

Serial 76
Petroleum Legislation Amendment Bill 2018
Mr Vowles

A Bill for an Act to amend the *Petroleum Act* and the *Petroleum (Environment)
Regulations*

NORTHERN TERRITORY OF AUSTRALIA

PETROLEUM LEGISLATION AMENDMENT ACT 2018

Act No. [] of 2018

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2018

An Act to amend the *Petroleum Act* and the *Petroleum (Environment) Regulations*

[Assented to [] 2018]
[Introduced [] 2018]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Petroleum Legislation Amendment Act 2018*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Petroleum Act

3 Act amended

This Part amends the *Petroleum Act*.

4 Section 5 amended (Interpretation)

Section 5(1)

insert (in alphabetical order)

appropriate person, to hold a permit or licence under this Act, see section 15A.

hydraulic fracturing means the underground gas and oil extraction process involving the injection of fluids at high pressure into a geological formation to induce fractures that conduct hydrocarbons for extraction.

5 Section 15A inserted

After section 15, in Part II, Division 1

insert

15A Appropriate person to hold permit or licence

- (1) In determining whether to grant a permit or licence, the Minister must be satisfied that the applicant is an appropriate person to hold a permit or licence under this Act, having regard to the following matters:
- (a) whether the person has contravened the prescribed legislation;
 - (b) whether the person has held a licence or other authority under the prescribed legislation that has been suspended or revoked;
 - (c) the person's record of compliance with the prescribed environmental legislation;
 - (d) whether in the opinion of the Minister, the action or thing to be authorised by the permit or licence is or will be under the control of a technically competent person;
 - (e) whether in the opinion of the Minister, the person is of good repute, having regard to character, honesty and integrity;
 - (f) whether the person has, within the previous 10 years, been convicted in the Territory or elsewhere of an offence involving fraud or dishonesty;
 - (g) whether the person, within the previous 3 years, was an undischarged bankrupt or applied to take the benefit of any

law for the relief of bankrupt or insolvent debtors, entered into an arrangement with the person's creditors or made an assignment of the person's remuneration for their benefit;

- (h) whether the person is or was a director of a body corporate that is the subject of a winding-up order or for which a controller or administrator has been appointed within the previous 3 years;
 - (i) whether the person has demonstrated to the Minister the financial capacity to comply with the person's obligations under the permit or licence;
 - (j) whether the person is in partnership, in connection with the action that is the subject of the permit or licence, with a person whom the Minister does not consider to be an appropriate person under this regulation;
 - (k) any other matters the Minister considers relevant in determining whether a person is an appropriate person to hold a permit or licence.
- (2) If the person is a body corporate, the Minister must consider the following additional matters:
- (a) whether a director of the body corporate:
 - (i) has contravened the prescribed legislation or has held a licence or other authority under the prescribed legislation that has been suspended or revoked; or
 - (ii) is or has been the director of another body corporate that has contravened the prescribed legislation or has held a licence or other authority under the prescribed legislation that has been suspended or revoked;
 - (b) in the case of a body corporate that is the subsidiary of another body or company (the **parent company**) – whether:
 - (i) the parent company or a director of the parent company has contravened the prescribed legislation or has held a licence or other authority under the prescribed legislation that has been suspended or revoked; or
 - (ii) a director of the parent company is or has been the director of another body corporate that has contravened the prescribed legislation or has held a licence or other authority under the prescribed legislation that has been suspended or revoked;

- (c) the record of compliance with the prescribed environmental legislation of any director of the body corporate;
 - (d) whether in the opinion of the Minister, a director of the body corporate is of good repute, having regard to character, honesty and integrity;
 - (e) whether a director of the body corporate has, within the previous 10 years, been convicted in the Territory or elsewhere of an offence involving fraud or dishonesty;
 - (f) whether the body corporate is the subject of a winding up order or has had a controller or administrator appointed within the previous 3 years.
- (3) In this section, a reference to a director of a body corporate includes a reference to a person concerned in the management of the body corporate.
- (4) Despite subsection (1), the Minister may disregard contraventions mentioned in that subsection having regard to:
- (a) the degree of seriousness of the contraventions; and
 - (b) the length of time since the contraventions occurred; and
 - (c) any other matters that appear relevant to the Minister.
- (5) The Minister must publish, on the Agency's website, the reasons why the Minister has determined that an applicant, and any parent company or associated entity of the applicant, is or is not an appropriate person to hold a licence or permit under this Act.
- (6) In this section:

prescribed environmental legislation means the following:

- (a) the *Environmental Assessment Act 1982*;
- (b) the *Waste Management and Pollution Control Act 1998*;
- (c) the *Environment Protection and Biodiversity Conservation Act 1999* (Cth);
- (d) the *Environment Protection Act 1997* (ACT);
- (e) the *Protection of the Environment Operations Act 1997* (NSW);
- (f) the *Environmental Protection Act 1994* (Qld);

- (g) the *Environment Protection Act 1993* (SA);
- (h) the *Environmental Management and Pollution Control Act 1994* (Tas);
- (i) the *Environment Protection Act 2017* (Vic);
- (j) the *Environmental Protection Act 1986* (WA);
- (k) an Act of another jurisdiction that is similar in nature and purpose to an Act listed above.

prescribed legislation means the following:

- (a) prescribed environmental legislation;
- (b) the *Territory Parks and Wildlife Conservation Act 1976*;
- (c) the *Work Health and Safety (National Uniform Legislation) Act 2011*;
- (d) the *Work Health and Safety Act 2011* (Cth);
- (e) the *Work Health and Safety Act 2011* (ACT);
- (f) the *Work Health and Safety Act 2011* (NSW);
- (g) the *Work Health and Safety Act 2011* (Qld);
- (h) the *Work Health and Safety Act 2012* (SA);
- (i) the *Work Health and Safety Act 2012* (Tas);
- (j) the *Occupational Health and Safety Act 2004* (Vic);
- (k) the *Occupational Safety and Health Act 1984* (WA);
- (l) the *Petroleum Act 1984*;
- (m) the *Offshore Petroleum and Greenhouse Storage Amendment Act 2013* (Cth);
- (n) the *Petroleum Act 1998* (VIC);
- (o) the *Petroleum (Onshore) Act 1991* (NSW);
- (p) the *Petroleum and Gas (Production and Safety) Act 2004* (QLD);
- (q) the *Petroleum and Geothermal Energy Resources Act 1967* (WA);

- (r) the *Petroleum and Geothermal Energy Act 2000* (SA);
- (s) the *Mineral Resources Development Act 1995* (TAS);
- (t) the *Corporations Act 2001* (Cth);
- (u) the *Australian Securities and Commission Act 2001* (Cth);
- (v) an Act of another jurisdiction that is similar in nature and purpose to an Act listed above.

6 Section 16 amended (Application for exploration permit)

After section 16(3)(e)

insert

- (ea) evidence that the applicant, and any parent company or associated entity of the applicant, is an appropriate person or body to be granted an exploration permit; and

7 Section 45 amended (Application for production licence)

- (1) Section 45(1), after "lodging"

insert

the following

- (2) After section 45(1)(e)

insert

- (ea) evidence that the applicant, and any parent company or associated entity of the applicant, is an appropriate person or body to be granted a production licence;

- (3) Section 45(1)(j)

omit

and

8 Part II, Division 6, Subdivision 1 inserted

Before section 57AB, in Part II, Division 6

insert

Subdivision 1 Judicial review**57ABA Judicial review of decision or determination**

Any person may seek judicial review by the Supreme Court of a decision or determination specified in the Schedule, whether or not any right of the person has been affected by, or as a consequence of, the decision or determination.

Note for section 57AB

Order 56 of the Supreme Court Rules applies in relation to judicial review.

Subdivision 2 Review on merits**9 Section 58 amended (General conditions)**

- (1) Section 58(a), (b)(ii) and (c) to (g), at the end

insert

and

- (2) After section 58(a)

insert

(ab) comply with any code of conduct adopted under this Act; and

10 Section 93 amended (Approval of transfers)

- (1) Section 93(9)(a) and (b), at the end

insert

and

- (2) Section 93(9)(c)

omit

all words after "or"

insert

licence:

- (i) the technical capacity and financial resources and standing of the transferee; and
- (ii) evidence that the transferee, and any parent company or associated entity of the transferee, is an appropriate person or body to hold a permit or licence under this Act; and

11 Section 118 amended (Regulations)

- (1) Section 118(2)(a) to (g), (h)(ii) and (j) to (q), at the end

insert

and

- (2) After section 118(2)(r)

insert

(ra) the making and the enforcement of a code of practice, including by providing that a contravention of the code or standard is an offence against the regulations; and

- (3) After section 118(3)

insert

- (4) In addition to the matters mentioned in subsection (3), regulations for protection of the environment may provide for a scheme under which persons proposing to undertake certain activities under this Act must obtain prior Ministerial approval of an environment management plan.
- (5) A scheme mentioned in subsection (4) may include the prescribing of decisions made under the regulations and who may apply for judicial review or merits review of those decisions.
- (6) A scheme mentioned in subsection (4) may also require that a plan submitted for approval be accompanied by other documents as the Administrator considers appropriate.
- (7) In this section:

environment management plan means a plan that addresses potential environmental risks and impacts that might arise from carrying on the activities contemplated by the plan.

12 Schedule inserted

After section 125

*insert***Schedule Judicial Review of decision or determination**

section 57ABA

| Provision | Decision or determination |
|------------------|---|
| section 9(1) | A decision to reserve blocks from exploration permit or licence |
| section 10(1) | A decision to revoke or vary reservation of block |
| section 13(4) | A decision to give or refuse consent to negotiations |
| section 13(7)(a) | A decision to withdraw consent |
| section 13(7)(b) | A decision to refuse application |
| section 13(8)(b) | A decision to later give, or again give, consent |
| section 16(1) | A decision to invite applications for grant of exploration permit |
| section 17(2) | A decision on which application has greatest merit |
| section 20(3) | A determination to grant or refuse exploration permit |
| section 23(3)(b) | A decision to accept application for renewal of exploration permit |
| section 24(4) | A decision to accept application for renewal of exploration permit despite non-compliance |
| section 24(5)(b) | A decision to give directions concerning blocks in respect of which application may be made |
| section 24A(4) | A decision to grant exemption from the requirement to reduce permit area |
| section 24A(6) | A decision to extend term of exemption |

| Provision | Decision or determination |
|------------------|---|
| section 25(1)(b) | A decision to renew exploration permit despite non-compliance |
| section 27 | A decision to grant or renew exploration permit subject to conditions |
| section 28(2) | A decision to vary, suspend or waive a condition of exploration permit |
| section 28(3) | A decision to extend term of exploration permit |
| section 29(3) | A decision to grant production licence subject to conditions considered appropriate |
| section 30(1) | A decision requiring permittee to show cause |
| section 30(2) | A decision directing permittee to apply for production licence |
| section 30(3) | A decision to cancel exploration permit |
| section 30(4) | A decision to allow longer period to show cause |
| section 34(1) | A determination to grant or refuse retention licence |
| section 37(3)(b) | A decision to accept application for renewal of retention licence |
| section 38(1)(b) | A decision indicating preparedness to renew retention licence despite non-compliance |
| section 38(2) | A decision indicating preparedness to renew retention licence |
| section 38(3) | A decision to refuse to renew retention licence |
| section 41(2) | A decision to vary, suspend or waive condition of retention licence |
| section 41(3) | A decision to appoint person to evaluate proposal to vary, suspend or waive condition |
| section 42(2) | A decision to grant production licence subject to conditions considered appropriate |
| section 43(1) | A decision to require retention licensee to show cause |

| Provision | Decision or determination |
|--------------------|---|
| section 43(2) | A decision to direct licensee to apply for production licence |
| section 43(3) | A decision to cancel retention licence |
| section 43(4) | A decision to allow longer period to show cause or apply for production licence |
| section 46(3) | A decision to grant production licence for less than 1 block, or more than 1 discrete area if satisfied |
| section 47(1) | A determination to grant production licence if satisfied of certain matters |
| section 47(2) | A determination to grant or refuse to grant production licence |
| section 51(3) | A decision to accept application for renewal of production licence |
| section 52(1)(b) | A decision indicating preparedness to renew production licence despite non-compliance |
| section 52(2) | A decision indicating preparedness to renew production licence |
| section 55(2) | A decision to vary, suspend or waive condition of production licence |
| section 55(3) | A decision to appoint person to evaluate proposal to vary, suspend or waive condition |
| section 57(4) | A decision to repeal or vary a declaration by production licensee |
| section 57A(3) | A decision to grant or refuse to grant access authority |
| section 57A(4) | A decision to impose conditions on access authority |
| section 57A(5) | A decision to vary access authority area or condition |
| section 57A(10) | A decision to renew access authority |
| section 57A(11)(b) | A decision to cancel access authority |

| Provision | Decision or determination |
|-----------------------|--|
| section 57A(12) | A decision to direct removal of thing from area of previous access authority, or rehabilitation of area |
| section 57B(3) | A decision to declare that Part IIA of Act not apply in relation to prescribed petroleum act |
| section 57C(1D) | A decision to do prescribed petroleum act |
| section 57K | A decision to direct parties to attend meeting |
| section 57KA(1) | A decision to refer native title objection to Tribunal |
| section 57L(2) | A decision to accept or reject recommendation, reject, vary, substitute or add conditions |
| section 57N(2) | A determination for prescribed petroleum act |
| section 57N(3) | A determination for prescribed petroleum act |
| section 57N(4)(b)(ii) | A decision to do an act, or impose conditions, taking matters into account |
| section 61 | A decision to release information |
| section 68 | A decision to require area of permit or licence to be fenced |
| section 69(1)(a) | A decision to add blocks to area of licence |
| section 69(1)(b) | A decision to require preparation of scheme to work and develop petroleum pool as one unit |
| section 71(1) | A decision to give directions to permittee or licensee |
| section 72(1) | A decision to do thing required by direction if direction not complied with |
| section 73(3)(a) | A decision to give directions before accepting surrender |
| section 73(3)(b) | A decision to accept partial surrender |
| section 74(1) | A decision to cancel permit or licence |
| section 77(1) | A decision to direct removal of thing from area of previous permit or licence, or rehabilitation of area |

| Provision | Decision or determination |
|------------------|---|
| section 78(1) | A decision to remove and dispose of property |
| section 79(1) | A decision requiring security be lodged |
| section 79(3) | A decision to vary amount of security |
| section 80(1) | A decision requiring security for compensation |
| section 83(1) | A decision to do prescribed petroleum act |
| section 93(4) | A decision to accept application to transfer interest |
| section 93(11) | A decision requiring transferee to lodge security |
| section 96(6) | A decision to approve or refuse to approve instrument lodged for approval |
| section 119(2AA) | A decision to renew lease granted under repealed Act |
| section 119(2F) | A decision to give direction |

Part 3 Amendment of Petroleum (Environment) Regulations

13 Regulations amended

This Part amends the *Petroleum (Environment) Regulations*.

14 Regulation 3 amended (Definitions)

Regulation 3, definition ***environment management plan***, paragraph (a), after "management plan"

insert

, as defined in section 118(7) of the Act

15 Part 2, Division 7, Subdivision 1 inserted

Before regulation 29, in Part 2, Division 7

insert

Subdivision 1 Judicial review**29AA Judicial review of decision**

Any person may seek judicial review by the Supreme Court of a decision specified in Schedule 1A, whether or not any right of the person has been affected by, or as a consequence of, the decision.

Note for regulation 29AA

Order 56 of the Supreme Court Rules applies in relation to judicial review.

Subdivision 2 Review by Tribunal**16 Regulation 29 amended (Review by Tribunal)**

Regulation 29(4)

omit

17 Schedule 1 amended (Information to be included in environment management plan)

(1) Schedule 1, clause 10, before "A"

insert

(1)

(2) After schedule 1, clause 10(1)

insert

(2) In this clause:

legislative requirements includes the requirement to comply with a code of practice.

18 Schedule 1A inserted

After Schedule 1

insert

Schedule 1A Judicial Review of decision

regulation 29AA

| Provision | Decision |
|---------------|--|
| regulation 11 | A decision to approve plan subject to conditions or refuse to approve plan |
| regulation 20 | A decision that revision still required |
| regulation 27 | A decision to revoke approval of current plan |

Part 4 Repeal of Act

19 Repeal of Act

This Act is repealed on the day after it commences.