

Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Industry, Innovation and Science Portfolio
2017 - 2018 Budget Estimates
31 May – 1 June 2017

AGENCY/DEPARTMENT: DEPARTMENT OF INDUSTRY, INNOVATION AND SCIENCE

TOPIC: Rights of the lessee of a revoked retention lease

REFERENCE: Questions on Notice (Hansard, 1 June 2017, page 111-112)

QUESTION No.: BI-61

Senator XENOPHON: I will just keep going as quickly as I can. In terms of administrative processes, if you revoke a retention lease, what rights does the lessee have? Can that cause delays on the part of a third party? What is the best case and worst case? In other words, if you actually go and say, 'We revoked the retention lease,' for whatever reason—presumably for the third party to have access to it—is there an administrative process that could involve appeals and further appeals of it that could slow down the process? What are the best and worst cases?

Mr Waters: In the event that the Joint Authority revokes a retention lease or does not renew a retention lease the title holder is then afforded a 12-month period to lodge a production licence. In the event that they do not lodge the production licence in that period, the area would then become vacant acreage.

Senator XENOPHON: Can they appeal against it? Basically, if they do not develop it in 12 months they are gone; there is no appeal after that?

Mr Waters: No.

Senator XENOPHON: So you cannot appeal against that decision?

Mr Waters: I do not believe so.

Senator XENOPHON: Can you take that on notice? I am asking you very technical questions, Mr Waters.

Mr Waters: We are talking about a very rare instance. We know of four occasions when this has occurred, and in all four cases—rather, in three cases there were production licence applications submitted and approved, and in one case the area reverted to vacant acreage. There was no appeal process.

ANSWER

The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* contains no mechanism for merits review (by the Administrative Appeals Tribunal) of licensing decisions by the Joint Authority, including a decision to revoke (under ss 157-158) or cancel (under ss 274-277A) a retention lease.

The avenue of review available in relation to such a decision is judicial review, under either the *Administrative Decisions (Judicial Review) Act 1977* or common law.