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Petroleum (Submerged Lands) Amendment Bill 2002

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# Petroleum (Submerged Lands) Amendment Bill 2002

**Date Introduced:** 15 May 2002

**House:** House of Representatives

**Portfolio:** Industry, Tourism and Resources

**Commencement:** On Royal Assent

## Purpose

To make relatively minor amendments to the *Petroleum (Submerged Lands) Act 1967* relating to offshore petroleum exploration permits and leases.

## Background

In 1967 interest in offshore petroleum resources led to negotiations between the Commonwealth, the States and Northern Territory, which produced an agreement regarding joint responsibility over offshore petroleum exploration and exploitation. This agreement resulted in the Commonwealth *Petroleum (Submerged Lands) Act 1967* ('the Act') and eventually complementary 'mirror' legislation in the States and Territories.

Amongst other things, the Act establishes entities known as the Joint Authority (JA) and Designated Authority (DA) respectively. There is a JA and DA for each of the State or Territory 'adjacent areas'.<sup>1</sup> The JA - which is comprised of the Commonwealth Resources Minister and his or her counterpart from the relevant State or Territory - is the decision-maker regarding the granting of exploration permits, production and pipeline licences etc. The DA - which is simply the Minister from the relevant State or Territory - has responsibility for the more day to day administrative aspects of managing the offshore petroleum regime in each adjacent area.

Exploration permits can be granted in several ways under the Act, but the Exploratory Memorandum<sup>2</sup> to the Bill indicates that current policy is to grant them through a public tendering process under section 22. Such permits are granted on the basis of the proposed exploration work program submitted by companies wishing to access the relevant

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exploration area. Once granted, these permits may be renewed by the holder several times, allowing a theoretical total 'holding' time of up to 46 years.

In 2000, the Act was reviewed for compliance with national competition policy (NCP) principles. According to the Exploratory Memorandum<sup>3</sup>, the review concluded that the maximum holding time should be reduced to allow for greater competition between companies for access to exploration areas. The changes to the Act proposed by **items 1 and 3 of Schedule 1** of the Bill would mean that an exploration permit could only be renewed twice, thus giving a maximum holding time of 16 years. This new limit will only apply to permits granted for the first time after 1 January 2003. While there appears to be nothing on the public record on the issue from APPEA<sup>4</sup>, the relevant industry body, it is understood that there has not been unanimous agreement by the industry to the idea of reducing the holding time, but the proposed change is unlikely to be opposed given it is not retrospective.

The other substantive change proposed by the Bill deals with retention leases. Where a petroleum discovery has been made and duly notified under the Act, the holder of the exploration permit may apply for a retention lease. This type of lease is designed for a situation where the discovery is not currently economically viable but is likely to become so within fifteen years. As the Act currently stands, the holder of a retention lease *may* be required by the DA to re-evaluate whether discovery has become viable twice during the duration of the (five year) lease. The NCP review mentioned above concluded this was excessive in terms of compliance costs. The proposed changes in **item 4 of Schedule 1** accordingly reduces this to a maximum of one re-evaluation every five years.

## Main Provisions

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

**Item 3** inserts a **new section 31A** that applies exploration permits granted under section 22 or 27 for the first time on or after 1 January 2003.<sup>5</sup> This proposed change limits the maximum number of renewals on these permits to two.

**Item 4** reduces the number of times the holder of a retention lease may be required by the DA to re-evaluate the viability of a petroleum discovery, from twice every five years to once every five years.

**Item 5** is a transitional item relating to **item 4**. It provides that if, before the Bill comes into force, a DA issues a second notice to re-evaluate the viability of a petroleum discovery within the five year period of the retention lease, the lease holder does not have to comply with the notice.

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## Endnotes

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- 1 The 'adjacent area' is the area that extends from 3 nautical miles seawards of each of the State or Territories low water mark out to a defined boundary on the continental shelf.
- 2 At p. 5.
- 3 At p. 2.
- 4 Australian Petroleum Production and Exploration Association.
- 5 In the case of section 22 permits, the invitation to apply for a permit must also have been Gazetted on or after 1 January 2003.

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