative procedures as distinct from the decision making process.

Ashmore and Cartier Islands

The new Section 8G makes a connection with the existing section 7 (which extends the Principal Act to the Territory of Ashmore and Cartier Islands) and provides that the Designated Authority in respect of the Ashmore and Cartier Islands adjacent area, i.e. the Commonwealth Minister, shall exercise powers and functions of the Joint Authority. This means that section 8E dealing with procedures of the Joint Authority, has no application in relation to the Territory.

Clause 10

Sections 9-13 in the Principal Act dealing with the Application of Laws are repealed and replaced by new sections 9 to 13.

Application of Laws in areas adjacent to States

The new section 9 provides that all legislation operating in a State (other than Commonwealth laws or criminal laws within the meaning of the Crimes at Sea Act 1979) shall also operate in the adjacent area as if that area were part of the respective State. Such law shall apply to everything connected with offshore petroleum exploration or exploitation, and covering all operations, equipment, installations, persons, etc. in the adjacent area for such purposes. Many Commonwealth Acts, including the Crimes at Sea Act 1979, will apply of their own power.

The main purpose of this provision is to ensure that matters not covered by this Act, for example workers' compensation, will be covered by the relevant State legislation as

-12 -

if the offshore petroleum operations were taking place within the State.

There are also restrictions to prevent the use of provisions which are specifically not to apply in the adjacent area, which are inconsistent with any Commonwealth law, which might operate so as to impose a tax, or which might improperly confer certain additional powers on State courts or instrumentalities.

Provision is also made for the modification of any applied law whose strict application in the offshore area may be inappropriate or result in an anomaly because that law was originally intended to apply on land and not at sea. Such a law may be modified by regulation or may be excluded and re-applied by regulations.

Jurisdiction of State courts

The new section 10 provides that State courts are invested with federal jurisdiction over their respective adjacent areas in respect of all matters arising under the applied laws, except as otherwise prescribed.

Application of laws in areas adjacent to Territories

The new section 11 has a similar effect in relation to the offshore areas adjacent to the Territories covered by this legislation as has the new section 9 in relation to the State adjacent areas.

.../13

- 13 -

Jurisdiction of Territory courts

The new section 12 provides that Territory courts are invested with jurisdiction over their respective adjacent areas in respect of all matters arising under the applied legislation.

Parts III and IV not affected by this Part

The new section 13 ensures that nothing contained in Part II (Application of Laws) shall adversely affect the operation of Part III (Mining for Petroleum) or Part IV (Miscellaneous).

Clause 11

Sections 14 to 16 of the Principal Act, dealing with the appointment, powers, functions, etc. of the Designated Authorities, are repealed and replaced by two new sections 14 and 15.

Designated Authorities

The new section 14 provides that there shall be a Designated Authority, the State or Northern Territory Minister as defined in sub-section 5(1), in respect of the adjacent area in respect of a State or the Northern Territory. The Designated Authority in respect of the Territory of Ashmore and Cartier Islands shall be the Commonwealth Minister administering the Act. Provision is also made for other Ministers to act for and on behalf of the appointed Designated Authorities and in such cases to be invested with all relevant functions and powers.

.../14

Delegation

The new section 15 enables a Designated Authority to delegate any of his powers under this legislation except this power of delegation to another person normally an officer in the Department of the relevant Minister.

Clause 12

Exploration for petroleum

Section 19 of the Principal Act, dealing with exploration for petroleum, is repealed and replaced by a re-drafted new section which retains the same intent and purpose. The penalty is increased substantially.

Clause 13

Advertisement of blocks

The amendment of section 20 provides that where the Designated Authority invites applications for the grant of a permit, he may do so either at his own initiative or at the request of the Commonwealth Minister.

Clause 14

Term of permit

Section 29 of the Principal Act is amended so that the 5 year period of a renewed permit commences on the day such a permit is granted rather than the day the previous permit "ceases to have effect". This is done to remove any doubts in cases where the renewal is granted some time after the previous permit expired and that permit was deemed to continue in force during the interim period. Some doubt has arisen whether in such cases the earlier permit ceased to have effect on the

expiry of its original term or at the end of the interim period during which it was deemed to continue in force, and this amendment should clarify the situation.

Sub-Clause (2) ensures that any renewals granted before enactment of this amendment shall continue in force.

Clause 15

Application for renewal of permit to be in respect of reduced area

The amendment of section 31 of the Principal Act clarifies the treatment of any block or blocks included in a location when calculating the reduced area in respect of which renewal of a permit will be granted. The section will now provide for an application for renewal to include half the number of blocks covered by the permit and in addition any block or blocks included in a location.

Clause 16

Conditions of permit

Sub-section (2) of section 33 is replaced by a new sub-section which provides for work and expenditure both in the permit and in other related activities. As it is not possible to define precisely all permit obligations at the outset, it is desirable to provide for flexibility through directions concerning permit conditions in the light of circumstances which may arise in the course of the petroleum exploration operations. A new sub-section (3), arising out of amendments to the Royalty Act, provides that a permit shall be deemed to contain a condition requiring compliance with the Royalty Act.

- 16 -

Clause 17

Section 39 of the Principal Act is replaced by a new section;

Recovery of petroleum in adjacent areas

A minor drafting change has been made in the new section 39 which requires a person to hold a licence to carry on petroleum recovery operations except as otherwise provided. The penalty is increased substantially.

Clause 18Application for Licence

The amendment of section 41 deletes the requirement to specify work and expenditure proposals for each block separately and substitutes such a requirement in respect of the licence area as a whole. It is often difficult or even impossible to break down exploration or development plans for an area in respect of each individual block included in such area, and the amendment recognises such situations.

Clause 19Request by applicant for grant of licence

Section 49 has been redrafted without change in substance.

Clause 20Rights conferred by Licence

Section 52 of the Principal Act is amended to take into account the situation referred to in new Section 6A of the Act (Clause 8).

.../17

- 17 -

Clause 21Term of Licence

The amendment of section 53 is designed to overcome any doubt about the commencement date of a licence renewal in cases where a renewal is granted only after the earlier licence has expired. As in section 29 in respect of permit renewals, renewed licences will now commence on the date such renewal is granted. A saving clause is added to prevent renewals already granted being invalidated.

Clause 22

A new sub-section (2) is added to section 56 providing that a licence shall be deemed to contain a condition requiring compliance with the Royalty Act.

Clause 23Work to be carried out

Section 57 is amended to provide for work carried out both in the licence area or elsewhere in relation to the licence. Sub-section (5) is amended to provide for the determination of quantity of petroleum as well as value.

Clause 24Unit development

Unit development involves the co-ordination of operations to recover petroleum from a pool situated partly under one licence area and partly under one or more other licences. Such action is clearly necessary to achieve the most efficient recovery and to avoid any improper or unfair practices by some of those with an interest in the pool. It is also necessary that any agreements made by a licensee in respect of such an arrangement should require the approval of the Designated Authority to ensure that the interest of all concerned is fairly treated, and the amendment to section 59 is designed to achieve that effect. (See also clause 7).

Clause 25

Construction, etc. of pipelines, etc.

The existing section 60 is repealed and replaced by a new section 60 which groups the various provisions contained in it more clearly and logically and also includes provisions dealing with consent to commencement or resumption of pipeline and related operations, currently contained in section 75 of the Principal Act. The penalty is increased substantially.

Under the new sub-section (1) a person needs a pipeline licence before he may construct, alter, reconstruct or operate a pipeline.

The new sub-section (2) requires a person to have a consent in writing from the Designated Authority before construction, alteration, reconstruction or operation of a secondary line or water line.

The new sub-section (3) states that a pipeline licence or consent in writing of the Designated Authority is required before a pumping station, tank station or valve station can be constructed, altered, reconstructed or operated.

Under the new sub-section (4) a pipeline, secondary line or waterline must not be operated until the necessary approvals and consents have been received and the Designated Authority has certified that they are fit to be operated.

The new sub-section (5) requires the Designated Authority consent in writing before a line can be reopened for use after the previous operation of it had been discontinued.

.../19

Clause 26

Term of pipeline licence

Sub-section (2) of section 67, dealing with the commencement date of pipeline licence renewals, is amended in a similar way to section 29 (dealing with permit renewals) and section 53 (dealing with licence renewals) in order to clarify the exact date from which renewed pipeline licences are to commence, i.e. the date on which the licence is actually renewed.

Clause 27

Conditions of pipeline licence

A new sub-section (3) is added to section 70, extending the power of the Designated Authority to set conditions in pipeline licences to enable him to vary or extend such conditions when granting a renewal of such licences. During the 21-year term of a pipeline licence circumstances may change, and when considering its renewal account must be taken of any advances in technology, different production, collection and delivery patterns, etc. which may require a new or altered set of conditions or even reconstruction of the pipeline or associated installations.

Clause 28

Variation of pipeline licence on application by pipeline licensee

The amendment of sub-section (5) of section 71 is a drafting improvement to ensure that any permission to vary the pipeline licence is given in writing by the Designated Authority.

.../20

Clause 29

Repeal of Section 75

Section 75 of the Principal Act is repealed. As the provisions dealing with the conditions of a consent to commence or resume pipeline operations, would be included in the revised section 60, section 75 would be no longer required.

Clause 30

Approval of registration of transfers

The changes in section 78 are of a drafting nature, as strictly it is the "transfer" that is being approved rather than the "application".

Clause 31

Approval of instruments creating, etc. interests

The amendment of section 81 is similar to that of section 78 above in that it is the "instrument" rather than the "application" which is approved.

Clause 32

The Supreme Court

The change in section 92 is a drafting amendment.

Clause 33

Form of Permits etc.

Section 93 is repealed because it is preferable to deal with the matter of forms by regulation.

.../21

Clause 34

Notice of grants of permits, etc. to be published

The amendment to Section 94 is a drafting change.

Clause 35

Work practices

The words to be included in section 97 are intended to make it clear that any requirements set out in sub-section (2) are subject to any other relevant requirements or authorisation set out in or made in accordance with the Act including regulations and directions.

Clause 36

After section 97 a new section 97A is to be inserted in the Principal Act.

Conditions relating to insurance

The new section 97A is inserted to enable inclusion in title conditions of a requirement that the titleholder take out adequate insurance to cover such eventualities as blowouts, pollution damage, cleanup costs, etc.

Clause 37

Drilling near boundaries

The distance of 1000 feet is metricated to 300 metres in Section 100.

.../22

Clause 38

Section 101 of the Principal Act is replaced by a new section 101.

Directions

The new sub-section (1) establishes the direction giving power, but limits its extent to matters in respect of which regulations may be made under section 157.

The new sub-section (2) lists the persons to whom directions may be given. In addition to titleholders the provision has been extended to include titleholders' servants, agents and persons acting on behalf of titleholders, as well as contractors and their servants and agents.

The new sub-section (3) provides that the directions which the Designated Authority may give under these provisions shall not be of a standing or permanent nature, unless agreed to by Joint Authority.

Sub-section (4) and (5) continue sub-sections (2) and (4) of the previous section 101.

Under the new sub-section (6) where a direction is aimed at a specified class of persons it will not be necessary to serve every one of those persons with an individual notice but it will be sufficient to have the direction prominently displayed at the place of work or other areas used by the persons concerned, e.g. on the notice board of an oil rig, etc.

The penalty is increased.

.../23

Clause 39

Exemption

Section 103 is amended by deleting paragraph (b) from sub-section (2) and adding a new sub-section (3). Deletion of paragraphs (b) from sub-section (2) removes the requirement that an instrument under this section cannot be inconsistent with the applied provisions. This brings the section into line with other provisions in the Act (sections 53, 56, 70, 111(3) and 112(3)) which do not place such a limitation on conditions to be imposed in a title document. This matter is also provided for in the Transitional Provisions (Clause 59(8)).

Clause 40

Suspension of rights conferred by permit

The new section 103A provides that where it is considered necessary in the national interest to halt operations in a permit area, all or part of the rights conferred by that permit may be suspended for a fixed period or indefinitely. In such a case the permittee will be freed from having to comply with any relevant conditions of the affected permit, and the permit may be extended by a period equivalent to the period of suspension. The section includes a provision for compensation.

Clause 41

Surrender of permits etc

Section 104 is amended by providing in sub-section (2) that the Designated Authority shall consent to the surrender of a

.../24

permit, licence or pipeline licence where the title holder has complied with the requirements set out in sub-section (2).

Clause 42

Payments by instalments

Section 109 is amended by providing in sub-section (1) that the specified interest rate may be varied from time to time.

Clause 43

Special prospecting authorities

The amendment of paragraph 111(10)(b) to include a reference to "a direction" is to bring it into line with section 107 and sub-section 111(8) which are referred to in that paragraph and which both give power "to direct" a person.

Clause 44

Access authorities

Section 112 is amended to widen its scope and to allow a titleholder to carry out operations related to the recovery of petroleum, as well as petroleum exploration operations, outside a permit or a licence area. This is achieved by amending sub-section (1) and making some consequential amendments to sub-sections (2), (5), (7), (8), (11) and (12). Sub-section (7) is amended to provide for extension of the period of the authority beyond the original specified period.

Clause 45

Release of information

Provision for the supply to the Commonwealth of reports, maps and other material has been provided for in Clause 13 of the 1967 Agreement. This type of provision has now been inserted in the legislation by adding a new sub-section (1A) to section 118.

A new sub-section (8) provides that the date of furnishing of data and samples shall be deemed to be one month after the completion of a well and six months after the completion of a survey. The effect of this is that the confidentiality period prescribed by the section will run from the day the data and samples are deemed to be furnished rather than from the day on which they were actually furnished. This will overcome any uncertainties and unreasonable delays in making the data and samples publically available.

Clause 46

Provisions to prevent double payment of royalty

Section 128 of the Principal Act is repealed. This provision was required in the past when offshore petroleum production was governed by mirror Commonwealth and State legislation. Under the new arrangements, operations outside the 3 mile territorial sea will be governed by this Commonwealth Act alone.

Clause 47

Certain payments to be made by Commonwealth to State and Northern Territory

- 26 -

Provision for payment of all monies other than royalties to States is included in Clause 22 of the 1967 Agreement. Provision for payment to the States and the N.T. is now made by adding new sub-sections (1A) and (2A) to section 129.

Clause 48

Prosecution of offences

Sub-section (8) of Section 132 has been amended. This is a drafting change with no change in effect.

Clause 49

Service

Section 138 is amended to make reference to documents "permitted" (as well as those required) to be served on the Designated Authority. A revised sub-section (2) sets out in a more simplified way the manner of serving documents on the Designated Authority and a new sub-section (2A) makes clear that documents for the Joint Authority can be served on the Designated Authority and be regarded as properly served.

Clause 50

Repeal

Sections 141-145 of the Principal Act are repealed. These sections contained transitional provisions to cover titles etc. in existence when the Principal Act came into operation in 1967 and are now no longer required.

Clause 51

Barracouta and Marlin fields petroleum production licences

- 27 -

Section 146 is amended so as to apply the new offshore petroleum arrangements to the existing Barracouta and Marlin licences and in particular introduce the Joint Authority concept in the appropriate passages.

Clause 52

Licence to replace the Barrow Island lease

The definition of "an adjacent area" in sub-section (1) of section 148 is amended to take into consideration the re-definition of adjacent areas contained in clause 7.

Clause 53

Operation of other laws not affected

Section 150 of the Principal Act is repealed. That section had the purpose to enable the "mirror" State legislation to operate side by side with the Commonwealth legislation. As the new arrangements no longer apply "mirror" type legislation, the section is not now required.

Clause 54

Jurisdiction of courts

Section 151 confers jurisdiction on State and Territories' courts in respect of matters arising under the Common Mining Code, just as sections 10 and 12 conferred on those courts jurisdiction in respect of the applied laws. The revised sub-section (2) makes clear that although such courts can only act within such legal limits as are bestowed on them by their respective jurisdictions, that limitation does not apply to geographic limits as they are meant to deal with cases in the offshore area beyond normal State or Territory boundaries.

- 28 -

Clause 55Repeal of certain sections

Sections 152, 153 and 154 of the Principal Act which are repealed all had the purpose to avoid anomalies which might be caused by the Commonwealth/State "mirror" legislation. With the elimination of the "mirror" legislation these provisions are no longer necessary.

Clause 56Validation of certain acts

Section 155 is repealed and replaced by a redrafted provision for clarification.

Clause 57Regulations

Section 157 of the Principal Act provides a power to make regulations on all matters necessary or convenient for carrying out or giving effect to the provisions of the legislation, and sub-section (2) lists a number of specified heads, relating particularly to operating practices.

The amendment combines, in paragraph (f), two of these heads, shown separately in the Principal Act as paragraphs (f) and (g), dealing with the control of the flow and the prevention of the escape of petroleum, water and drilling fluid. A new paragraph (g) is inserted, referring to the clean-up or other remedy of the effects of the escape of petroleum.

.../29

- 29 -

Clause 58Amendments to the Second Schedule

The description in the Second Schedule to the Principal Act of the State and Territory adjacent areas is amended to accord with the new definition of the adjacent areas (i.e. excluding the 3 mile territorial sea).

Clause 59

A new Schedule 4 is added to the Principal Act setting out the agreement between the Commonwealth and Western Australia.

A new Schedule 5 is added to the Principal Act listing those provisions which relate to matters which ordinarily are subject to Designated Authority decision, but where the Commonwealth member of the Joint Authority may wish to intervene, and have the matter referred to the Joint Authority for decision (as provided in the new section 8E).

Clause 60Amendments relating to administration

The provisions of the Principal Act affecting the administrative functions and powers of the Designated Authorities are amended as set out in Schedule 1.

Clause 61Amendments relating to monetary amounts and penalties

These changes are listed in Schedules 2 and 3 and update the amounts of fees, securities and penalties since enactment of the Principal Act in 1967.

.../30

Clause 62

Transitional provisions

This clause makes clear that any offshore titles granted before and still in force at the commencement of this Act shall continue as if they had been granted under the amended Act. Thus any grants, transfers, instruments or other matters approved by a Designated Authority under the former provisions, which will become subject to Joint Authority approval shall stand as if they had been approved by the latter, and any directions given under the provision of section 101 shall be similarly treated.

Where a permit was subject to a suspension or exemption at the commencement of this Act, the Joint Authority may extend the permit term by a period not exceeding the time of such suspension or exemption.

Any royalty payment made to a State or interim payments on account of royalty shall be regarded as royalty payments duly made.

A scheme for transitional arrangements with respect to exploration permits and pipeline licences straddling the boundary of the territorial sea is contained in Schedule 4. The scheme provides that, after the new legislation comes into effect, each permit and each pipeline licence shall be deemed to comprise two permits: one within Commonwealth and one within State jurisdiction. However, the permits will continue to be

administered as one permit until the permits are renewed. For the purpose of determining the area of renewal the permits shall also be treated as one permit. The scheme also preserves the existing interests and rights of title holders and makes provision for the transfer and registration of permits and pipeline licences covered by the scheme.