

1992—No. 435

PETROLEUM (ONSHORE) ACT 1991—REGULATION

(Petroleum (Onshore) Regulation 1992)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Petroleum (Onshore) Act 1991, has been pleased to make the Regulation set forth hereunder.

I. R. CAUSLEY,
Minister for Natural Resources.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Petroleum (Onshore) Regulation 1992.

Commencement

2. This Regulation commences on 21st August, 1992.

Definitions

3. In this Regulation:

“**the Act**” means the Petroleum (Onshore) Act 1991;

“**work program**” means a work program referred to in section 14 of the Act.

PART 2—PETROLEUM TITLES**Division 1—Plans and programs****Drawing of plans**

4. (1) A map or plan accompanying an application for a petroleum exploration licence must be drawn on or overlay the Department of Mineral Resources New South Wales Block Identification Map Series 1 (1:1 500 000) showing blocks.

(2) A map or plan accompanying an application for any other petroleum title or otherwise prepared for the purposes of the Act must be drawn on or overlay:

- (a) the Identification Map referred to in subclause (1), if the area to which the proposed title relates is larger than one block; or
- (b) the Department of Mineral Resources New South Wales Block Identification Map Series 3 (1:100 000) showing units; or
- (c) a standard topographical map or maps at a scale of 1:100 000 or 1:150 000 or 1:25 000, showing co-ordinates (ISG) at each boundary change in direction.

Work programs

5. (1) The work program supporting an application for an exploration licence or assessment lease may be prepared in either of two formats. It may consist of a fixed agenda describing in detail the nature and extent of operations to be carried on under the licence or lease during the whole of its term. Alternatively, it may be divided into two parts, namely:

- (a) a fixed agenda describing in detail the nature and extent of operations to be carried on during an initial period (at least the first two years) of the term of the licence or lease; and
- (b) a summary of intended operations during the remainder of the term.

If prepared in the two-part format, however, it is a condition of the title, if granted, that the holder provide progressive agendas in accordance with clause 6.

(2) The work program for a special prospecting authority is to be a fixed agenda describing in detail the nature and extent of operations to be carried on under the authority during the whole of its term.

Progressive agendas

6. (1) If the work program supporting the application for a petroleum title was prepared using the two-part format in accordance with clause 5 (1) the holder of the title must, not later than 30 days before the end of the period covered by the fixed agenda supporting the application, lodge another fixed agenda of operations for the next period of two years or for the remainder of the term of the title.

(2) In the same way, further fixed agendas must be lodged, each not later than 30 days before the end of the period covered by the last agenda, until the entire term of the petroleum title is accounted for.

Details to be provided

7. Any fixed agenda lodged under this Division must include details of:

- (a) the objectives of any proposed exploration; and
- (b) the methods of exploration proposed to be employed; and
- (c) the expenditure, estimated on a yearly basis, required by the relevant work program.

Commencement of exploration activity

8. Not later than 14 days before commencing any exploration borehole, seismic survey or other exploration within the area of a petroleum title, the holder of the title must advise the Minister of the intention to commence it.

Maximum penalty: 20 penalty units.

Work program to be adhered to

9. It is a condition of every petroleum title that the holder of the title carry out the operations described in the work program, as for the time being in force, in respect of the title.

Variation of work program

10. (1) The holder of a petroleum title who wishes to vary the work program in force in respect of the title must lodge a submission with the Minister providing adequate details of the variation proposed to be made and setting out the reasons for making it.

(2) The Minister may approve of the variation if the Minister is satisfied that there is just and sufficient cause for making the variation and if the revised work program meets the Ministers requirements.

(3) The variation becomes effective when the Minister signifies approval of it by a notice in writing served on the holder of the title.

(4) The Minister's approval of a variation may also, to any extent the Minister considers necessary or convenient, vary the requirements of this Division in so far as it applies to the holder of the title concerned.

Division 2—Title searches

Particulars of title

11. (1) Any person may make application to the Director-General for a certificate showing particulars of a petroleum title or of an application for a petroleum title.

(2) An application relating to an existing title must state the number of the title, if known, or else must specify the portion, unit or block number and the parish and county of the land concerned. The application must be accompanied by a plan if there is no portion, unit or block number.

Particulars of property affected by title

12. Any person may make application to the Director-General for a certificate showing particulars of any Crown lands or private lands affected by a petroleum title or by an application for a petroleum title.

Certificates

13. The Director-General is to cause any necessary search to be made in response to an application under this Part and is then to issue a certificate setting forth the result of the search.

Search fee

An application under this Part is to be accompanied by the fee prescribed in Schedule 1. The Director-General may refuse to carry out a search, and may refuse to issue a certificate, if the application does not comply with this clause.

PART 3—REPORTS

Report on operations in accordance with agenda

15. (1) Within 6 months after the completion of:

- (a) a seismic program or
- (b) the drilling of an exploration borehole; or

- (c) any activity described in the conditions of the title as a significant component of a work program,

the holder of a petroleum title must forward to the Director-General, in the format specified in the conditions of the title, a report on operations carried out in the activity concerned, together with all raw and processed data and the main conclusions drawn from it.

(2) After the end of the period covered by a fixed agenda:

- (a) that constitutes a work program; or
- (b) that constitutes part of a work program submitted in the two-part format as referred to in clause 5 (1); or
- (c) that was submitted under clause 6,

the holder of the title concerned must forward to the Director-General:

- (a) within 30 days, a summary of operations carried out during the period covered by the agenda; and
- (b) within 6 months, a full report on operations carried out during that period.

Report due before title renewed, cancelled etc.

16. (1) Without affecting any discretion of the Director-General, the Director-General may refuse to renew or cancel any title in whole or in part unless:

- (a) all data and reports due under this Part have been submitted; and
- (b) all data gathered, and operations carried on, during any period not covered in any such report are made the subject of a full report submitted to the Director-General.

(2) This clause does not affect any person's liability under clause 15.

Geological plans and records

17. (1) The holder of a petroleum title must, in accordance with directions issued from time to time by the Director-General, keep geological plans and records relating to work carried out in connection with the title.

(3) For the purposes of section 131 (1) of the Act, the prescribed form is any form that shows a summary of the operations conducted during the period to which the record relates, together with details of expenditure in respect of each such operation.

(4) The requirements of this clause are in addition to the other requirements of this Part.

(5) The holder of a petroleum title who does not keep geological plans and records as required by this clause, or who does not furnish to the Minister any record required to be furnished under section 131 of the Act within the time allowed under that section, contravenes this regulation.

Maximum penalty (subclause (4)): 5 penalty units.

Scale of plans accompanying annual record of operations

18. For the purposes of section 131 (1) of the Act, the prescribed scale for any plan accompanying the record is

1:25 000 or 1:100 000 or 1:250 000.

PART 4—COMPENSATION

Time within which parties must agree

19. For the purposes of section 108 (2) of the Act, the prescribed time is within 30 days after the service by either party on the other of a notice requiring an agreement as to the amount of compensation payable.

Manner of assessing and determining compensation

20. (1) If compensation is to be assessed by the warden, 7 days' notice must be given to all persons appearing to the warden to be interested in the assessment.

(2) Proceedings may be conducted for the purposes of the assessment in the warden's court or on the land concerned.

Manner of payment

21. (1) The warden may order compensation to be paid into court in one amount or in instalments.

(2) The order is to fix the time within which any such payment or payments are required to be made.

PART 5—AGENCY AND SERVICE OF DOCUMENTS

Agents

22. (1) The holder of a petroleum title, or an applicant for such a title, of the owner or occupier of land, may appoint one or more agents for the purposes of the Act and this Regulation.

(2) Notice of the appointment of an agent, and of the agent's powers and functions in relation to the Act and this Regulation, must be served on the Director-General, who is otherwise entitled to refuse to deal with a person claiming to act as such.

(3) The appointment of a person as an agent for the service of documents on the principal does not render invalid the service of any document otherwise than on the agent.

Service of documents

23. (1) Service of a document authorised or required to be served on any person for the purposes of the Act or this Regulation may be effected

- (a) on a natural person, by delivering it to the person personally or by leaving it at, or sending it by pre-paid post to, the person's last known residential or business address; or
- (b) on a body corporate, by leaving it at, or by sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate,

or in any other way in which service could have been effected in the absence of this clause.

(2) If an owner or occupier of land on whom a document is authorised or required to be served is absent from the State or cannot, after due search and inquiry, be found, and that person's place of residence or business cannot, after due search and inquiry, be ascertained, the document may be served by affixing it on some conspicuous part of the land

(3) If a person has more than one place of business, service may be effected at any of those places.

(4) Service of a document on a person may be effected by service, in any manner permitted by this clause, on the person's agent duly appointed and notified under this Part

(5) Nothing in this clause prevents service of a document from being effected by facsimile transmission or other electronic means, or by the use of the facilities of a document exchange, but the burden of establishing that a document so dispatched was actually received, and of establishing the time of its receipt, lies on the person seeking to establish it.

PART 6—FEES**Fees**

24. (1) The fees prescribed in Schedule 1 are payable in connection with the matters indicated in that Schedule.

(2) Copies of or extracts from any record may be obtained on payment of the appropriate charge applicable in the Department of Mineral Resources.

Remission or waiver

25. The Minister may remit or waive payment of the whole or part of any fee payable under this Regulation in relation to a particular person or class of persons, if the Minister is satisfied that there is sufficient cause to do so.

PART 7—MISCELLANEOUS**Rate of royalty**

26. For the purposes of section 85 (2) of the Act, the prescribed annual rate of royalty is:

- (a) for the first 5 years of commercial production—nil; and
- (b) from the 6th to the 10th year of commercial production—starting at 6 per cent of the value at the well-head of the petroleum for the 6th year and increasing by 1 per cent of that value calculated each year, so that at the end of the 10th year of production the rate is 10 per cent of the value at the well-head of the petroleum; and
- (c) from the 11th year of production onward—10 per cent of the value at the well-head of the petroleum..

Non-compliance notices

27. (1) If the Director-General is of the opinion that the holder of a petroleum title has contravened a provision of this Regulation in relation to the title, the Director-General may serve a notice (a “non-compliance notice”) requiring the holder of the title to comply with the provision within the time limited by a notice.

(2) It is a condition of every petroleum title that the holder of the title comply with the terms of any non-compliance notice.

(3) The provisions of this clause are in addition to any provision of this Regulation imposing a penalty for its contravention, and do not affect the liability of any person to pay any such penalty.

Environmental practices

28. (1) All exploration or other activity carried out under the authority of a petroleum title is to be carried out in conformity with the Code of Environmental Practice-Onshore published by the Australian Petroleum Exploration Association Limited in January 1991, as amended from time to time.

(2) A copy of the Code, together with any amendments made to it from time to time, is to be made available at the main office of the Department of Mineral Resources in Sydney, and at such other offices as the Director-General may appoint, for inspection by any person without fee. Copies of or extracts from the Code and any such amendments may be made or taken by any person on payment of the fee fixed by the Director-General.

Safety practices

29. (1) Subject to section 128 of the Act, all exploration or other activity carried out under the authority of a petroleum title is to be carried out in conformity with the Schedule of Onshore Petroleum Exploration and Production Safety Requirements published by the Department of Mineral Resources in August 1992, as amended from time to time.

(2) A copy of the Schedule, together with any amendments made to it from time to time, is to be made available at the main office of the Department of Mineral Resources in Sydney, and at such other offices as the Director-General may appoint, for inspection by any person without fee. Copies of or extracts from the Schedule and any such amendments may be made or taken by any person on payment of the fee fixed by the Director-General.

Instruments affecting title

30. If it is proposed to register any mortgage or other instrument creating any interest in or otherwise affecting a petroleum title, the instrument must be lodged with the Director-General for registration within 28 days after its execution.

Certificates of authority

31. (1) For the purpose of authorising a person to exercise a power conferred by Part 9 of the Act, the Director-General may issue the person with a certificate of authority.

(2) The certificate must be signed by the Director-General (or by the Director-General's delegate, if issued under delegation) and must include the following particulars:

- (a) a statement to the effect that it is issued under the Petroleum (Onshore) Act 1991;
- (b) the name of the person to whom it is issued;
- (c) the nature of the powers it confers.

(3) Such a certificate is the form of evidence required for the purposes of section 101 of the Act.

Delegation by Director-General

32. The Director-General may delegate any of the powers, authorities, duties and functions of the Director-General (other than this power of delegation) to the holder of any office in the Department of Mineral Resources.

SCHEDULE 1—FEES

(Cl. 24)

On application for a petroleum title	\$1,000
On grant of a petroleum exploration licence:	
• for a term of less than 3 years	\$10,000
• for a term of not less than 3 years	\$15,000
On renewal of a petroleum exploration licence:	
• for a term of less than 3 years	\$10,000
• for a term of not less than 3 years	\$15,000
On grant of a petroleum assessment lease:	
• for a term of less than 3 years	\$10,000
• for a term of not less than 3 years	\$15,000
On renewal of a petroleum assessment lease:	
• for a term of less than 3 years	\$10,000
• for a term of not less than 3 years	\$15,000
On grant of a petroleum production licence:	
• if associated with methane drainage in or over a colliery	\$5,000
• in any other case	\$40,000
On renewal of a petroleum production licence:	
• if associated with methane drainage in or over a colliery	\$5,000
• in any other case	\$40,000

On grant of a special prospecting authority.....	\$1,000
On application for approval of a transfer of a title, for each title	\$1,000
Registration of any instrument pursuant to section 97 of the Act	\$250
On application by a person on whom the rights of the registered holder of a title have devolved by operation of law to have the person's name recorded as the registered holder of the title, for each title	\$250
For noting a change of name of the registered holder of a title, for each title	\$250
For search as to any title or application for title, for each title or application involved	\$100 (plus \$25 for each dealing affecting the title)
For search as to any private or Crown lands affected by title or application for a title	\$50 per hour (pro rata for part of an hour)
For any thematic information search of tide or application records	\$100 (plus \$25 for each dealing affecting the title)

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SCHEDULE 1—FEES

EXPLANATORY NOTE

The object of this Regulation is to prescribe matters ancillary to the operation of the Petroleum (Onshore) Act 1991.

Among other things, the Regulation:

- (a) regulates the preparation and implementation of plans and work programs according to which petroleum exploration is to be conducted; and
- (b) prescribes matters incidental to the payment of compensation to persons whose lands are affected by petroleum exploratory operations; and
- (c) prescribes the rate of royalty payable on petroleum.
