PETROLEUM (SUBMERGED LANDS) AMENDMENT BILL 1985

Date Introduced: 23 April 1985
House: House of Representatives
Presented by: Hon. Barry Jones, M.P., Minister Representing the Minister for Resources and Energy

Short Digest of Bill

Purpose

To introduce retention leases for potentially viable petroleum reserves; clarify the procedure for transfer of exploration or exploitation rights; allow the speedier release of information; improve the operation and administration of the Petroleum (Submerged Lands) Act 1967; enable review of certain Ministerial decisions and to implement an agreement between the Commonwealth and Western Australia Government regarding royalties from the North West Shelf project.

Background

The exploration for and exploitation of oil reserves beyond the territorial sea is regulated by the Petroleum (Submerged Lands) Act 1967 (the Principal Act). Excepting the area surrounding the Ashmore and Cartier Islands, which is under sole Commonwealth control, the Principal Act is implemented by a Joint Authority for each State and the Northern Territory, comprising the Commonwealth and relevant State/Northern Territory Ministers. The Joint Authorities have power to grant exploration permits, production licences and pipeline licences and are assisted in each State and the Northern Territory by the Designated Authority, who is the relevant State or Northern Territory Minister.

If an exploration permit holder is successful in the search for oil, a production licence may be granted by a Joint Authority to allow exploitation of the discovery. Fees are payable on both exploration permits and production licences. Royalties are also payable on oil produced.

There has been some concern recently over oil finds that are not at this stage commercially viable but may, through changing technology or economic conditions, become viable in the near future. There are currently no means for...
the finder to ensure tenure over the discovery. The Bill introduces retention leases to allow tenure to continue over discoveries that are likely to become commercially viable within 15 years.

Main Provisions

An application for a retention lease may be made by an exploration permit holder and must contain details of the work and expenditure proposed and the current and future viability of the area (proposed section 38A). The Joint Authority will offer a retention lease where it is satisfied that the area is not currently commercially viable but will become so within 15 years. The offer is to state any conditions the lease is to be subject to and that the applicant is required to lodge security to ensure compliance with the conditions. The applicant has 1 month to accept the offer (proposed section 38B).

A retention lease will be valid for 5 years unless cancelled. A lease may be cancelled where the Joint Authority determines that production has become commercially viable. On receipt of notice of intention to cancel, the lease holder may provide additional information to the Joint Authority. If the Joint Authority is still of the opinion that production is commercially viable it may cancel the lease, the lease terminating 12 months after the service of notice of the intention to cancel or, if the lease holder makes an application for a production licence, from the determination of that application (proposed section 38E).

Lease holders may apply for renewal of a lease between 12 and 6 months before it expires, the Joint Authority having discretion to accept renewal applications up to the day the lease expires (proposed section 38F). The lease will be renewed if production will become commercially viable within the next 15 years (proposed section 38G).

If petroleum is discovered on a leased area, the lease holder is required to inform the Designated Authority of the discovery and the Designated Authority may request that works be performed to establish the quality and quantity of the discovery. It will be an offence to fail to notify the discovery or to perform the work requested. The maximum penalty for each offence will be $10,000.

Clauses 6, 7, and 8 insert new sections 39A, 40 and 40B and amends section 40 of the Principal Act as a result of the differences in conditions between the area of the Ashmore and Cartier Islands and the rest of Australia. The Petroleum (Submerged Lands) (Royalties) Act 1967 does not apply to the Islands, and exploration permit holders may
apply for production licences over the whole of their permit area, whereas other permit holders may only apply for licences over half of their holdings. The new sections and amendments detail the procedure for applications for production licences in the different areas.

The procedure concerning the transfer of permits, leases, licences or other rights granted under the Principal Act are altered by clause 18 which amends section 78 of the Principal Act as a result of experience in administering the Principal Act. The amendments detail the documents that must accompany a transfer; the registration of the transfer and makes it clear that the execution of a transfer does not create an interest in the permit, licence etc, an interest arising only on registration of the transfer.

The procedure for transfer of less than a full interest in a licence, permit etc is altered by clause 20 which removes the present sections 80 and 81 and inserts new section 81 and 81A. The proposed section 81 deals with transfers of interest in existing licences, permits etc. It clarifies which interests may be transferred, what documents are necessary to support the transfer and the procedure for registration of the transfer. Proposed section 81A allows for applications for approval of the transfer of a future interest. This will arise when people enter into an agreement concerning a licence, permit etc that has yet to be granted. The new section will allow those persons to seek approval of their arrangements before the lease, permit etc, is granted.

Clause 29 amends section 111 of the Principal Act and deals with special prospecting authorities which permit surveys to be conducted. The amendments will allow authorities to be issued over any vacant area and allow more than one authority to be granted for an area.

The speedier release of information supplied to the Government by permit, licence etc holders is attained by amendments to section 118 of the Principal Act (clause 31). Factual data, other than that on the technical and financial resources of the holder is to be released after 2 years, rather than the current 5 years.

Opinions or conclusions drawn from the factual data are to remain confidential for 5 years, with the supplier of the opinion or conclusion having the right to request of the Minister that the opinion or conclusion remain confidential after that period on the grounds that the release would harm the business or endanger a trade secret. The Minister is required to furnish the reasons for his decision to the supplier of the opinion or conclusion.
The provision dealing with payments to the States and Northern Territory from petroleum levies (section 129 of the Principal Act) is amended by clause 33. The amendments detail the agreement between the Commonwealth and Western Australia regarding royalties from the North West Shelf project and waive a share of the Commonwealth's royalties to assist the Western Australian Government in meeting its obligations to the other joint venturers.

A right to appeal to the Administrative Appeals Tribunal from certain discretionary Ministerial decisions is introduced by new section 152 (clause 35). A person adversely affected may apply to have reviewed Ministerial decisions made: as the Designated Authority; on the release of information or as the result of a request that the Minister review such a decision.

The power to make regulations is increased to include regulations adopting codes of practice or technical standards. This will allow safety and engineering practices to be controlled (clause 36).

The Bill, excepting formal clauses 1 and 2, will operate from a day or days fixed by Proclamation. Clauses 1 and 2 will operate from the Royal Assent (clause 2).

For further information, if required, contact:

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