



Petroleum (Submerged Lands) Legislation Amendment Act 2001

No. 28, 2001



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**An Act to amend the *Petroleum (Submerged Lands)
Act 1967*, and for other purposes**

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Petroleum (Submerged Lands) Legislation Amendment Act 2001

No. 28, 2001

An Act to amend the *Petroleum (Submerged Lands) Act 1967*, and for other purposes

[Assented to 28 April 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Petroleum (Submerged Lands) Legislation Amendment Act 2001*.

2 Commencement

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

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- (2) Part 1 of Schedule 1 commences on the 28th day after the day on which this Act receives the Royal Assent.
 - (3) Part 3 of Schedule 1 is taken to have commenced on 7 March 2000, immediately after the commencement of the items in Schedule 1 to the *Petroleum (Submerged Lands) Legislation Amendment Act (No. 1) 2000* that commenced on that day.
 - (4) Part 4 of Schedule 1 commences at the end of the period of 6 months beginning on the day on which this Act receives the Royal Assent.
 - (5) Schedule 3 is taken to have commenced on 30 July 1998.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Petroleum (Submerged Lands) Act 1967

Part 1—Transfer of power to the Designated Authority

1 Subsection 22A(6)

Omit “Joint Authority”, substitute “Designated Authority”.

2 Paragraphs 22C(b) and (c)

Omit “Joint Authority”, substitute “Designated Authority”.

3 Subsections 36(6), (7), (8) and (9)

Omit “Joint Authority” (wherever occurring), substitute “Designated Authority”.

4 Section 37

Omit “Joint Authority” (wherever occurring), substitute “Designated Authority”.

5 Paragraph 38E(1)(a)

Omit “Joint Authority”, substitute “Designated Authority”.

6 Paragraph 38H(3)(b)

Omit “Joint Authority” (wherever occurring), substitute “Designated Authority”.

7 Subsection 38H(4)

Omit “Joint Authority”, substitute “Designated Authority”.

8 Paragraph 39A(5)(b)

Omit “Joint Authority”, substitute “Designated Authority”.

9 Paragraph 40(4)(b)

Omit “Joint Authority”, substitute “Designated Authority”.

10 Subsection 78(1)

Omit “Joint Authority”, substitute “Designated Authority”.

11 Subsection 78(2)

Omit “by the Joint Authority”.

12 Subsections 78(4), (6), (7), (9) and (11)

Omit “Joint Authority” (wherever occurring), substitute “Designated Authority”.

13 Subsections 81(2), (3), (5) and (6)

Omit “Joint Authority” (wherever occurring), substitute “Designated Authority”.

14 Subsections 81(10), (11), (12) and (14)

Omit “Joint Authority” (wherever occurring), substitute “Designated Authority”.

15 Subsection 81A(1)

Omit “Joint Authority” (wherever occurring), substitute “Designated Authority”.

16 Subsection 84(1A)

Omit “by the Joint Authority”.

17 Subsection 85(1)

Omit “him or make available for inspection by him or by or on behalf of the Joint Authority”, substitute “the Designated Authority or make available for inspection by or on behalf of the Designated Authority”.

18 Section 92

Omit “or the Joint Authority”.

19 Transitional—acts of the Joint Authority to be attributed to the Designated Authority

- (1) This item applies to any thing done by, or in relation to, the Joint Authority under any of the following provisions of the *Petroleum (Submerged Lands) Act 1967* before the commencement of this item:
- (a) subsection 22A(6);
 - (b) subsections 36(6) to (9) (inclusive);

- (c) section 37;
 - (d) paragraph 38H(3)(b);
 - (e) subsection 38H(4);
 - (f) paragraph 39A(5)(b);
 - (g) paragraph 40(4)(b);
 - (h) section 78;
 - (i) section 81;
 - (j) subsection 81A(1);
 - (k) subsection 85(1).
- (2) The thing has effect, after the commencement of this item, as if it had been done by, or in relation to, the Designated Authority.

20 Transitional—references in instruments to the Joint Authority become references to the Designated Authority

- (1) For the purposes of this item, an *eligible instrument* is an instrument that:
- (a) was in force immediately before the commencement of this item; and
 - (b) contains a reference to the Joint Authority; and
 - (c) arises out of, or is connected with, anything done by, or in relation to, the Joint Authority under any of the following provisions of the *Petroleum (Submerged Lands) Act 1967* before the commencement of this item:
 - (i) subsection 22A(6);
 - (ii) subsections 36(6) to (9) (inclusive);
 - (iii) section 37;
 - (iv) paragraph 38H(3)(b);
 - (v) subsection 38H(4);
 - (vi) paragraph 39A(5)(b);
 - (vii) paragraph 40(4)(b);
 - (viii) section 78;
 - (ix) section 81;
 - (x) subsection 81A(1);
 - (xi) subsection 85(1).

Schedule 1 Amendment of the Petroleum (Submerged Lands) Act 1967

Part 1 Transfer of power to the Designated Authority

- (2) The Minister may, by writing, declare that a specified eligible instrument has effect, after the commencement of this item, as if each reference in the instrument to the Joint Authority were a reference to the Designated Authority.

Note: An instrument may be specified by name, by inclusion in a specified class or in any other way.

- (3) A declaration under subitem (2) has effect accordingly.

- (4) In this item:
instrument includes a document.

21 Transitional—regulations

The Governor-General may make regulations providing for matters of a transitional nature arising from the amendments made by this Part.

Part 2—Liability of officials etc.

22 Section 89

Repeal the section.

23 Subsection 140AA(2)

Omit “approval given in good faith under”, substitute “act or matter in good faith done or omitted to be done in the exercise, or purported exercise, of any power or authority conferred by”.

Note: The heading to section 140AA is altered by omitting “**approvals given**” and substituting “**acts or matters done or omitted to be done**”.

24 At the end of section 140AA

Add:

- (4) This section has effect subject to section 88.
- (5) This section does not affect:
 - (a) any rights conferred on a person by the *Administrative Decisions (Judicial Review) Act 1977* to make an application to a court in respect of:
 - (i) a decision; or
 - (ii) conduct engaged in for the purpose of making a decision; or
 - (iii) a failure to make a decision; or
 - (b) any other rights that a person has to seek a review by a court or tribunal in respect of:
 - (i) a decision; or
 - (ii) conduct engaged in for the purpose of making a decision; or
 - (iii) a failure to make a decision.
- (6) An expression used in subsection (5) has the same meaning as in section 10 of the *Administrative Decisions (Judicial Review) Act 1977*.

25 Application of amendments

Schedule 1 Amendment of the Petroleum (Submerged Lands) Act 1967

Part 2 Liability of officials etc.

The amendments made by this Part apply to acts or matters done or omitted to be done after the commencement of this item.

Part 3—Removal of property by permittee etc.

26 Subsections 107(1) and (1A)

Repeal the subsections, substitute:

(1) If:

- (a) a permit has been wholly or partly determined or wholly or partly cancelled, or has expired; or
- (b) a lease has been wholly or partly determined or wholly cancelled, or has expired; or
- (c) a licence has been wholly or partly determined or wholly or partly cancelled, has been terminated or has expired; or
- (d) an infrastructure licence has been cancelled or has been terminated; or
- (e) a pipeline licence has been wholly or partly determined or wholly or partly cancelled, or has been terminated;

the Designated Authority may, by written notice served on the person who was, or is, as the case may be, the permittee, licensee, lessee, infrastructure licensee or pipeline licensee, direct the person to do any one or more of the following:

- (f) to remove or cause to be removed from the relinquished area all property brought into the area by any person engaged or concerned in the operations authorised by the permit, lease, licence, infrastructure licence or pipeline licence or to make arrangements that are satisfactory to the Designated Authority with respect to the property;
- (g) to plug or close off, to the satisfaction of the Designated Authority, all wells made in that area by any person engaged or concerned in those operations;
- (h) subject to this Part and to the regulations, to make provision, to the satisfaction of the Designated Authority, for the conservation and protection of the natural resources in that area;
- (i) to make good, to the satisfaction of the Designated Authority, any damage to the sea-bed or subsoil in that area caused by any person engaged or concerned in those operations.

27 Paragraph 107(3)(b)

Repeal the paragraph, substitute:

- (b) in the case of a direction given under subsection (2) in respect of:
 - (i) a permit; or
 - (ii) a lease; or
 - (iii) a licence granted before the commencement of subsection 53(2) that has not been renewed more than once;
on or before the date of expiration of the permit, lease or licence; or
- (c) in the case of a direction given under subsection (2) in respect of:
 - (i) a licence (other than a licence to which paragraph (b) applies); or
 - (ii) an infrastructure licence; or
 - (iii) a pipeline licence;
on or before the first date on which the licence, infrastructure licence or pipeline licence can be terminated under this Part.

28 Transitional—section 107 of the *Petroleum (Submerged Lands) Act 1967*

- (1) This item applies if the Designated Authority purported to give a notice under subsection 107(1A) of the *Petroleum (Submerged Lands) Act 1967* during the period:
 - (a) beginning at the commencement of this item; and
 - (b) ending immediately before the day on which this Act received the Royal Assent.
- (2) The *Petroleum (Submerged Lands) Act 1967* has effect, after the commencement of this item, as if the notice had been given under subsection 107(1) of that Act as amended by this Part.

28A Transitional—acts or omissions that happen before Royal Assent

- (1) For the purposes of this item, the *transitional period* is the period:
 - (a) beginning at the commencement of this item; and
 - (b) ending immediately before the day on which this Act received the Royal Assent.

- (2) This Part does not have the effect of making a person liable to prosecution for an offence constituted by an act or omission that happens during the transitional period.
- (3) Paragraph 108(2)(b) of the *Petroleum (Submerged Lands) Act 1967* does not apply to a failure to remove property during the transitional period in accordance with a direction under section 107 of that Act.
- (4) Paragraphs 113(2)(b) and (3)(b) of the *Petroleum (Submerged Lands) Act 1967* do not apply in relation to the doing of any thing required to be done during the transitional period by a direction under section 107 of that Act.

Part 4—Datums

29 Subsection 5(1)

Insert:

datum means a reference frame for defining geographic co-ordinates.

Note: If the position on the surface of the Earth of a particular point is identified by a co-ordinate that is determined by reference to a particular datum, the use of a different datum will result in the same point being identified by a different co-ordinate.

30 Subsection 5(1)

Insert:

geographic co-ordinate includes:

- (a) a meridian of longitude by itself; and
- (b) a parallel of latitude by itself.

31 At the end of subsection 5A(7)

Add:

Note: For datum, see section 150M.

32 At the end of section 17

Add:

Note: For datum, see section 150M.

33 After Part IIIA

Insert:

Part IIIB—Datums

Division 1—Points etc. to be ascertained by reference to certain datums

150L Objects

The main objects of this Division are:

- (a) to maintain the use of the Australian Geodetic Datum to determine the position of blocks and certain other areas; and
- (b) to enable the position of a point, line, block or other area to be described, in a title or other instrument under this Act, using another datum (but not so as to change the position of a point, line, block or area).

150M Australian Geodetic Datum

- (1) For the purposes of this Act, the position on the surface of the Earth of:
 - (a) a graticular section or block; or
 - (b) a parallel of latitude described in subsection 5A(7); or
 - (c) an area described in Schedule 2; or
 - (d) an area described in Schedule 6;is to be determined by reference to the Australian Geodetic Datum.

Note: *Australian Geodetic Datum* is defined in section 150W.

- (2) Subject to subsection (3), subsection (1) does not apply for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line or area.
- (3) Until a declaration under subsection 150N(1) takes effect, the Australian Geodetic Datum applies for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line or area.

150N Current datum, previous datum and changeover time

- (1) The regulations may declare that, for the purposes of describing, in a title or other instrument under this Act, the position on the surface of the Earth of a point, line or area:
 - (a) a specified datum is the *current datum*; and
 - (b) that datum replaces the previous datum.
- (2) The *previous datum* is:
 - (a) if a datum is the first datum declared to be the current datum under subsection (1)—the Australian Geodetic Datum; or
 - (b) in any other case—the datum that was the current datum immediately before the changeover time.

- (3) The *changeover time* is the time when the declaration takes effect.

150P Use of current datum

For the purposes of this Act, the position on the surface of the Earth of the following:

- (a) the permit area of a permit granted or renewed after the changeover time;
- (b) the lease area of a lease granted or renewed after the changeover time;
- (c) the licence area of a licence granted or renewed after the changeover time;
- (d) the infrastructure licence area of an infrastructure licence granted after the changeover time;
- (e) the area in respect of which a special prospecting authority granted after the changeover time is in force;
- (f) the area in respect of which an access authority granted after the changeover time is in force;
- (g) the route of a pipeline authorised by a pipeline licence granted after the changeover time;
- (h) a point, line or area set out in any other instrument under this Act made after the changeover time;

is to be described by reference to the current datum, and the title or instrument may be annotated accordingly.

150Q Use of previous datum

- (1) For the purposes of this Act, the position on the surface of the Earth of the following:
- (a) the permit area of a permit in force immediately before the changeover time;
 - (b) the lease area of a lease in force immediately before the changeover time;
 - (c) the licence area of a licence in force immediately before the changeover time;
 - (d) the infrastructure licence area of an infrastructure licence in force immediately before the changeover time;
 - (e) the area in respect of which a special prospecting authority in force immediately before the changeover time is in force;

- (f) the area in respect of which an access authority in force immediately before the changeover time is in force;
 - (g) the route of a pipeline authorised by a pipeline licence in force immediately before the changeover time;
 - (h) a point, line or area set out in any other instrument under this Act in force immediately before the changeover time;
- is to be described by reference to the previous datum.

(2) Subsection (1) has effect subject to section 150R.

150R Variation of titles etc.

- (1) The regulations may authorise the Designated Authority to issue an instrument varying a permit in force immediately before the changeover time for the sole purpose of relabelling the permit area using geographic co-ordinates based on the current datum.
- (2) The regulations may authorise the Designated Authority to issue an instrument varying a lease in force immediately before the changeover time for the sole purpose of relabelling the lease area using geographic co-ordinates based on the current datum.
- (3) The regulations may authorise the Designated Authority to issue an instrument varying a licence in force immediately before the changeover time for the sole purpose of relabelling the licence area using geographic co-ordinates based on the current datum.
- (4) The regulations may authorise the Designated Authority to issue an instrument varying an infrastructure licence in force immediately before the changeover time for the sole purpose of relabelling the infrastructure licence area using geographic co-ordinates based on the current datum.
- (5) The regulations may authorise the Designated Authority to issue an instrument varying a special prospecting authority or an access authority in force immediately before the changeover time for the sole purpose of relabelling the area in respect of which the authority is in force using geographic co-ordinates based on the current datum.
- (6) The regulations may authorise the Designated Authority to issue an instrument varying a pipeline licence in force immediately before the changeover time for the sole purpose of relabelling the route of

the pipeline using geographic co-ordinates based on the current datum.

- (7) The regulations may authorise the Designated Authority to issue an instrument varying any other instrument under this Act that:
- (a) sets out a point, line or area; and
 - (b) is in force immediately before the changeover time;
- for the sole purpose of relabelling the point, line or area using geographic co-ordinates based on the current datum.
- (8) The regulations may authorise the Designated Authority to issue an instrument varying a title or other instrument under this Act for the sole purpose of inserting an annotation about the applicable datum.

150S Variation of applications for titles

The regulations may authorise the Designated Authority to issue an instrument varying an application for a title for the sole purpose of relabelling a point, line or area by reference to geographic co-ordinates based on the current datum.

150T No change to actual position of point, line or area

This Division does not authorise any change to the position on the surface of the Earth of a point, line or area.

150U Transitional regulations

The regulations may make provision for matters of a transitional nature arising from the change from the previous datum to the current datum.

150V Division has effect subject to section 150X

This Division has effect subject to section 150X.

Note: Section 150X deals with International Sea-bed Agreements.

150W Definitions

In this Division:

Australian Geodetic Datum means the Australian Geodetic Datum as defined in *Gazette* No. 84 of 6 October 1966.

instrument under this Act does not include the regulations.

this Act includes the regulations.

title means a permit, lease, licence, infrastructure licence, pipeline licence, special prospecting authority or access authority.

Division 2—Certain points etc. specified in an International Sea-bed Agreement to be ascertained by other means

150X Certain points etc. specified in an International Sea-bed Agreement to be ascertained by other means

- (1) In this section:

International Sea-bed Agreement means:

- (a) the Agreement between Australia and Indonesia establishing certain sea-bed boundaries signed at Canberra on 18th May, 1971; or
 - (b) the Agreement between Australia and Indonesia establishing certain sea-bed boundaries in the area of the Timor and Arafura Seas supplementary to the Agreement referred to in paragraph (a) and signed at Jakarta on 9 October, 1972; or
 - (c) the Agreement between Australia and Indonesia concerning certain boundaries between Papua New Guinea and Indonesia signed at Jakarta on 12 February, 1973; or
 - (d) the Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the 2 countries, including the area known as the Torres Strait, and related matters that was signed at Sydney on 18 December 1978.
- (2) If, for the purposes of this Act or the regulations, or for the purposes of an instrument under this Act or the regulations, it is necessary to determine the position on the surface of the Earth of a point or line specified in an International Sea-bed Agreement, or of a point on, or part of, such a line, that position must be determined

in accordance with that Agreement or, if that Agreement is varied,
in accordance with that Agreement as varied for the time being.

34 Sections 156 and 156A

Repeal the sections.

35 Schedule 2

Omit “Section 5”, substitute “Section 5A (for datum, see section 150M)”.

36 Schedule 6

Omit “Section 140A”, substitute “Section 140A (for datum, see section 150M)”.

Part 5—Review of decisions

37 Subsection 152(1) (definition of *relevant decision*)

After “this Act”, insert “or the regulations”.

38 Subsection 152(1) (paragraph (a) of the definition of *reviewable decision*)

After “this Act”, insert “or the regulations”.

39 Application of amendments

The amendments made by this Part apply to decisions made after the commencement of this item.

Schedule 2—Amendment of the Petroleum (Submerged Lands) Fees Act 1994

1 Paragraph 4(2)(b)

After “is to be”, insert “specified in, or”.

2 Paragraph 4(2)(b)

Omit “with”, substitute “with,”.

Schedule 3—Amendment of the Primary Industries and Energy Legislation Amendment Act (No. 1) 1998

1 Paragraph 47(1)(a) of Schedule 1

Omit “items 39A to 39G”, substitute “items 40 to 46”.

*[Minister’s second reading speech made in—
House of Representatives on 6 December 2000
Senate on 5 April 2001]*

(189/00)