

NORTHERN TERRITORY OF AUSTRALIA  
PETROLEUM (SUBMERGED LANDS) AMENDMENT ACT 1995

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No. 40 of 1995

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# NORTHERN TERRITORY OF AUSTRALIA

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No. 40 of 1995

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## AN ACT

to amend the *Petroleum (Submerged Lands) Act*

[Assented to 29 September 1995]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Petroleum (Submerged Lands) Amendment Act 1995*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Petroleum (Submerged Lands) Act* is in this Act referred to as the Principal Act.

4. PREAMBLE

The Preamble to the Principal Act is amended by omitting the second paragraph.

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5. INTERPRETATION

Section 4(1) of the Principal Act is amended -

- (a) by omitting from the definition of "continental shelf" the word "Convention" and substituting "*Seas and Submerged Lands Act 1973* of the Commonwealth";
- (b) by omitting the definition "Convention"; and
- (c) by omitting the definition of "natural resources" and substituting the following:

"'natural resources' has the same meaning as in paragraph 4 of Article 77 of the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982;".

6. EXPLORATION FOR PETROLEUM

Section 19 of the Principal Act is amended -

- (a) by omitting "A person" and substituting "(1) A person"; and
- (b) by adding at the end the following:

"(2) For the purposes of subsection (1), a person who does anything preparatory to, or knowingly connected with, exploration for petroleum is taken to explore for petroleum.".

7. GRANT OR REFUSAL OF PERMIT

Section 22 of the Principal Act is amended -

- (a) by omitting from subsection (1)(a) all words after "on the applicant," and substituting "inform the applicant that he is prepared to grant to the applicant a permit in respect of the block or blocks specified in the notice; or";
- (b) by omitting from subsection (2)(b) "and lodge with the Minister the security referred to in the notice";
- (c) by omitting from subsection (3) all words after "the first-mentioned period of one month," and substituting "allows, by notice in writing served on the Minister, request the Minister to grant to him the permit referred to in the first-mentioned notice."; and

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- (d) by omitting subsections (4) and (5) and substituting the following:

"(4) Where an applicant who has been served with a notice under subsection (1) has made a request under subsection (3) within the period applicable under subsection (3), the Minister shall grant to him a permit in respect of the block or blocks specified in the notice.

"(5) Where an applicant who has been served with a notice under subsection (1) has not made a request under subsection (3) within the period applicable under subsection (3), the application lapses upon the expiration of that period."

8. CONSIDERATION OF APPLICATIONS

Section 25 of the Principal Act is amended -

- (a) by omitting subsection (4); and  
(b) by omitting from subsection (5)(b) subparagraphs (i), (ii) and (iii) and substituting the following:

- "(i) make a request under subsection 26(1); and  
(ii) pay the balance of the amount to be paid in respect of the grant of the permit to the applicant or enter into an agreement under section 109 in respect of that balance."

9. REQUEST BY APPLICANT FOR GRANT OF PERMIT IN RESPECT OF ADVERTISED BLOCKS

Section 26 of the Principal Act is amended -

- (a) by omitting from subsection (1)(a) "notice;" and substituting "notice; and";  
(b) by omitting from subsection (1)(b) "balance; and" and substituting "balance.";  
(c) by omitting from subsection (1) paragraph (c);  
(d) by omitting from subsection (2)(a) "subsection (1);" and substituting "subsection (1); and";  
(e) by omitting from subsection (2)(b) "balance; or" and substituting "balance,"; and  
(f) by omitting from subsection (2) paragraph (c).

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10. GRANT OF PERMIT ON REQUEST

Section 27 of the Principal Act is amended -

- (a) by omitting from paragraph (a) "section 26(1);" and substituting "section 26(1); and";
- (b) by omitting from paragraph (b) "balance; and" and substituting "balance,"; and
- (c) by omitting paragraph (c).

11. GRANT OR REFUSAL OF RENEWAL OF PERMIT

Section 32 of the Principal Act is amended -

- (a) by omitting from subsection (1) all the words after "the person who is then the permittee," and substituting "inform the person that he is prepared to grant to the person the renewal of the permit.";
- (b) by omitting from subsection (4)(b) "and lodge with the Minister the security referred to in the notice";
- (c) by omitting from subsection (5) all words after "service of the notice" and substituting "on him, by notice in writing served on the Minister, request the Minister to grant to the permittee the renewal of the permit."; and
- (d) by omitting subsections (6) and (7) and substituting the following:

"(6) Where a permittee who has been served with a notice under subsection (1) has made a request under subsection (5) within the period referred to in subsection (5), the Minister shall grant to him the renewal of the permit.

"(7) Where a permittee who has been served with a notice under subsection (1) has not made a request under subsection (5) within the period referred to in subsection (5), the application lapses upon the expiration of that date."

12. GRANT OR REFUSAL OF LEASE IN RELATION TO APPLICATION

Section 38B of the Principal Act is amended -

- (a) by omitting from subsection (1)(d) "application; and" and substituting "application.";
- (b) by omitting from subsection (1) paragraph (e);

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- (c) by omitting from subsection (3)(b) "and lodge with the Minister the security referred to in the instrument";
- (d) by omitting from subsection (4) all words after "the first-mentioned period of one month," and substituting "allows, by instrument in writing served on the Minister request the Minister to grant the lease to the applicant."; and
- (e) by omitting subsections (5) and (6) and substituting the following:

"(5) Where an applicant on whom there has been served an instrument under subsection (1) has made a request under subsection (4) within the period applicable under subsection (4), the Minister shall grant to him a retention lease in respect of the block or blocks specified in the instrument.

"(6) Where an applicant on whom there has been served an instrument under subsection (1) has not made a request under subsection (4) within the period applicable under subsection (4), the application lapses upon the expiration of that period."

13. GRANT OR REFUSAL OF RENEWAL OF LEASE

Section 38G of the Principal Act is amended -

- (a) by omitting from subsection (1)(e) all the words after "grant to the person" and substituting "the renewal of the lease.";
- (b) by omitting from subsection (4)(b) "and lodge with the Minister the security referred to in the instrument";
- (c) by omitting from subsection (6) all words after "service of the instrument" and substituting "on him, by instrument in writing served on the Minister, request the Minister to grant the renewal of the lease to the lessee."; and
- (d) by omitting subsections (7) and (8) and substituting the following:

"(7) Where a lessee on whom there has been served an instrument under subsection (1) has made a request under subsection (6) within the period referred to in subsection (6), the Minister shall grant to the lessee the renewal of the lease.

"(8) Where a lessee on whom there has been served an instrument under subsection (1) has not made a request under subsection (6) within the period referred to in subsection (6), the application lapses upon the expiration of that period."

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14. NOTIFICATION AS TO GRANT OF LICENCE

Section 43 of the Principal Act is amended -

- (a) by omitting from subsection (1) all words after "by notice in writing" and substituting "served on the applicant, shall inform the applicant that he is prepared to grant to the applicant a licence in respect of the blocks specified in the application."; and
- (b) by omitting from subsection (2) paragraph (c) and substituting the following:
  - "(c) contain a statement to the effect that the application will lapse if the applicant does not make a request under section 44(1) in respect of the grant of the licence."

15. GRANT OF LICENCE

Section 44 of the Principal Act is amended -

- (a) by omitting from subsection (1) all words after "first-mentioned period of 3 months" and substituting "allows, by notice in writing served on the Minister, request the Minister to grant to the applicant the licence referred to in the first-mentioned instrument.";
- (b) by omitting subsection (2) and substituting the following:
  - "(2) Where an applicant who has been served with a notice under section 43(1) has made a request under subsection (1) within the period applicable under that subsection, the Minister shall grant to the applicant a licence in respect of the blocks specified in the application."; and
  - (c) by omitting subsection (4) and substituting the following:
    - "(4) Where an applicant who has been served with a notice under section 43(1) has not made a request under subsection (1) within the period applicable under that subsection, the application lapses upon the expiration of that period."

16. REQUEST BY APPLICANT FOR GRANT OF LICENCE

Section 49 of the Principal Act is amended -

- (a) by omitting subsection(4);



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- (b) by omitting from subsection (5)(c)(i) "subsection (6);" and substituting "subsection (6); or";
- (c) by omitting from subsection (5)(c)(ii) "balance; or" and substituting "balance.";
- (d) by omitting from subsection (5)(c) subparagraph (iii);
- (e) by omitting from subsection (6)(a) "licence;" and substituting "licence; and";
- (f) by omitting from subsection (6)(b) "balance; and" and substituting "balance.";
- (g) by omitting from subsection (6) paragraph (c);
- (h) by omitting from subsection (7)(a) "subsection (6);" and substituting "subsection (6); or";
- (j) by omitting from subsection (7)(b) "balance; or" and substituting "balance,"; and
- (k) by omitting from subsection (7) paragraph (c).

17. GRANT OF LICENCE ON REQUEST

Section 50 of the Principal Act is amended -

- (a) by omitting from paragraph (a) "section 49(6);" and substituting "section 49(6); and";
- (b) by omitting from paragraph (b) "balance; and" and substituting "balance,"; and
- (c) by omitting paragraph (c).

18. GRANT OF LICENCES IN RESPECT OF INDIVIDUAL BLOCKS

Section 51 of the Principal Act is amended -

- (a) by omitting subsection (3); and
- (b) by omitting subsection (4) and substituting the following:

"(4) Where a licensee has made an application under this section, the Minister shall grant to the licensee licences in accordance with the application."

19. GRANT OR REFUSAL OF LICENCE

Section 55 of the Principal Act is amended -

- (a) by omitting subsection (6);

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- (b) by omitting from subsection (7) paragraph (b) and substituting the following:

"(b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (8).";

- (c) by omitting from subsection (8) all words after "service of the notice" and substituting "on him, by notice in writing served on the Minister, request the Minister to grant the renewal of the licence to the licensee."; and

- (d) by omitting subsections (9) and (10) and substituting the following:

"(9) Where a licensee who has been served with a notice under subsection (1) or (2) has made a request under subsection (8) within the period referred to in subsection (8), the Minister shall grant to him the renewal of the licence.

"(10) Where a licensee who has been served with a notice under subsection (1) or (2) has not made a request under subsection (8) within the period referred to in subsection (8), the application lapses upon the expiration of that period."

20. GRANT OR REFUSAL OF PIPELINE LICENCE

Section 65 of the Principal Act is amended -

- (a) by omitting from subsection (5) "by notice" and substituting "by instrument";
- (b) by omitting subsection (6);
- (c) by omitting from subsections (7), (8) and (9) "or (2)" and substituting "or an instrument under subsection (2)";
- (d) by omitting from subsection (7)(c) "and lodge with the Minister the security referred to in the notice";
- (e) by omitting from subsection (9) all words after "first-mentioned period of 3 months," and substituting "allows, by notice in writing served on the Minister, request the Minister to grant to him the pipeline licence."; and
- (f) by omitting subsections (10) and (11) and substituting the following:

"(10) Where a person who has been served with a notice under subsection (1) or an instrument under subsection (2) has made a request under subsection (9) within the period applicable under subsection (9), the

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Minister shall grant to that person a licence to construct and operate a pipeline in respect of the pipeline specified in the notice or instrument.

"(11) Where a person who has been served with a notice under subsection (1) or an instrument under subsection (2) has not made a request under subsection (9) within the period applicable under subsection (9), the application lapses upon the expiration of that period."

21. GRANT OR REFUSAL OF RENEWAL OF PIPELINE LICENCE

Section 69 of the Principal Act is amended -

- (a) by omitting from subsection (1)(c) "pipeline licence; and" and substituting "pipeline licence.";
- (b) by omitting from subsection (1) paragraph (d);
- (c) by omitting from subsection (4)(b) "and lodge with the Minister the security referred to in the notice";
- (d) by omitting from subsection (5) all words after "service of the notice" and substituting "on him, by notice in writing served on the Minister, request the Minister to grant to him the renewal of the pipeline licence."; and
- (e) by omitting subsections (6) and (7) and substituting the following:

"(6) Where a pipeline licensee who has been served with a notice under subsection (1) has made a request under subsection (5) within the period referred to in subsection (5), the Minister shall grant to him the renewal of the pipeline licence.

"(7) Where a pipeline licensee who has been served with a notice under subsection (1) has not made a request under subsection (5) within the period referred to in subsection (5), the application lapses upon the expiration of that period."

22. APPROVAL AND REGISTRATION OF TRANSFERS

Section 78 of the Principal Act is amended -

- (a) by omitting subsection (6) and substituting the following:

"(6) The Minister shall consider each application for approval of the transfer of a title and determine whether to approve the transfer.";

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(b) by omitting from subsection (7) "and shall set out in the notice details of the security, if any, required to be lodged by the transferee or transferees"; and

(c) by omitting subsection (8).

23. POWER OF MINISTER TO ACQUIRE INFORMATION AS TO DEALINGS

Section 84(2) of the Principal Act is amended by omitting "shall not furnish" and substituting "shall not knowingly furnish".

24. WORK PRACTICES

Section 97 of the Principal Act is amended by omitting subsection (6).

25. NEW SECTION

The Principal Act is amended by inserting after section 97 the following:

"97A. CONDITIONS RELATING TO INSURANCE

"(1) The holder of a permit, lease, licence or pipeline licence shall maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the permit, lease, licence or pipeline licence, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.

"(2) The conditions subject to which a special prospecting authority or access authority is granted may include a condition that the holder maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the authority, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.

"(3) Where:

(a) a permit, lease, licence or pipeline licence was in force immediately before the commencement;

(b) the Minister has required the holder to maintain insurance under subsection (1); and

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- (c) the Minister is satisfied that the required insurance is in effect;

the Minister shall issue a certificate that he is so satisfied.

"(4) Where the Minister issues a certificate under subsection (3), any security in force in relation to the permit, lease, licence or pipeline licence, being a security that was required under this Act before the commencement of this section, is discharged.

"(5) The discharge of a security under subsection (4) has no effect on any liability arising under or in relation to the security before its discharge."

26. ACCESS AUTHORITIES

Section 112 of the Principal Act is amended -

- (a) by omitting from subsection (4) "The Minister" and substituting "Subject to subsection (4AA), the Minister";

- (b) by inserting after subsection (4) the following:

"(4AA) Subsection (4) does not apply if the holder of the permit, lease, licence or special prospecting authority has consented in writing to the grant of the access authority."; and

- (c) by omitting from subsection (11) "and of the facts" and substituting "and a summary of the facts".

27. REPEAL

Section 114 of the Principal Act is repealed.

28. RELEASE OF INFORMATION

Section 118(4) of the Principal Act is amended -

- (a) by omitting from paragraph (c) "not; and" and substituting "not;" and

- (b) by omitting paragraph (d) and substituting the following:

"(d) where -

- (i) the document, core, cutting or sample was furnished to the Minister at a time when a permit, lease or licence was not in force in respect of the block; and

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- (ii) the information in the document or the core, cutting or sample was collected for the purpose of the sale of information on a non-exclusive basis,

the relevant day is the day determined by the Minister, being a day not more than 5 days after the day on which the document, core, cutting or sample was furnished to the Minister; and

- (e) where -

- (i) the document, core, cutting or sample was furnished to the Minister at a time when a permit, lease or licence was not in force in respect of the block; and

- (ii) paragraph (d)(ii) does not apply,

the relevant day is the day determined by the Minister, being a day not more than 2 years after the day on which the document, core, cutting or sample was furnished to the Minister."

29. REPEAL AND SUBSTITUTION

Section 127 of the Principal Act is repealed and the following substituted:

"127. PROPERTY IN PETROLEUM

"Subject to this Act, if petroleum is recovered by a permittee, lessee or licensee in the permit area, lease area or licence area -

- (a) the petroleum becomes the property of the permittee, lessee or licensee; and
- (b) it is not subject to any rights of other persons (other than any person to whom the permittee, lessee or licensee transfers, assigns or otherwise disposes of the petroleum or an interest in the petroleum)."

30. REPEAL

Section 132 of the Principal Act is repealed.

31. ORDERS FOR FORFEITURE IN RESPECT OF CERTAIN OFFENCES

Section 133(1) of the Principal Act is amended by omitting all words before paragraph (a) and substituting the following:

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"(1) Where a person is convicted by the Supreme Court of an offence against section 19, 39 or 60, or arising under section 4, 8, 12, 13 or 16 of the Criminal Code in relation to an offence referred to in section 19, 39 or 60, the Court may, in addition to imposing a fine, make one or more of the following orders:".

32. TIME FOR BRINGING PROCEEDINGS FOR OFFENCES

Section 135 of the Principal Act is amended by omitting "under this Part" and substituting "under this Part or under the Criminal Code in relation to an offence referred to in this Part".

33. NEW SECTION

The Principal Act is amended by inserting after section 137AA, in Division 6, the following:

"137AB. LIABILITY FOR APPROVAL GIVEN UNDER THIS ACT, &c.

"(1) This section applies to the following bodies and people:

- (a) the Minister;
- (b) an inspector;
- (c) a person acting under the direction or authority of the Minister.

"(2) A body or person to whom this section applies is not liable to an action, suit or proceeding for or in respect of an approval given in good faith under -

- (a) this Act;
- (b) the Regulations; or
- (c) a direction under this Act.

"(3) This section does not apply to a person or body merely because the person or body is acting in accordance with a proposal or plan (however described) that has been approved by or on behalf of the Minister.".

34. REPEAL AND SUBSTITUTION

Section 138 of the Principal Act is repealed and the following substituted:

"138. FEES

- "(1) The holder of -
- (a) an exploration permit;
  - (b) a retention lease;

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(c) a production licence; or

(d) a pipeline licence;

shall pay a fee in respect of each year of the term of the permit, lease or licence.

"(2) The fee -

(a) is payable to the Minister; and

(b) is to be calculated in accordance with the Regulations.

"(3) The fee for the first year of the term of the permit, lease or licence is payable within one month after the day on which the term commences.

"(4) The fee for a subsequent year of the term of the permit, lease or licence is payable within one month after the anniversary of the day on which the first year of the term commences."

35. REPEAL

Sections 138A, 139 and 140 of the Principal Act are repealed.

36. TIME OF PAYMENT OF FEES

Section 141 of the Principal Act is amended by omitting "138A, 139 or 140".

37. PENALTY FOR LATE PAYMENT

Section 149(2) of the Principal Act is amended by omitting "subsection (1)" and substituting "subsection (1) or section 149B(2)(a)".

38. NEW SECTIONS

The Principal Act is amended by inserting after section 149 the following:

"149A. PROVISIONAL PAYMENT OF ROYALTY

"(1) Where, in relation to petroleum recovered during a royalty period, the value of the petroleum has not been agreed or determined under section 146, the Minister may determine a provisional value.

"(2) Where -

(a) a provisional value of any petroleum has been determined under subsection (1); and



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- (b) the value of that petroleum has not yet been agreed or determined under section 146;

the Act operates in relation to that petroleum as if -

- (c) the provisional value of the petroleum were its value; and
- (d) the determination of the provisional value were an agreement or determination under section 146.

"149B. ADJUSTMENT OF PAYMENT

"(1) This section applies -

- (a) where section 149A(2) has operated in relation to petroleum recovered during a royalty period and a value of the petroleum different to the provisional value is subsequently agreed or determined under section 146; or
- (b) where an error has been made in the calculation of royalty due or in the application of a procedure by the application of which the value of the petroleum has been ascertained.

"(2) Where this section applies -

- (a) if the determined royalty is greater than the provisional royalty, the difference is payable within 28 days; and
- (b) if the determined royalty is less than the provisional royalty, the difference is deducted from any amount subsequently payable by the permittee, lessee or licensee concerned.

"(3) In this section -

'determined royalty' means -

- (a) where subsection (1)(a) applies, the amount of royalty payable in relation to the petroleum on the basis of the value ascertained under section 146; and
- (b) where subsection (1)(b) applies, the amount of royalty payable in relation to the petroleum;

'provisional royalty' means -

- (a) where subsection (1)(a) applies, the amount of royalty payable in relation to the petroleum on the basis of the provisional value; and

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(b) where subsection (1)(b) applies, the amount of royalty demanded in relation to petroleum as a result of the erroneous calculation."

39. REPEAL

Schedule 4 to the Principal Act is repealed.

40. TRANSITIONAL

(1) A fee is not payable under section 138 of the Principal Act, as substituted by this Act, in respect of a year of a permit, lease or licence if the fee payable for that year had been paid before the commencement of this Act under section 138, 138A, 139 or 140 of the Principal Act as then in force.

(2) Sections 149A and 149B of the Principal Act, as inserted by this Act, apply in relation to petroleum recovered during a royalty period commencing on or after the date of the commencement of this Act.

(3) Sections 149A and 149B of the Principal Act, as inserted by this Act, apply in relation to petroleum recovered during a royalty period that commenced before the commencement of this Act if, at that commencement, the value of the petroleum had not been agreed or determined under section 146 of the Principal Act.

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