Offshore Petroleum (Royalty) Amendment Bill 2011

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Law and Bills Digest Section

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Offshore Petroleum (Royalty) Amendment Bill 2011

Date introduced: 25 May 2011

House: House of Representatives

Portfolio: Resources and Energy

Commencement: Sections 1–3 on the day of Royal Assent; Schedule 1 at the same time as Part 1 of Schedule 2 to the Offshore Petroleum Greenhouse Gas Storage Amendment (National Regulator) Act 2011 commences.

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill's home page, or through http://www.aph.gov.au/bills/. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.

Purpose

The purpose of the Offshore Petroleum (Royalty) Amendment Bill 2011 (the Bill) is to amend the Offshore Petroleum (Royalty) Act 2006 to correctly reference the new National Offshore Petroleum Titles Administrator—NOPTA.

Background

The Offshore Petroleum (Royalty) Act 2006 (the Royalty Act) deals with royalties payable to WA from petroleum produced by the North West Shelf Project. This Bill is one of a suite of Bills, the primary Bill being the Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011 (the National Regulator Bill). The Bills Digest on the National Regulator Bill will canvas all the major issues which that Bill is either introducing or amending.

The National Regulator Bill establishes two new bodies: the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) and the National Offshore Petroleum Titles Administrator (NOPTA or the Titles Administrator). See the Registration Fees Bills Digest.  

The Royalty Act sets out the royalty payable in respect of petroleum produced in the North West Shelf project area. Items 1-3 of this Bill propose to amend the Royalty Act to substitute the term, Designated Authority with the term, Titles Administrator. The two new regulatory bodies, NOPSEMA and NOPTA will replace the existing state and territory based Designated Authorities and their functions.

Schedule 1 of this Bill will commence at the same time as Part 1 of Schedule 2 of the Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011.

Committee consideration

On 25 May 2011, the suite of Bills was referred to the Senate Economics Legislation Committee (the Senate Committee) for inquiry and report. The Senate Committee reported on this suite of Bills on 16 June 2011 and recommended that the Bills be passed subject to consideration by the Senate Scrutiny of Bills Committee.

Currently, payment of royalties by licence holders is made directly to the Department of Resources Energy and Tourism (DRET). DRET then pays Western Australia’s (WA) share of the royalties as a Commonwealth grant.

The Department of Mines and Petroleum submission (on behalf of the Western Australian Government) states that WA does not support the amendments to the Royalty Act. This is based on concerns that the replacement of the Designated Authorities by the Titles Administrator will have the effect of removing WA’s ‘involvement in forecasting, assessing and negotiating royalties associated with the North West Shelf Project’. This would have implications for WA’s budget.

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5. Details of the terms of reference, the submissions to the inquiry, and the final report can be viewed at: http://www.aph.gov.au/Senate/committee/economics_ctte/offshore_petroleum_2011/index.htm
8. Ibid.
9. Ibid.

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forecasting as the ‘royalties paid by the North West Shelf Project is substantial and forms a key component of the State’s budget’.

The Senate Committee, in relation to the administration of the royalties noted:

The representatives from the Commonwealth department acknowledged that, under the proposed arrangements, the WA Government would not have a firm legislated role in the administration of the royalties. However, as noted in chapter 4, an MoU is being developed between the Commonwealth and WA to determine the functions which could be performed by Western Australian officials on a cost recovery basis. DRET suggested that the royalty issue

...is probably a good example of where a service-level agreement might be able to be entered into, whereby the Western Australian department continues to undertake its current roles in relation to the collection and verification of the royalties and they would still be in the same position that they are now in the calculation of their estimates.10

The Senate Economics Committee acknowledged:

that the Western Australian Government should be able to access timely estimates of the revenue it will receive from the royalty payments to assist its budget processes. However, the committee agrees with the Commonwealth Department of Resources, Energy and Tourism that issues regarding the administration and estimates of royalty revenue are best addressed through subsequent agreements between the Commonwealth and Western Australia governments.11

Provisions

The Bill makes a number of amendments to the Offshore Petroleum (Royalty) Act 2006 by substituting the term Designated Authority with the term Titles Administrator.

10. Ibid., p. 34.
11. Ibid., p. 39.

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