

PETROLEUM (SUBMERGED LANDS) AMENDMENT ACT 1985
No. 129

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 129, 1985

An Act to amend the Petroleum (Submerged Lands) Act 1982 consequent upon the amendments made to the Petroleum (Submerged Lands) Act 1967 of the Commonwealth. [Assented to, 25th November, 1985.]

Petroleum (Submerged Lands) Amendment 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Petroleum (Submerged Lands) Amendment Act 1985".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 23, 1982

3. The Petroleum (Submerged Lands) Act 1982 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE PETROLEUM (SUBMERGED LANDS) ACT
1982

(1) (a) Section 5 (2)—

Omit "ceases to have effect", insert instead "ceases to be in force".

(b) Section 5 (3)—

Omit "the date from and including which the permit, licence or pipeline licence, as the case may be, has effect or on any anniversary of that date", insert instead "the day on which the permit, licence or pipeline licence, as the case may be, comes into force or on any anniversary of that day".

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(2) Section 30—

After “day on which the permit is granted” wherever occurring, insert “or, if a later day is specified in the permit as being the day on which the permit is to come into force, on that later day”.

(3) (a) Section 38 (2)—

After “be revoked”, insert “in respect of that block or one or more of those blocks”.

(b) Section 38 (2)—

After “declaration” where lastly occurring, insert “in the manner requested”.

(4) Section 45 (5)—

Omit “From and including the day on which a licence granted under this section has effect”, insert instead “On the day on which a licence granted under this section comes into force”.

(5) Section 46 (2)—

Omit “From and including the day from and including which a variation of a license”, insert instead “On and from the day on and from which a variation of a licence”.

(6) Section 47 (3), (4)—

Omit section 47 (3), insert instead:

(3) Subject to subsection (4), where a block or blocks constituting or forming part of a location is or are no longer the subject of a permit, the Minister shall, by instrument published in the Gazette—

(a) in a case where that block or those blocks constitutes or constitute that location—revoke the declaration made under section 38 (1) in respect of that location; or

(b) in a case where that block or those blocks forms or form part of that location—revoke the declaration made

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under section 38 (1) in respect of that location to the extent that it relates to that block or those blocks.

(4) Subsection (3) does not apply in relation to a block—

(a) in respect of which an application for the grant of a licence has been made, being an application that has not lapsed and in relation to which a decision has not been made by the Minister; or

(b) in respect of which a licence is in force.

(7) Section 52 (6) (b)—

Omit “from and including the day on which those licences have effect”, insert instead “on and from the day on which those licences come into force”.

(8) Section 54—

After “day on which the licence is granted” wherever occurring, insert “or, if a later day is specified in the licence as being the day on which the licence is to come into force, on that later day”.

(9) Section 55—

Omit “have effect” wherever occurring, insert instead “be in force”.

(10) (a) Section 59 (3)—

Omit “the petroleum is being recovered”, insert instead “petroleum is being recovered in the licence area or from a petroleum pool in the licence area”.

(b) Section 59 (4)—

After “licence area”, insert “or from a petroleum pool in the licence area”.

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(11) Section 68 (2)—

Omit the subsection, insert instead:

(2) A pipeline licence comes into force on the day on which the pipeline licence is granted or, if a later day is specified in the pipeline licence as being the day on which the pipeline licence is to come into force, on that later day.

(12) Section 69—

Omit “have effect” wherever occurring, insert instead “be in force”.

(13) Section 76 (5)—

Omit the subsection.

(14) (a) Section 94 (1)—

Omit the subsection.

(b) Section 94 (2)–(4)—

Omit “from and including” wherever occurring, insert instead “on and from”.

(15) Section 95—

Omit “has effect” wherever occurring, insert instead “comes into force”.

(16) Section 112 (6)—

Omit “has effect from and including”, insert instead “comes into force on”.

(17) Section 113 (7)—

Omit “has effect from and including”, insert instead “comes into force on”.

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(18) Section 119 (4) (b)—

Omit the paragraph, insert instead:

- (b) where a licence is in force in respect of the block, the relevant day is the day on which the period of 12 months that commenced on the day on which the report, return, other document, core, cutting or sample was furnished to the Minister expires;

(19) Part IV, Division 6A—

After Division 6 of Part IV, insert:

DIVISION 6A—Powers of authorized persons

Interpretation

136A. (1) In this Division—

“authorized person” means—

- (a) a member of the police force; or
(b) a person, or a person included in a class of persons, authorized to perform duties under this Division in accordance with subsection (2);

“exempt vessel”, in relation to a safety zone, means a vessel—

- (a) that is excluded from the operation of section 120 in relation to that safety zone by virtue of the instrument establishing the safety zone; or
(b) in respect of which there is in force a consent in writing of the Minister under section 120 (1) in relation to that safety zone;

“Government vessel” means a vessel that is beneficially owned by, or a vessel the whole possession and control of which is for the time being vested in, the State, another State, the Commonwealth or a Territory or an

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authority of the State, another State, the Commonwealth or a Territory;

“master”, in relation to a vessel, means the person having command or charge of the vessel;

“relevant vessel” means a vessel—

- (a) that is registered under the Shipping Registration Act 1981 of the Commonwealth and the gross tonnage of which specified in the certificate of registration of the vessel exceeds 200;
- (b) that is not registered under the Shipping Registration Act 1981 of the Commonwealth but is permitted to be registered under that Act (other than a vessel that, under the law of another country, is entitled to fly the flag of that country and is flying that flag), being a vessel the tonnage length of which is equal to or exceeds 24 metres; or
- (c) not being a vessel to which paragraph (a) or (b) applies, that is in the adjacent area for the purpose of exploring the sea-bed or subsoil of the adjacent area for petroleum or minerals or for the purpose of exploiting the natural resources, being petroleum or minerals, of that sea-bed or subsoil,

but does not include a Government vessel;

“safety zone” means an area that is a safety zone for the purposes of section 120.

(2) The Minister may, by notice published in the Gazette, authorize a person, or a person included in a specified class of persons, to perform duties under this Division.

(3) The reference in the definition of “Government vessel” in subsection (1) to an authority of the State, another State, the

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Commonwealth or a Territory shall be read as a reference to a body corporate established for a public purpose by or under a law of the State, another State, the Commonwealth or Territory, as the case may be, other than—

- (a) the Australian Shipping Commission;
- (b) the Western Australian Coastal Shipping Commission;
- (c) the Transport Commission established under the Transport Act 1938 of Tasmania; or
- (d) a body corporate that is declared by regulations made under the Shipping Registration Act 1981 of the Commonwealth not to be a Government authority for the purposes of that Act.

(4) For the purposes of this Division, the tonnage length of a ship shall be determined in the same manner as it is determined for the purposes of the Shipping Registration Act 1981 of the Commonwealth.

Powers of authorized persons

136B. (1) Subject to subsection (3), an authorized person may—

- (a) board a vessel that the person has reasonable grounds to believe has been used, is being used or is about to be used in contravention of section 120;
- (b) where the person has boarded a vessel in the exercise of powers under paragraph (a)—
 - (i) require any person on board the vessel to answer questions relating to the vessel or to the movements of the vessel;
 - (ii) require the master of the vessel to state whether there is in force in respect of the vessel a consent under section 120 and, if so, to produce the consent;

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- (iii) if the vessel is registered under the Shipping Registration Act 1981 of the Commonwealth—require the master of the vessel to produce the certificate of registration of the vessel; or
 - (iv) search the vessel for any documents relating to the vessel or to the movements of the vessel;
 - (c) require the master of a vessel, being a vessel that is in a safety zone and that is not an exempt vessel in relation to the safety zone, to take the vessel outside the safety zone;
 - (d) require the master of a disabled vessel—
 - (i) that is in a safety zone; or
 - (ii) that is, or that the person has reasonable grounds to believe is, a relevant vessel and that the person has reasonable grounds to believe is likely to cause damage to any well, pipeline, structure or equipment in the safety zone,
 - to permit the vessel to be towed away from the safety zone or to accept the giving of such other assistance to the vessel as the person considers necessary; or
 - (e) detain a vessel that the person has reasonable grounds to believe has been used in contravention of section 120.
- (2) A person shall not—
- (a) fail to facilitate by all reasonable means the boarding of a vessel by an authorized person pursuant to subsection (1);
 - (b) refuse to allow a search that is authorized under subsection (1) to be made by an authorized person;
 - (c) refuse or neglect to comply with a requirement made by an authorized person under subsection (1);
 - (d) when an authorized person requires the person to give information, pursuant to the powers of the authorized

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person under subsection (1)—give information that is, to the knowledge of the person, false or misleading in a material particular; or

- (e) resist or obstruct an authorized person who is acting pursuant to subsection (1).

Penalty: \$5,000.

(3) The powers of an authorized person in relation to a vessel under subsection (1) (a), (b) and (e) shall not be exercised except—

- (a) pursuant to a warrant issued under section 136c;
- (b) after obtaining the consent of the master of the vessel; or
- (c) in circumstances of seriousness and urgency, in accordance with section 136D.

Search warrants

136c. (1) Where an information on oath is laid before a Magistrate alleging that there are reasonable grounds to believe that a vessel has been used, is being used or is about to be used in contravention of section 120 and the information sets out those grounds and identifies the vessel, a Magistrate may issue a warrant authorizing an authorized person named in the warrant, with such assistance as the authorized person thinks necessary, to exercise all or any of the powers referred to in section 136B (1) (a), (b) and (e) in relation to that vessel.

(2) A Magistrate shall not issue a warrant unless—

- (a) the informant or some other person has given to the Magistrate either orally or by affidavit such further information (if any) as the Magistrate requires concerning the grounds on which the issue of the warrant is being sought; and

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(b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(3) A warrant shall—

(a) specify the purpose for which the warrant is issued;

(b) set out a description of the vessel in relation to which the warrant is issued; and

(c) specify a day, not being later than 7 days after the day on which the warrant is issued, as being the day on which the warrant ceases to have effect.

(4) In this section, “Magistrate” includes a Justice of the Peace employed in the Local Courts Administration, Attorney General’s Department.

Exercise of powers in serious circumstances

136D. An authorized person may exercise, in relation to a vessel, all or any of the powers referred to in section 136B (1) (a), (b) and (e) where—

(a) the authorized person has reasonable grounds to believe that—

(i) the vessel has been used, is being used or is about to be used in contravention of section 120;
or

(ii) the exercise of those powers is necessary to prevent damage being caused to any well, pipeline, structure or equipment in a safety zone;
and

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- (b) the circumstances are of such a serious nature as to require and justify the immediate exercise of those powers without the authority of a warrant issued under section 136C.