

NORTHERN TERRITORY OF AUSTRALIA

PETROLEUM AMENDMENT ACT 1990

No. 45 of 1990

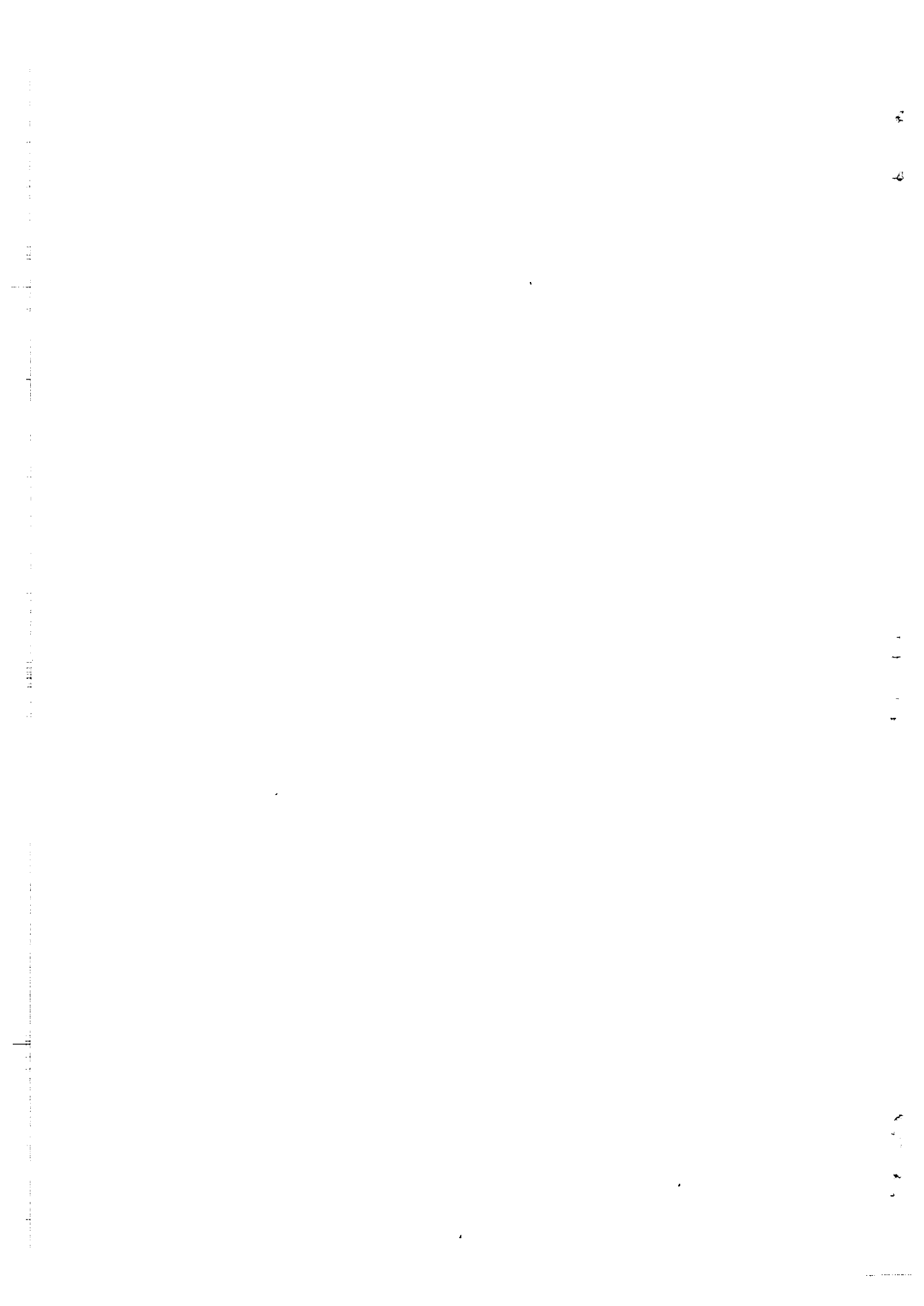
TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Principal Act
4. Interpretation
5. No negotiations without consent of Minister
6. Rights conferred by permit
7. Rights conferred by retention licence
8. Rights conferred by production licence
9. Permit held by 2 or more persons
10. Royalties
11. Particulars to be entered in Register
12. Repeal and substitution:

 "93. APPROVAL OF TRANSFERS
 "93A. REGISTRATION OF TRANSFERS"
13. Approval of instruments creating, &c.,
 interests
14. New section:

 "96A. DRILLING FUNDS"
15. Application, savings and transitional





NORTHERN TERRITORY OF AUSTRALIA

No. 45 of 1990

AN ACT

to amend the *Petroleum Act*

[Assented to 20 September 1990]

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 1990*.

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

4. INTERPRETATION

Section 5(1) of the Principal Act is amended by omitting from the definition of "permittee" and "retention licensee" the word "the" (wherever occurring) and substituting "a".

5. NO NEGOTIATIONS WITHOUT CONSENT OF MINISTER

Section 13(5) of the Principal Act is amended by omitting "section 40(2)" and substituting "section 41(1)".

Petroleum Amendment

6. RIGHTS CONFERRED BY PERMIT

Section 29(1) of the Principal Act is amended by inserting after "permittee" the words "or, if there is more than one, the permittees jointly".

7. RIGHTS CONFERRED BY RETENTION LICENCE

Section 42(1) of the Principal Act is amended by inserting after "licensee" the words "or, if there is more than one, the retention licensees jointly".

8. RIGHTS CONFERRED BY PRODUCTION LICENCE

Section 56 of the Principal Act is amended by inserting after "licensee" the words "or, if there is more than one, the production licensees jointly".

9. PERMIT HELD BY 2 OR MORE PERSONS

Section 66(1) of the Principal Act is amended by omitting "as tenants in common".

10. ROYALTIES

Section 84(4) of the Principal Act is amended by omitting "Royalty is not payable in relation to petroleum which is -" and substituting "For the purposes of calculating the amount of royalty payable, petroleum shall be deemed not to have been produced in the period to which the royalty calculation relates if, during that period, that petroleum is -".

11. PARTICULARS TO BE ENTERED IN REGISTER

Section 91 of the Principal Act is amended by omitting "the permittee" (wherever occurring) and substituting "each permittee".

12. REPEAL AND SUBSTITUTION

Section 93 of the Principal Act is repealed and the following substituted:

"93. APPROVAL OF TRANSFERS

"(1) Subject to this Act, a permittee or licensee may transfer his interest or any part of his interest in a permit or licence to any person or persons and for that purpose may apply in writing to the Minister for the Minister's approval under this section to the transfer.

"(2) An application to the Minister under subsection (1) shall be accompanied -

- (a) by the instrument of transfer, duly executed by the transferor and transferee, together with a copy of that instrument; and

Petroleum Amendment

(b) where there are permittees or licensees other than the transferor registered against the permit or licence -

- (i) by the consent in writing of each of the other permittees or licensees; or
- (ii) if consent has not been obtained, by a copy of each notice of intention served on those permittees or licensees pursuant to subsection (5).

"(3) The Minister shall not accept an application under subsection (1) unless the application is made within 3 months after the date on which the party who last executed the instrument of transfer to which the application relates so executed it or within such extended period as the Minister, in special circumstances, allows.

"(4) Where an application under this section is accepted by the Minister, he shall direct the Registrar to enter a memorial in the Register of the date on which the application was accepted and to make such other notation in the Register as the Minister thinks fit.

"(5) Where the written consent of other permittees or licensees registered against a permit or licence has not been obtained by the transferor, the transferor shall, before making an application under subsection (1), serve on each permittee or licensee who has not consented, a notice of his intention to apply to the Minister for approval to the proposed transfer and, in the notice -

- (a) specify the identity of the transferee and the interest to be transferred; and
- (b) specify a date, being not earlier than 30 days after the day on which the application will be lodged with the Minister, by which the person on whom the notice is served may, to the Minister in writing, object to the proposed transfer or make submissions in relation to it.

"(6) Where the Minister accepts an application under this section, the Minister shall -

- (a) if all consents are given or no consents are needed, as soon as practicable after accepting the application, determine the application;
- (b) if all consents are given before the date specified under subsection (5)(b), determine the application as soon as practicable after the last consent has been given; or

Petroleum Amendment

- (c) if no objection or submission in relation to the transfer has been received by the Minister before the date specified under subsection (5)(b), determine the application as soon as practicable after that date.

"(7) The Minister may, if a submission in relation to a transfer is received, or shall, if an objection to the transfer is received (in each case before the date specified under subsection (5)(b)), give the applicant a copy of the submission or objection and specify a date (being not earlier than 30 days after the date of the notice) by which the applicant may respond in writing to the Minister in relation to the submission or objection, and shall, as soon as practicable after that due date, determine the application.

"(8) The Minister may, before determining an application under this section, request from any person, being a party to a proposed transfer or a permittee or licensee registered against a permit or licence in which an interest is proposed to be transferred, and that person shall provide, such information relating to the transfer as the Minister thinks necessary or expedient to assist him in determining the application.

"(9) In determining an application under this section, the Minister shall take into account -

- (a) any objection or submission received from a permittee or licensee before the date specified under subsection (5)(b);
- (b) any response to an objection or submission received from a transferor or transferee before the date specified under subsection (7);
- (c) if the transferee is not already a registered holder of an interest in the permit or licence, the technical capacity and financial resources and standing of the transferee;
- (d) the terms and conditions of any relevant instrument to which section 96 applies; and
- (e) the public interest.

"(10) To determine an application under this section the Minister shall either -

- (a) subject to subsection (11), approve it; or
- (b) refuse to approve it.

"(11) The Minister may, before approving an application under this section, require the proposed transferee to lodge a security (or, where a security had previously been lodged, further security) with the Minister to better

Petroleum Amendment

secure compliance with the conditions to which the permit or licence is from time to time subject and with this Act and the Regulations.

"93A. REGISTRATION OF TRANSFERS

"(1) Where the Minister approves a transfer under section 93 he shall, as soon as possible, endorse on the instrument of transfer and on the copy, a memorial of approval and direct the Registrar that, on payment of the prescribed fee or, where no fee is prescribed, \$750, the Registrar shall enter in the Register the memorial of the transfer and the name of the transferee.

"(2) A transfer is registered as soon as a memorial of the transfer and the name of the transferee has, under subsection (1), been entered in the Register and, upon that memorial being entered, the transferee becomes the registered holder of the interest in the permit or licence to which the instrument of transfer relates.

"(3) A copy of an instrument of transfer endorsed with the memorial of approval shall be retained by the Registrar and is subject to inspection in accordance with this Part, and the instrument of transfer endorsed with the memorial of approval shall be returned to the person who lodged the application for the transfer.

"(4) An instrument of transfer of an interest in a permit or licence does not convey a legal or equitable interest in the permit or licence until it has been approved by the Minister and entered in the Register under this section, but when so approved and entered the transferee and all other registered holders of an interest in the permit or licence are jointly liable to comply with the conditions to which the permit or licence is from time to time subject and with this Act and the Regulations."

13. APPROVAL OF INSTRUMENTS CREATING, &c., INTERESTS

Section 96 of the Principal Act is amended -

- (a) by inserting in subsection (1), after "section 93 applies", the words "or an interest in a drilling fund under section 96A"; and
- (b) by omitting from subsection (7) "may" and substituting "shall".

14. NEW SECTION

The Principal Act is amended by inserting after section 96 the following:

Petroleum Amendment

"96A. DRILLING FUNDS

"(1) In this section -

'Code' means the *Companies (Northern Territory) Code*;

'drilling fund' means an undertaking, scheme, enterprise, contract or arrangement relating to the exploration, development or management of a permit area or licence area and in respect of which prescribed interests or units in prescribed interests are issued to the public or offered to the public for subscription or purchase or which the public is invited to purchase or in which the public is invited to subscribe or purchase, which has been approved by the Minister, and has complied with Division 6 of Part IV of the Code;

'management company' means a management company within the meaning of Division 6 of Part IV of the Code;

'prescribed interest' means a prescribed interest within the meaning of section 5(1) of the Code, but does not include the transfer of a permit or licence or of an interest in a permit or licence to which section 93 applies nor the creation or assignment of, or dealing with, whether directly or indirectly, a legal or equitable interest in an existing or future permit or licence to which section 96 applies;

'unit', in relation to a drilling fund, means the smallest investment share available in the prescribed interests constituting the fund.

"(2) A management company that proposes to issue to the public, offer to the public for subscription or purchase, or invite the public to subscribe for or purchase, a prescribed interest or unit in a drilling fund shall, before complying with Division 6 of Part IV of the Code, apply in writing for the approval of the Minister to the establishment of the drilling fund.

"(3) In considering an application under subsection (2), the Minister may require such information relating to the application as the Minister thinks necessary or expedient to assist in determining the application, including information relating to the technical capacity and financial resources and standing of the management company or company for which the management company is an agent, and shall take into account the public interest.

"(4) Where the Minister has approved an application under subsection (3) and Division 6 of Part IV of the Code has been complied with in relation to the drilling fund so approved, the management company of the drilling fund

Petroleum Amendment

shall lodge with the Registrar a certified copy of any deed relating to the drilling fund approved pursuant to that Division, and the Registrar, on payment of the prescribed fee (if any), shall register the certified copy.

"(5) The Registrar shall, in relation to a deed registered under subsection (4), on the application of any person and on payment of the prescribed fee (if any), issue to that person a certificate certifying that the deed specified in the certificate has been registered and that the establishment of the drilling fund to which it relates has been approved by the Minister.

"(6) No deed, agreement or arrangement relating to, and no transfer or assignment of, a prescribed interest or unit in a drilling fund is capable of effecting a transfer of a permit or licence or an interest in a permit or licence that is registrable under section 93A.

"(7) Notwithstanding section 119(1), this section applies, with the necessary changes, to and in relation to a permit or lease granted and still in force under the repealed Act as if -

- (a) the reference to a permit or licence were a reference to a permit or, as the case may be, lease granted under the repealed Act;
- (b) the reference to a permit area or licence area were a reference to the area of land to which the permit or lease granted under the repealed Act applies; and
- (c) the reference to sections 93 and 96 were a reference to section 72 of the repealed Act."

15. APPLICATION, SAVINGS AND TRANSITIONAL

Section 119(2) of the Principal Act is amended by inserting after "operation" the words "and that in section 57(3)(a) of the repealed Act there were inserted, after 'which', the words ', during the period to which the royalty calculation relates,'".
