



New South Wales

Petroleum (Onshore) Amendment (Saving of Assessment Lease Conditions) Regulation 2016

under the

Petroleum (Onshore) Act 1991

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Petroleum (Onshore) Act 1991*.

ANTHONY ROBERTS, MP
Minister for Industry, Resources and Energy

Explanatory note

The object of this Regulation is to make further savings provisions that are consequent on the enactment of the *Mining and Petroleum Legislation Amendment (Harmonisation) Act 2015*.

That Act inserted section 36A into the *Petroleum (Onshore) Act 1991*, which requires an activity approval for assessable prospecting operations carried out under a petroleum assessment lease. Such an activity approval is needed even if those assessable prospecting operations began before the commencement of section 36A.

This Regulation saves the operation of conditions of existing assessment leases that required a petroleum operations plan to be approved before an activity that is now an assessable prospecting operation could be carried out. In the case of such conditions in existing leases, an existing approval of a petroleum operations plan, the approved plan, and any approval required under the plan, are taken to be activity approvals under the amended Act.

This Regulation is taken to have commenced on 1 March 2016, the date of commencement of the relevant provisions of the *Mining and Petroleum Legislation Amendment (Harmonisation) Act 2015*. (Such operation is authorised by clause 2 (2) of Schedule 1 to the *Petroleum (Onshore) Act 1991*.)

This Regulation is made under the *Petroleum (Onshore) Act 1991*, including section 138 (the general regulation-making power) and clause 2 of Schedule 1 (Savings and transitional provisions).

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1 Name of Regulation

This Regulation is the *Petroleum (Onshore) Amendment (Saving of Assessment Lease Conditions) Regulation 2016*.

2 Commencement

This Regulation is taken to have commenced on 1 March 2016 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Petroleum (Onshore) Act 1991 No 84

[1] Schedule 1 Savings and transitional provisions

Insert after clause 49:

49A Operation of requirements for activity approvals

For the avoidance of doubt, compliance with sections 31A and 36A is required in respect of any assessable prospecting operation (within the meaning of those sections) carried out after the commencement of the sections, even if it began before the commencement of the sections.

[2] Schedule 1, clause 50, heading

Omit “and assessment leases”.

[3] Schedule 1, clause 50 (2A)

Insert after clause 50 (2):

- (2A) Each of the conditions of such an approval is taken to be a term of that activity approval and can be varied accordingly.

[4] Schedule 1, clause 50 (4)–(7)

Omit the subclauses.

[5] Schedule 1, clause 50A

Insert after clause 50:

50A Existing “activity approval” conditions in assessment leases

- (1) If an assessment lease was, immediately before 1 March 2016, subject to a condition that requires approval of a petroleum operations plan to carry out an activity, each of the following is taken to be an activity approval under section 36A and can be varied accordingly:
- (a) any approval granted pursuant to such a condition, including any variation of that approval, that was in force immediately before 1 March 2016 (an *existing POP approval*),
 - (b) the petroleum operations plan that was approved by the existing POP approval, including any variation of that plan that was in force immediately before 1 March 2016,
 - (c) any approval required under, or referred to in, the petroleum operations plan for an activity or operation that is an assessable prospecting operation, being an approval that was in force immediately before 1 March 2016 and was not granted under the *Environmental Planning and Assessment Act 1979* or the *Protection of the Environment Operations Act 1997* (an *existing associated approval*).
- (2) The activity approval is taken to include the following terms, which can be varied accordingly:
- (a) each condition to which the existing POP approval was subject (including any approved variation that was in force immediately before 1 March 2016),
 - (b) each provision of the relevant petroleum operations plan (including any approved variation that was in force immediately before 1 March 2016),

- (c) each condition of any existing associated approval.
- (3) An application for approval of a petroleum operations plan made in compliance with a condition of an assessment lease that requires such approval to carry out an activity, or an application for an approval required under such a petroleum operations plan, being an application that had not been dealt with before 1 March 2016, is to be dealt with in accordance with section 36A as if the application had been made under that section.