

NORTHERN TERRITORY OF AUSTRALIA

PETROLEUM AMENDMENT ACT 1994

No. 49 of 1994

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. 49 of 1994

AN ACT

to amend the *Petroleum Act*

[Assented to 20 September 1994]

BE 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 Amendment Act 1994*.

2. PRINCIPAL ACT

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

3. COMMENCEMENT

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

4. INTERPRETATION

Section 5 of the Principal Act is amended by inserting after the definition of "Aboriginal land" the following:

"'access authority' means an access authority granted or renewed under this Act;

"'access authority area' means the area constituted by the blocks that are the subject of an access authority;".

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5. APPLICATION FOR PERMIT

Section 16(1) of the Principal Act is amended by inserting after paragraph (h) the following:

- "(ha) an environmental management plan of how the applicant proposes to protect the environment in and in the vicinity of the application area;
- (hb) 'a statement specifying the period for which the permit is sought;".

6. NOTICE OF APPLICATION FOR PERMIT

Section 18(1) of the Principal Act is amended by omitting paragraph (b) and substituting the following:

- "(b) the Minister shall cause to be published, at the expense of the applicant, in a newspaper circulating in the part of the Territory in which the application area is situated or in such other publication as the Minister thinks fit,";

7. TERM OF PERMIT

Section 22(1) of the Principal Act is amended by omitting "for 5 years" and substituting "for the period specified in the application, being a period of not less than 2 years or more than 5 years,".

8. APPLICATION FOR RENEWAL OF PERMIT TO BE IN RELATION TO REDUCED AREA

Section 24(1)(b) of the Principal Act is amended by omitting all words after "a number that is" and substituting "not divisible by 2 without remainder - one-half of the number arrived at by increasing the number of blocks by one.".

9. CONDITIONS OF RETENTION LICENCE

Section 40(2) of the Principal Act is amended -

- (a) by omitting from paragraph (a) "disposal; and" and substituting "disposal;";
- (b) by omitting from paragraph (b) "water." and substituting "water; and"; and
- (c) by inserting after paragraph (b) the following:
 - "(c) proposals for the protection of the environment in and in the vicinity of the licence area, including measures to be undertaken by the licensee to rehabilitate the licence area and any other area that may be affected by the activities carried on by the licensee.".

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10. TERM OF PRODUCTION LICENCE

Section 50 of the Principal Act is amended -

- (a) by omitting "21 years" and substituting "25 years"; and
- (b) by omitting "or last renewed" and substituting "or, in respect of the renewal of a production licence, the date on which it was last renewed, notwithstanding that it is renewed before the date on which it would otherwise have expired".

11. APPLICATION FOR RENEWAL OF PRODUCTION LICENCE

Section 51 of the Principal Act is amended by adding at the end the following:

"(4) In addition to subsection (3), the Minister may, where he is satisfied that there are commercial reasons that justify an application for the renewal of a production licence being made, accept the application being made at a time earlier than that specified in subsection (3)(a)."

12. NEW DIVISION

The Principal Act is amended by inserting after section 57, in Part II, the following:

"Division 5 - Access Authorities

"57A. ACCESS AUTHORITIES

"(1) In this section, 'petroleum title' means an authority, however described, under the *Petroleum (Submerged Lands) Act* or a law of a State to explore for or to recover petroleum.

"(2) A permittee, licensee or the lessee of a lease granted under the repealed Act, or the holder of a petroleum title granted outside the Territory, may apply for the grant of an access authority by lodging with the Minister -

- (a) an application in the approved form and approved manner;
- (b) a statement containing the designated number of each block the subject of the application;
- (c) a statement specifying the operations that the applicant proposes to carry on under the access authority; and
- (d) a statement setting out any other matters that the applicant wishes the Minister to consider.

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"(3) Subject to this section, the Minister may, on receiving an application under subsection (1), grant or refuse to grant the access authority.

"(4) An access authority is subject to such conditions as the Minister thinks fit and specifies in the access authority.

"(5) The Minister may, at any time by written notice served on the holder of an access authority, vary the access authority area or a condition to which the access authority is subject.

"(6) The Minister shall not grant an access authority, or vary an access authority, in respect of an area that is the subject of a permit, licence or lease of which the applicant or holder is not the permittee, licensee or lessee, as the case may be, unless the Minister has served -

- (a) a notice in accordance with subsection (7) on the permittee, licensee or lessee; and
- (b) a copy of the notice on such other persons, if any, as the Minister thinks fit.

"(7) A notice under subsection (6) shall -

- (a) give particulars of the access authority proposed to be granted or of the variation proposed to be made; and
- (b) specify a date, not being earlier than 28 days after the date of the notice, on or before which a person on whom the notice or a copy is served may submit any matters that the person wishes the Minister to consider.

"(8) In considering an application under this section, the Minister shall take into account any matters submitted on or before the date specified in the notice under subsection (7).

"(9) An access authority authorises the holder, subject to this Act and the conditions to which it is subject, to carry on in the access authority area exploration for petroleum or operations relating to the recovery of petroleum in or from the permit, licence, lease or petroleum title in respect of which the application under subsection (2) was made and any other operations specified in the access authority.

"(10) Subject to this section, an access authority remains in force for such period as is specified by the Minister but may be renewed by the Minister for a further specified period.

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"(11) An access authority may be -

- (a) surrendered by the holder by written notice served on the Minister; or
- (b) cancelled by the Minister by written notice served on the holder and a person in whose permit area, licence area or lease area operations may be carried on in pursuance of the access authority.

"(12) Where an access authority has been cancelled or surrendered, or has expired, the Minister may direct the person who was the holder of the access authority to do one or more of the following things:

- (a) remove or cause to be removed from the area to which the access authority applied anything brought into the area by any person engaged or concerned in the operations authorised by the access authority or to make arrangements that are satisfactory to the Minister with respect to those things;
- (b) subject to this Act, make good, to the satisfaction of the Minister, the rehabilitation of the environment in the area to which the access authority applied and any other area that has been damaged by any person engaged or concerned in the operations authorised by the access authority.

"(13) A person to whom a direction is given under subsection (12) shall comply with and not contravene the direction.

Penalty: \$10,000.

"(14) Where an access authority is in force in respect of an area that consists of, or includes, a permit area, licence area, lease area or the area over which a petroleum title is granted and the holder of the access authority is not the permittee, licensee, lessee or the holder of the petroleum title, the holder of the access authority shall, not later than 28 days after the end of each month during which the access authority is in force in respect of the permit area, licence area, lease area or the area over which the petroleum title is granted, provide the permittee, licensee, lessee or the holder of the petroleum title with a full report, in writing, of the operations carried on in the permit area, licence area, lease area or the area over which the petroleum title is granted during that month and a summary of the facts ascertained from those operations.

Penalty: \$5,000.

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"(15) Nothing in subsection (14) shall be construed as requiring a report under that subsection to contain conclusions drawn from or opinions based on, in whole or in part, the facts contained in the report."

13. ANNUAL REPORTS

Section 59 of the Principal Act is amended -

- (a) by inserting in subsection (1) after " the office of the Secretary" the words "or such other place as the Secretary directs"; and
- (b) by omitting from subsection (2) "Penalty for an offence against this section: \$2,000 or imprisonment for 12 months" and substituting "Penalty: \$5,000".

14. REPEAL AND SUBSTITUTION

Section 61 of the Principal Act is repealed and the following substituted:

"61. RELEASE OF INFORMATION

"(1) The Minister may, at any time, make available to another Minister -

- (a) information contained in a document to which this section applies that has been lodged with the Minister; and
- (b) drill cores or cuttings recovered or samples taken from a block, or samples of petroleum recovered from a block, that have been received by the Minister.

"(2) The Minister may, at any time after the grant or renewal of, or the refusal to grant or renew, a permit, licence or access authority -

- (a) make publicly known; or
- (b) on request by a person and, if the Minister so requires, on payment of the prescribed fee, make available to the person,

information contained in or accompanying the application for the grant or renewal, but not including -

- (c) information of a kind referred to in subsection (3) or (7); or
- (d) particulars of -
 - (i) the technical qualifications of the applicant and employees of the applicant;

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- (ii) the technical advice available to the applicant; or
- (iii) the financial resources available to the applicant.

"(3) The Minister may, at any time after the relevant day specified in subsection (5) -

- (a) make publicly known; or
- (b) on request by a person and, if the Minister so requires, on payment of the prescribed fee, make available to the person,

information contained in a document to which this section applies that has been received by the Minister under subsection (1), being information that relates to the seabed or subsoil, or to petroleum, in a block, but not including any matter contained in a document to which this section applies that, in the opinion of the Minister, is a conclusion drawn from or an opinion based on, in whole or in part, any such information.

"(4) The Minister or another Minister may, at any time after the relevant day specified in subsection (5) -

- (a) make publicly known particulars of; or
- (b) on request by a person and, if the Minister or that other Minister so requires, on payment of the prescribed fee, permit the person to inspect,

drill cores or cuttings removed or samples taken from a block, or samples of petroleum recovered from a block, that have been received by the Minister or have been made available to that other Minister under subsection (1).

"(5) For the purposes of subsections (3) and (4), the relevant day is -

- (a) where -
 - (i) a permit or retention licence is in force in respect of the block; and
 - (ii) the document, core, cutting or sample was received by the Minister during the period during which the permit or licence was in force in respect of the block,

the day on which the period of 2 years, commencing on the day on which the document, core, cutting or sample was received by the Minister, expires;

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- (b) where -
- (i) a production licence is in force in respect of the block; and
 - (ii) the document, core, cutting or sample was received by the Minister during the period during which the production licence was in force in respect of the block,

the day on which the period of 12 months, commencing on the day on which the document, core, cutting or sample was received by the Minister, expires;
- (c) where the document, core, cutting or sample was received by the Minister during a period during which a permit or licence was in force in respect of the block and -
- (i) the permit or licence is surrendered, cancelled or determined as to the block; or
 - (ii) the permit or licence expires but is not renewed in respect of the block,

the day on which the permit or licence is surrendered, cancelled or determined or expires, as the case may be, whether or not another permit or licence is subsequently granted in respect of the block; or
- (d) where the document, core, cutting or sample was received by the Minister during a period during which a permit or licence was not in force in respect of the block, the day determined by the Minister, being a day earlier than the day on which the period of 2 years, commencing on the day on which the document, core, cutting or sample was received by the Minister, expires.

"(6) Where -

- (a) a document, core, cutting or sample was received by the Minister under subsection (1) during or in respect of a period during which -
- (i) a permit or licence was in force; or
 - (ii) an access authority was in force in respect of the block but during which a permit or licence was not in force in respect of the block; and

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- (b) the permittee, licensee or the holder of the access authority or, if the permit, licence or access authority has ceased to be in force, the person who was the holder of the permit, licence or access authority has made publicly known -
 - (i) any information contained in the document or has consented in writing to any of the information being made publicly known; or
 - (ii) any particulars of the core, cutting or sample or has consented in writing to any particulars of the core, cutting or sample being made publicly known or to that core, cutting or sample being made available for inspection,

the Minister or another Minister to whom that information, core, cutting or sample has been made available under subsection (1) may, at any time after the information has, or those particulars have, been made publicly known or after that consent has been given -

- (c) make publicly known that information or, on request by any other person and, if the Minister or that other Minister so requires, on payment of the prescribed fee, make that information available to that other person; or
- (d) make publicly known those particulars or, on request by any other person and, if the Minister or that other Minister so requires, on payment of the prescribed fee, permit that other person to inspect that core, cutting or sample,

as the case may be.

"(7) Subject to subsection (12), the Minister may, at any time after the expiration of 5 years after a document to which this section applies was received by the Minister -

- (a) make publicly known; or
- (b) on request by a person and, if the Minister so requires, on payment of the prescribed fee, make available to the person,

information contained in the document, being information that relates to petroleum in a block, and that, in the opinion of the Minister, is a conclusion drawn, in whole or in part, from, or an opinion based, in whole or in part, on, any information contained in a document to which this section applies that has been received by the Minister under subsection (1).

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"(8) Before the Minister makes available or publicly known information under subsection (7), the Minister shall -

- (a) cause a notice to be published in the *Gazette* -
 - (i) stating that the Minister proposes to make the information available or publicly known;
 - (ii) inviting interested persons to give to the Minister, by such day as is specified in the notice, being a day not earlier than 45 days after the publication of the notice, a notice objecting to the whole or any part of the information being made available or publicly known; and
 - (iii) stating that, if a person does not make an objection in accordance with the invitation, the person will be taken to have consented to the information being made available or publicly known; and
- (b) if it is practicable to do so, cause a copy of the notice published in the *Gazette* to be served on the person who lodged the document containing the information.

"(9) A notice objecting to information being made available or publicly known shall set out the person's reasons for making the objection.

"(10) A person may not object to information being made available or publicly known under this section except on the grounds that to do so would disclose -

- (a) a trade secret; or
- (b) other information the disclosure of which would, or could reasonably be expected to, adversely affect the person in respect of the lawful business, commercial or financial affairs of the person.

"(11) The Minister shall, not later than 45 days after receiving a notice of objection under this section, consider the objection and may disallow it or allow it, in whole or in part, and shall cause written notice of the decision to be served on the person who made the objection.

"(12) The Minister shall not make available or make publicly known information under subsection (7) if an objection in relation to the information has been allowed under subsection (11), but nothing in this section shall be taken to preclude a further invitation being made in relation to the information under subsection (8).

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"(13) Except as provided by this section or for the purposes of the administration of this Act, the Minister or another Minister to whom information or a core, cutting or sample has been made available under subsection (1) shall not -

- (a) make publicly known, or make available to any person (not being a Minister), any information contained in a document to which this section applies; or
- (b) make publicly known any particulars of, or permit any person (not being a Minister) to inspect a core, cutting or sample referred to in this section.

"(14) This section applies to -

- (a) an application made to the Minister under this Act or a document accompanying such an application; and
- (b) a report, return or other document relating to a block that has been received by the Minister under this Act.

"(15) In this section, a reference to a core, cutting or sample includes a reference to a portion of a core, cutting or sample.

"(16) For the purposes of this section -

- (a) cores and cuttings and well data, logs, sample descriptions and other documents, relating to the drilling of a well, shall be deemed to have been received by the Minister not later than 28 days after the drilling of the well was, in the opinion of the Minister, substantially completed; and
- (b) geophysical or geochemical data relating to geophysical or geochemical surveys shall be deemed to have been received by the Minister not later than one year after the geophysical or geochemical field work was, in the opinion of the Minister, substantially completed."

15. REPEAL AND SUBSTITUTION

Section 67 of the Principal Act is repealed and the following substituted:

"67. DRILLING AND SEISMIC SURVEYS

"(1) A permittee, licensee or the holder of an access authority shall not commence operations for the drilling of a well or for a seismic survey unless notice

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in accordance with this section is given to the Minister and the Minister's approval is obtained.

- "(2) A notice under subsection (1) shall -
- (a) be served on the Minister not less than 28 days before the date on which the operations are to commence or such other period as the Minister may approve; and
 - (b) contain details of -
 - (i) the geographic location of the proposed well or area of the seismic survey; and
 - (ii) measures that will be put in place to protect the environment (including reclamation and conservation planning) in the location of the proposed well or area of the seismic survey."

16. DIRECTIONS BY MINISTER

Section 71 of the Principal Act is amended by inserting after subsection (1) the following:

"(1A) A direction under subsection (1) may apply, adopt or incorporate a standard, code or other document as in force or existing at a particular time or as in force from time to time."

17. SURRENDER

Section 73 of the Principal Act is amended -

- (a) by omitting from subsection (2)(b) all words after subparagraph (iii) and substituting the following:

"and the permittee or licensee has lodged with the Minister a statutory declaration that the permittee or licensee has discharged his obligations, financial and otherwise, to all of his employees, agents and contractors in relation to the permit or licence."; and

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

"(3) For the purposes of subsection (2), the Minister may -

- (a) give such directions as he thinks fit which must be complied with before he will accept the surrender; or

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- (b) where the Minister is satisfied that circumstances justify the acceptance of a surrender, accept a partial surrender where the retained area is not one discrete area or is less than the minimum allowable size."

18. SECURITY

Section 79 of the Principal Act is amended by adding at the end the following:

"(3) Where the Minister has required a permittee or licensee to lodge a security under this section, the Minister may retain the security for 3 years after the expiration of the permit or licence and may use the security to pay for any work required by or under this Act to be carried out by the former permittee or licensee that has not been so carried out."

19. ROYALTIES

Section 84 of the Principal Act is amended by omitting subsection (3) and substituting the following:

- "(3) For the purposes of subsection (2) -
 - (a) in agreeing or determining the gross value of petroleum, the components of oil and gas may be considered separately; and
 - (b) an agreement or determination shall not have any force unless it is in writing."

20. REGISTRAR AND REGISTER OF INSTRUMENTS

Section 90 of the Principal Act is amended by adding at the end the following:

"(3) The Register may be established and maintained -

- (a) in such form or combination of forms;
- (b) on such medium or combination of mediums; and
- (c) in such manner,

as the Minister thinks fit, and for the purposes of paragraph (b), a reference to a medium includes, but is not limited to -

- (d) a computer;
- (e) micro film; or
- (f) paper."

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21. APPLICATION, SAVINGS AND TRANSITIONAL

(1) Section 119 of the Principal Act is amended by omitting subsection (2) and substituting the following:

"(2) Notwithstanding subsection (1), a lease granted or renewed under the repealed Act remains in force for the same period as a production licence and is subject to the provisions of this Act relating to the release of information, the giving of directions by the Minister and the calculation and payment of royalties.

"(2AA) A lessee of a lease referred to in subsection (1) may apply for the renewal of the lease under the repealed Act, as continued in force by subsection (2), at a time earlier than that specified in the repealed Act, and the Minister may grant the renewal, where the Minister is satisfied that there are commercial reasons that justify the application being made at a time earlier than that specified in the repealed Act."

(2) For the purpose of the calculation and payment of royalties, this section shall be deemed to have commenced on the commencement of the financial year in which this Act comes into operation.

22. FURTHER AMENDMENTS

The Principal Act is further amended as specified in the Schedule.

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SCHEDULE

Section 22

Provision	Amendment	
	omit	substitute
Sections 16(1) (j) and 32(1) (j)	"or, where no fee is prescribed, \$3,000"	
Section 23(2) (c)	"or, where no fee is prescribed, \$300"	
Section 25(2)	"retention licensee"	"permittee"
Section 26(1)	"or, where no amount is prescribed, \$15 per block per annum"	
Section 37(2) (c)	"or, where no fee is prescribed, \$400"	
Section 39	"or, where no amount is prescribed, \$2,000 per block per annum"	
Sections 45(1) (j) and 51(2) (c)	"or, where no fee is prescribed, \$600"	
Section 52(2)	"21"	"25"
Section 53(1)	"or, where no amount is prescribed, \$9000 per block or part of a block per annum"	
Section 60(1)	"cutting from"	"cutting or a sample from"
	"cutting has"	"cutting or the sample has"
	"cutting was"	"cutting or the sample was"
Section 60(2)	"cutting referred"	"cutting or a sample referred"
Section 60(3)	"cutting from"	"cutting or a sample from"
Sections 64(1) and 81(4)	"or imprisonment 5 years"	

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Sections 64(2), 88(5), 98(2) and 99(2)	"\$2,000 or imprison- ment for 12 months"	"\$5,000"
Section 65	"\$2,000 or imprison- ment for 12 months"	"\$10,000 or imprisonment for 5 years"
Section 71	"\$10,000 or imprison- ment for 5 years"	"\$50,000"
Section 75(1)	"\$10,000 or imprison- ment for 5 years"	"\$25,000"
Section 87	"\$200"	"\$500"
Section 93A(1)	"or, where no fee is prescribed, \$750"	
Section 93A(4)	"and the Regulations"	
Section 96(7)	"or where no fee is prescribed, \$300"	
Section 106(2)	"\$1,000 or imprison- ment for 6 months"	"\$5,000"
Section 107	"\$1,000"	"\$2,000"
Sections 109 and 110	"\$5,000 or imprison- ment for 2 years"	"\$10,000"
