

NORTHERN TERRITORY OF AUSTRALIA

PETROLEUM AMENDMENT ACT 2004

Act No. 50 of 2004

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

Act No. 50 of 2004

AN ACT

to amend the *Petroleum Act*

[Assented to 13 September 2004]

[Second reading 20 May 2004]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Petroleum Amendment Act 2004*.

2. Principal Act

The *Petroleum Act* is in this Act referred to as the Principal Act.

3. Repeal and substitution of section 3

Section 3 of the Principal Act is repealed and the following substituted:

"3. Objective

"(1) The objective of this Act is to provide a legal framework within which persons are encouraged to undertake effective exploration for petroleum and to develop petroleum production so that the optimum value of the resource is returned to the Territory.

"(2) The legal framework provides for the following:

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- (a) the granting of petroleum interests to persons for exploration, production and ancillary activities associated with exploiting petroleum, and the renewal or transfer of those interests;
- (b) clear statements about the role of government following the grant of petroleum interests;
- (c) the promotion of active exploration for petroleum, and of the development of petroleum production if commercially viable, by persons granted petroleum interests;
- (d) the assessment of proposed technical works programmes for the exploration, appraisal, recovery or production of petroleum and of the financial capacity of persons proposing to carry out those programmes;
- (e) the reduction of risks, so far as is reasonable and practicable, to the health and safety of persons involved in petroleum exploration or production;
- (f) the reduction of risks, so far as is reasonable and practicable, of harm to the environment during activities associated with exploration for or production of petroleum;
- (g) the collection of information about petroleum exploration and production and the dissemination of that information;
- (h) the efficient administration of this Act and collection of royalties;
- (i) other matters in connection with exploration for and production of petroleum."

4. Dealings in reserved blocks

Section 10 of the Principal Act is amended –

- (a) by omitting from subsection (2) "shall" and substituting "must";
- (b) by omitting from subsection (2)(a) "and"; and
- (c) by omitting subsection (2)(b) and substituting the following:
 - "(b) the conditions on which applications may be made; and
 - (c) the time within which applications may be made."

5. New section 15A

The Principal Act is amended by inserting before section 16 in Part II, Division 2 the following:

"15A. Definitions

"In this Division –

'competing applicants' means the applicants who have lodged competing applications;

'competing applications' means 2 or more applications, lodged under section 16, for an exploration permit in respect of the same or some of the same blocks;

'eligible applicant' means a competing applicant determined by the Minister under section 21(3)(a) to be eligible for the grant of an exploration permit;

'ineligible applicant' means a competing applicant whose application the Minister has determined under section 21(3)(b) to refuse;

'negotiated agreement' means an agreement between competing applicants, including the following:

(a) a sharing arrangement;

(b) a joint venture;

'review' means a review under Division 6 of the Minister's determination to refuse to grant or renew an exploration permit;

'unsuccessful eligible applicant' means an eligible applicant whose application for an exploration permit is unsuccessful due to the operation of section 21B."

6. Repeal and substitution of sections 20 and 21

Sections 20 and 21 of the Principal Act are repealed and the following substituted:

"20. Determination of application for exploration permit

"(1) This section does not apply in relation to competing applications other than those referred to in section 21(4).

"(2) After the date specified in the notice given under section 19(2), the Minister must consider the following:

(a) the application;

(b) any objections to the grant of the exploration permit;

(c) any replies or other comments of the applicant;

- (d) any other information supplied to the Minister as requested under section 16(2);
- (e) any other matter the Minister considers relevant to the application.

"(3) The Minister must then, subject to section 57L, determine whether to grant the exploration permit in respect of some or all of the blocks to which the application relates or refuse to grant the exploration permit.

"(4) If the Minister determines to grant the exploration permit, the Minister must give the applicant a notice stating the following:

- (a) the conditions subject to which the Minister is prepared to grant the exploration permit;
- (b) the date, which must be at least 28 days after the date of the notice, when the application will lapse if the Minister has not received the applicant's written acceptance of those conditions.

"(5) If the Minister receives the applicant's written acceptance of the conditions within the specified time, the Minister must grant the applicant the exploration permit subject to those conditions.

"(6) If the Minister determines to refuse to grant the exploration permit, section 21D(1) applies.

"21. Determination of competing applications for exploration permit

"(1) This section applies only in relation to competing applications.

"(2) After the date specified in the latest notice given under section 19(2), the Minister must consider the following:

- (a) the competing applications;
- (b) any objections to the grant of the exploration permit;
- (c) any replies or other comments of the competing applicants;
- (d) any other information supplied to the Minister as requested under section 16(2);
- (e) any other matter the Minister considers relevant to the competing applications.

"(3) The Minister must then, subject to section 57L, determine whether –

- (a) any of the competing applicants are eligible for the grant of the exploration permit in respect of some or all of the blocks to which the applications relate; and
- (b) to refuse to grant any of the competing applicants the exploration permit.

"(4) If all of the competing applicants have reached a negotiated agreement and the Minister determines they are eligible for the grant of one exploration permit, section 20(4) and (5) applies (with the necessary changes) in relation to the grant of the exploration permit.

"(5) If only one of the competing applicants is the eligible applicant, section 21A applies in relation to the grant of the exploration permit.

"(6) If 2 or more of the competing applicants are eligible applicants (whether or not some of those applicants are able to reach a negotiated agreement), section 21B applies in relation to the grant of the exploration permit.

"(7) If all of the competing applicants are ineligible applicants, section 21D(2) applies.

"21A. Grant of exploration permit if one eligible applicant

"(1) For section 21(5), the Minister must give the eligible applicant a notice stating the following:

- (a) the conditions subject to which the Minister is prepared to grant the exploration permit;
- (b) the date, which must be at least 28 days after the date of the notice, when the application will lapse if the Minister has not received the applicant's written acceptance of those conditions;
- (c) if the applicant accepts the conditions, the grant of the exploration permit is provisional on the outcome of any review.

"(2) If the Minister receives the eligible applicant's written acceptance of the conditions within the specified time, the Minister must provisionally grant the applicant the exploration permit subject to those conditions and the outcome of any review.

"(3) Section 21D(3) applies in relation to the ineligible applicants.

"(4) If the Minister has provisionally granted the exploration permit, the Minister must give the eligible applicant written confirmation of the grant of the exploration permit if either of the following circumstances applies:

- (a) no review is requested by an ineligible applicant within the time permitted for the review;
- (b) a review confirms all determinations refusing to grant the exploration permit.

"(5) The eligible applicant does not have the right to explore for petroleum, carry on any operations or execute any works under the exploration permit unless the Minister confirms the grant of the permit.

"21B. Grant of exploration permit if 2 or more eligible applicants

"(1) For section 21(6), the Minister must give the first eligible applicant a notice stating the following:

- (a) the conditions subject to which the Minister is prepared to grant the exploration permit;
- (b) the date, which must be at least 28 days after the date of the notice, when the application will lapse if the Minister has not received the applicant's written acceptance of those conditions;
- (c) if the applicant accepts the conditions, the grant of the exploration permit is provisional on the outcome of any review.

"(2) If the Minister receives the first eligible applicant's written acceptance of the conditions within the specified time, the Minister must provisionally grant the applicant the exploration permit subject to those conditions and the outcome of any review.

"(3) If the application made by the first eligible applicant lapses in accordance with the notice, the Minister must then give notice, in accordance with subsection (1)(a), (b) and (c), to the eligible applicant who was the next to have lodged a competing application with the Minister.

"(4) Subsections (1), (2) and (3) apply (with the necessary changes) in relation to the eligible applicants, in the order in which they lodged the competing applications, until –

- (a) one of the competing applicants accepts the Minister's conditions;
or
- (b) all the competing applications lapse.

"(5) Section 21D(4) applies in relation to the ineligible applicants and unsuccessful eligible applicants.

"(6) If the Minister has provisionally granted the exploration permit, the Minister must give the eligible applicant written confirmation of the grant of the exploration permit if either of the following circumstances applies:

- (a) no review is requested by an ineligible applicant or unsuccessful competing applicant within the time permitted for the review;
- (b) a review confirms all determinations refusing to grant the exploration permit.

"(7) The eligible applicant does not have the right to explore for petroleum, carry on any operations or execute any works under the exploration permit unless the Minister confirms the grant of the permit.

"(8) In this section –

'first eligible applicant' means the competing applicant who was the first of the competing applicants to lodge a competing application with the Minister.

"21C. No grant of exploration permit for area if permit etc. already granted

"The Minister must not grant an exploration permit in relation to an area that is the subject of another exploration permit or a licence.

"21D. Refusals to grant exploration permits

"(1) If the Minister determines under section 20(3) to refuse to grant an exploration permit, the Minister must, as soon as practicable, serve the applicant with a notice of the determination.

"(2) If the Minister determines under section 21 that all of the competing applicants are ineligible applicants, the Minister must, as soon as practicable, serve each ineligible applicant with a notice of the determination.

"(3) For section 21A(3), the Minister must serve on each ineligible applicant a notice of the Minister's determination to refuse to grant the applicant an exploration permit as soon as practicable after –

- (a) the Minister has provisionally granted the exploration permit to the eligible applicant; or
- (b) the application made by the eligible applicant has lapsed.

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"(4) For section 21B(5), the Minister must serve on each ineligible applicant and each unsuccessful eligible applicant a notice of the Minister's determination to refuse to grant the applicant an exploration permit as soon as practicable after –

- (a) the Minister has provisionally granted the exploration licence to one of the eligible applicants; or
- (b) all applications made by eligible applicants have lapsed.

"(5) A notice of a determination to refuse to grant an exploration permit must state the following:

- (a) the reasons for the determination;
- (b) the person served with the notice may apply for a review.

"21E. Guidelines relating to determination of applications

"(1) The Minister must issue guidelines relating to the matters the Minister must consider when determining an application for the grant of an exploration permit.

"(2) The Minister must give notice in the *Gazette* of the issuing of guidelines and specify in the notice the place at which copies of the guidelines may be inspected during normal business hours.

"(3) The Minister must make the guidelines available for general inspection free of charge."

7. Grant or refusal of renewal of exploration permit

Section 25 of the Principal Act is amended by inserting after subsection (2) the following:

"(2A) A notice of the Minister's refusal to renew an exploration permit must include the reasons for the refusal and a statement that the permittee may request a review."

8. Grant or refusal of retention licence

Section 34 of the Principal Act is amended by inserting after subsection (4) the following:

"(5) A notice of the Minister's refusal to grant a retention licence must include the reasons for the refusal and a statement that the applicant may request a review of the determination under Division 6."

9. Grant or refusal of renewal of retention licence

Section 38 of the Principal Act is amended by inserting after subsection (3) the following:

"(3A) A notice of the Minister's refusal to renew a retention licence must include the reasons for the refusal and a statement that the retention licensee may request a review of the determination under Division 6."

10. Refusal to grant production licence

Section 48 of the Principal Act is amended –

- (a) by omitting from subsection (1) "applicant, setting out the reasons for his determination" and substituting "applicant"; and
- (b) by inserting after subsection (1) the following:

"(1A) The notice of determination must include the reasons for the refusal to grant a production licence and a statement that the applicant may apply for a review of the determination under Division 6."

11. Grant or refusal of renewal of production licence

Section 52 of the Principal Act is amended by inserting after subsection (3) the following:

"(3A) A notice of the Minister's refusal to renew a production licence must include the reasons for the refusal and a statement that the production licensee may request a review of the determination under Division 6."

12. New Part II, Division 6

Part II of the Principal Act is amended by inserting after Division 5 the following:

"Division 6 – Review of determinations

"57AA. Definitions

"In this Division –

'aggrieved person' means an applicant, permittee or licensee who is dissatisfied with a determination;

'competing applications' has the meaning in section 15A;

'determination' means a determination referred to in section 57AB(1);

'panel', in relation to a determination, means the panel appointed under section 57AC(1) to review the determination.

"57AB. Application for review of determination

"(1) An aggrieved person may by notice request a review of any of the following:

- (a) a determination notified under Division 2 refusing to grant or renew an exploration permit;
- (b) a determination notified under Division 3 refusing to grant or renew a retention licence;
- (c) a determination notified under Division 4 refusing to grant or renew a production licence.

"(2) The request must include the aggrieved person's reasons for requesting the review.

"(3) The aggrieved person must lodge the request with the Minister not later than 14 days after the date on which the aggrieved person was served with the notice of the determination.

"57AC. Appointment of panel to conduct review

"(1) The Minister must appoint in writing a panel of 2 or more persons to conduct a review of a determination.

"(2) The Minister may appoint to the panel the Chief Executive Officer of the Agency administering this Act.

"(3) If the determination was made by a delegate of the Minister, the Minister must not appoint the delegate to the panel.

"57AD. Review procedure

"(1) The panel must review the determination on its merits.

"(2) Subject to subsection (3), the procedures for conducting the review are to be decided by the panel.

"(3) If 2 or more requests for reviews are made in relation to determinations of competing applications, the reviews of those determinations must be conducted together.

"(4) The panel may inform itself about the determination in any manner it considers appropriate, including by written or oral submissions.

"(5) The Minister must provide the panel with all information relevant to the determination.

"(6) No person is entitled to legal representation when appearing before the panel.

"(7) The aggrieved person must bear the person's costs in connection with the review irrespective of the outcome of the review.

"57AE. Decision following review

"(1) A panel must, within 28 days after the date of lodgment of a request for a review of a determination, decide the review and give the Minister a written recommendation.

"(2) If 2 or more requests for reviews are made in relation to determinations of competing applications, the combined review of all those determinations is to be decided within 28 days of the lodgment of the latest of those requests.

"(3) The panel must make one of the following recommendations, stating the reasons for the recommendation:

- (a) that the Minister confirm the determination;
- (b) that the Minister revoke the determination and substitute the panel's decision as specified in the recommendation.

"(4) Within 7 days of receiving the panel's recommendation, the Minister must –

- (a) decide whether to accept or reject the recommendation; and
- (b) give notice of the Minister's decision to the aggrieved person and all other persons affected by the decision, stating the reasons for the decision."

13. Repeal of Schedule

The Schedule to the Principal Act is repealed.

14. Transitional provisions

The transitional provisions set out in the Schedule have effect.

SCHEDULE

Section 14

TRANSITIONAL PROVISIONS

1. Definitions

In this Schedule –

"amended Principal Act" means the Principal Act as in force on the commencement date;

"commencement date" means the date on which this Act comes into operation;

"former Principal Act" means the Principal Act as in force immediately before the commencement date.

2. Applications for grant or renewal of exploration permit

(1) If an application for an exploration permit has been made under section 16 of the former Principal Act and the Minister has not, before the commencement date, given notice to the applicant of the Minister's determination of the application –

- (a) sections 20, 21, 21A, 21B, 21C and 21D (as applicable) of the amended Principal Act apply in relation to the determination of the application; and
- (b) if the Minister determines to refuse to grant the exploration permit, the applicant is entitled to request a review of the determination under Part II, Division 6 of the amended Principal Act.

(2) If an application for the renewal of an exploration permit has been made under section 23 of the former Principal Act and the Minister has determined to refuse to renew the exploration permit but has not, before the commencement date, given the applicant a notice of refusal –

- (a) section 25(2A) of the amended Principal Act applies in relation to the notice of refusal; and
- (b) the applicant is entitled to request a review of the determination under Part II, Division 6 of the amended Principal Act.

3. Notice of refusal to grant or renew retention licence

(1) If an application for a retention licence has been made under Part II, Division 3 of the former Principal Act and the Minister has determined to refuse

to grant the retention licence but has not, before the commencement date, given the applicant a notice of refusal –

- (a) section 34(5) of the amended Principal Act applies in relation to the notice of refusal; and
- (b) the applicant is entitled to request a review of the determination under Part II, Division 6 of the amended Principal Act.

(2) If an application for the renewal of a retention licence has been made under Part II, Division 3 of the former Principal Act and the Minister has determined to refuse to renew the retention licence but has not, before the commencement date, given the applicant a notice of refusal –

- (a) section 38(3A) of the amended Principal Act applies in relation to the notice of refusal; and
- (b) the applicant is entitled to request a review of the determination under Part II, Division 6 of the amended Principal Act.

4. Notice of refusal to grant or renew production licence

(1) If an application for a production licence has been made under Part II, Division 4 of the former Principal Act and the Minister has determined to refuse to grant the production licence but has not, before the commencement date, given the applicant a notice of refusal –

- (a) section 48(1A) of the amended Principal Act applies in relation to the notice of refusal; and
- (b) the applicant is entitled to request a review of the determination under Part II, Division 6 of the amended Principal Act.

(2) If an application for the renewal of a production licence has been made under Part II, Division 4 of the former Principal Act and the Minister has determined to refuse to renew the production licence but has not, before the commencement date, given the applicant a notice of refusal –

- (a) section 52(3A) of the amended Principal Act applies in relation to the notice of refusal; and
- (b) the applicant is entitled to request a review of the determination under Part II, Division 6 of the amended Principal Act.