

[Act 1998 No 5]



New South Wales

# Petroleum (Onshore) Amendment Bill 1998

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The object of this Bill is to amend the *Petroleum (Onshore) Act 1991* so as:

- (a) to strengthen the power to require an applicant for, or holder of, a petroleum title to give security for fulfilment of the person's obligations under the title, and
  - (b) to modify the process for renewal of any petroleum title and for the transfer of such a title, and
  - (c) to require any condition of a petroleum title dealing with the rehabilitation, levelling, regrassing, reforestation or contouring of the land the subject of the title to be approved by the Commissioner of the Soil Conservation Service, in consultation with the Director-General of National Parks and Wildlife, and
  - (d) to provide for the registration of interests in petroleum titles, and
  - (e) to provide for fees under the Act to be set by the Minister, with the concurrence of the Treasurer, and
  - (f) to make other minor changes.
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## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Petroleum (Onshore) Act 1991* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the Acts set out in Schedule 2.

## **Schedule 1      Amendment of Petroleum (Onshore) Act 1991**

### **Security for the fulfilment of certain obligations**

At present, section 16 of the Act empowers the Minister to require an applicant for a petroleum title to give security for the fulfilment of the applicant's obligations under the title. This can only be done before granting the approval.

**Schedule 1 [3]** repeals and re-enacts section 16. Under the new section, the Minister may require an applicant to give such security or may impose a condition requiring such security on an existing petroleum title. The Minister also has power to vary any such condition. The section requires a person who gives such security to maintain it for the duration of the title (subject to any variation by the Minister). Proposed section 16A deals with the forfeiture of any such security.

### **Renewal of title**

Section 19 of the Act deals with the renewal of a petroleum title.

**Schedule 1 [5]** amends that section so as to restate the period during which an existing licence may be renewed. An application for renewal of a special prospecting authority or exploration licence must be made within the second last month of the authority or licence. An application for renewal of any other petroleum title must be made during the 4 years before the last year of the term of the title (unless it only has a term of a year or less, in which case the application may be made in the second last month).

**Schedule 1 [4]** makes a consequential amendment.

**Schedule 1 [6]** makes it clear that when a person makes an application for renewal of a title, the Minister may approve or refuse the application.

## Rehabilitation

Section 76 of the Act deals with the rehabilitation of areas damaged by operations conducted under the Act. The section provides for the imposition of conditions relating to the rehabilitation, levelling, regrassing, reforestation or contouring of any part of the land that has been damaged or adversely affected by the operations.

**Schedule 1 [12]** inserts proposed section 76 (4) which requires the Minister to seek the approval of the Commissioner of the Soil Conservation Service to any such conditions. The Minister is also required to consult the Director-General of National Parks and Wildlife in respect of such conditions.

**Schedule 1 [9]** provides for the section to apply to petroleum titles rather than production leases. **Schedule 1 [10]** makes a consequential amendment.

**Schedule 1 [11]** corrects a cross-reference.

## Transfers of title

At present, section 96 of the Act deals with the making of applications for the transfer of a petroleum title and with the handling of such applications.

**Schedule 1 [15]** repeals and re-enacts that section. The replacement section 96 provides a more detailed procedure for the making of an application for the transfer of a petroleum title and for the handling of an application for such a transfer. Proposed section 96A provides for the registration of such a transfer. Proposed section 96B provides for the lodgment of a caveat directing the Director-General not to register any transfer otherwise than in accordance with the provisions of the caveat.

## Registration of interests

At present, section 97 of the Act allows for the registration of dealings under the Act. An instrument affecting any petroleum title may be lodged with the Director-General of the Department of Mineral Resources for registration.

**Schedule 1 [16]** repeals and re-enacts that section. The new section provides for the registration of any legal and equitable interest in any petroleum title. The effect of registration is that the relevant interest has priority over any interest that is not registered or that is subsequently registered.

## Compensation

Part 11 of the Act imposes a liability on the holder of a petroleum title, or a person to whom an easement or right of way has been granted under the Act, to compensate every person who has any estate or interest in any land that is (or is likely to be) injured by the operations or conduct of the person who holds the petroleum title, easement or right of way.

Section 109 (1) of the Act sets out how that compensation is to be assessed, and includes in that assessment loss caused by damage to the surface of the land, by deprivation of the possession or use of the surface of the land and “all consequential damage”.

**Schedule 1 [17]** narrows that last category of damage. The relevant category of damage will be damage consequential on any of the matters listed in section 109 (1) (a)–(e) of the Act.

## Fees

At present, fees payable under the *Petroleum (Onshore) Act 1991* are prescribed by the regulations.

**Schedule 1 [22]** provides for the Minister, with the concurrence of the Treasurer, to determine lodgment fees and petroleum title fees, and other fees payable under the Act.

**Schedule 1 [21]** amends the regulation-making power accordingly.

**Schedule 1 [1], [2], [7], [13], [18], [19] and [20]** make consequential amendments.

## Other amendments

**Schedule 1 [8]** repeals and re-enacts section 70 (which deals with the exercise of rights conferred by a petroleum title on land in exempted areas). The replacement section is in similar terms to section 30 of the *Mining Act 1992*.

**Schedule 1 [14]** repeals and re-enacts section 95 which sets out the Director-General’s obligation to keep a record of every petroleum title granted. The revised provision requires all such records to be made available for public inspection at no cost. The replacement section is in similar terms to section 159 of the *Mining Act 1992*.

**Schedule 1[26]** inserts savings and transitional provisions consequent on the enactment of the proposed Act.

**Schedule 1 [24]** provides for the making of savings and transitional regulations consequent on that enactment.

**Schedule 1 [23]** and **[25]** make consequential amendments.

## **Schedule 2      Amendment of other Acts**

Section 27 of the *Forestry Act 1916* creates an offence of unlawfully taking timber, products or forest materials. Section 27 (1) provides that a person is not guilty of an offence under that section if the relevant conduct is done in pursuance of certain licences or authorities listed in that subsection.

**Schedule 2.1 [2]** adds petroleum titles granted under the *Petroleum (Onshore) Act 1991* to that list of licences.

Schedule 2 also updates references to the *Petroleum Act 1955* in various Acts. (The *Petroleum Act 1955* was repealed by the *Petroleum (Onshore) Act 1991*).