

EXPLANATORY MEMORANDUM

PETROLEUM AND GEOTHERMAL ENERGY SAFETY LEVIES AMENDMENT BILL 2012

Introduction and Overview

The purpose of the Bill is to amend the *Petroleum and Geothermal Energy Safety Levies Act 2011* to expand the current levy system to include regulatory activities performed in relation to the submerged lands adjacent to the coast of Western Australia.

The Amendment Bill provides for the State to collect safety levies from the petroleum industry to fund regulatory services rendered in relation to listed occupational safety and health laws accrued under the *Petroleum (Submerged Lands) Act 1982*.

There are three new safety levies to be imposed via the Amendment Bills. The first applies to a safety case in force for a facility, this is payable by the operator of the facility. The second applies to a pipeline management plan in force for a pipeline, this is payable by the pipeline licensee. The third applies to an accepted diving safety management system, this is payable by the diving contractor.

Within these three categories of safety levies will be classes of levies payable, each with differing amounts of levy payable, the details of which will be pursuant to the regulations that will attach to this Bill.

The Bill also contains minor amendments to those provisions imposing the existing levies. These were necessitated by the drafting of the provisions for the new levies, in order to provide clarity. The existing 'safety case levy' is to be renamed the 'pipeline safety case levy' to distinguish it from the new 'facility safety case levy'.

CLAUSE NOTES

Clause 1 Short Title

This clause formally titles the Amendment Act.

Clause 2 Commencement

This clause provides for Sections 1 and 2 to come into operation on the day on which the Amendment Act receives Royal Assent.

The remainder of the Amendment Act comes into operation on a day fixed by proclamation.

Clause 3 Act amended

This clause states the title of the Act being amended, which is the *Petroleum and Geothermal Energy Safety Levies Act 2011*.

Clause 4 Long title amended

This clause amends the long title of the Act to include offshore petroleum operations.

Clause 5 Section 3 amended

This clause sets out the amendments to section 3 of the Act which is the section that sets out definitions. This clause includes the introduction of new definitions and some amendments to existing definitions. The following definitions are deleted and replaced with updated definitions:

operator
PGERA regulations
PPA regulations
revised safety case
safety case
safety case in force

The key new definitions are as follows:

“accepted DSMS” is defined as meaning a DSMS (diving safety management system) as defined in the Petroleum (Submerged Lands) (Diving Safety) Regulations 2007, that has been accepted by the Minister and is current for the purposes of those regulations;

“DSMS levy” is defined as meaning the levy referred to in section 10G;

“facility” has the meaning given in the *Petroleum (Submerged Lands) Act 1982* section 4;

“facility safety case levy” is defined as meaning the levy referred to in section 10A;

“pipeline management plan in force” means a pipeline management plan that has been accepted by the Minister responsible for the administration of the *Petroleum (Submerged Lands) Act 1982*, and the acceptance of which has not been withdrawn;

“pipeline management plan levy” means the levy referred to in section 10D;

“pipeline safety case levy” is the new name for the levy referred to in section 7;

“safety case in force” is now defined as follows –

- (a) in relation to a pipeline operation, it means a safety case that has been accepted by the Minister responsible for the administration of the *Petroleum Pipelines Act 1969*, and the acceptance of which has not been withdrawn; or
- (b) in relation to a facility, means a safety case that has been accepted by the Minister responsible for the administration of the *Petroleum (Submerged Lands) Act 1982*, and the acceptance of which has not been withdrawn.

The definition of **safety levy** has been amended to include the new levies being created.

Clause 6 Part 2 Division 2 heading amended

This heading is amended to allow for the renaming of the ‘safety case levy’ (the levy dealt with in sections 7 – 9 of the Act) to ‘pipeline safety case levy’. This is to bring clarity and distinguish it from the new ‘facility safety case levy’.

Clause 7 Section 8 amended

This section is amended to allow for the renaming of the ‘safety case levy’ (the levy dealt with in sections 7 – 9 of the Act) to ‘pipeline safety case levy’. This is to bring clarity and distinguish it from the new ‘facility safety case levy’.

Clause 8 Section 9 amended

This section is amended to allow for the renaming of the ‘safety case levy’ (the levy dealt with in sections 7 – 9 of the Act) to ‘pipeline safety case levy’. This is to bring clarity and distinguish it from the new ‘facility safety case levy’.

Clause 9 Part 2 Divisions 3, 4 and 5 inserted

This clause introduces the provisions that create the three new levies.

Division 3 – Facility safety case levy

- Section 10A(1) states that there will be a levy payable if, for the whole or a part of a levy period, there is a safety case in force for a facility.
- Section 10A(2) states that the levy is payable in accordance with the regulations.
- Section 10B states that the levy is payable by the operator of the facility.
- Section 10C(1) states that the amount of levy payable will be worked out in accordance with the regulations.
- Section 10C(2) states that the regulations may specify different amounts of facility safety case levy, or different means of working out amounts of facility safety case levy, for different classes of safety case.

Division 4 – Pipeline management plan levy

- Section 10D(1) states that there will be a levy payable if, for the whole or a part of a levy period, there is a pipeline management plan in force for a pipeline.
- Section 10D(2) states that the levy is payable in accordance with the regulations.
- Section 10E states that the levy is payable by the pipeline licensee.
- Section 10F(1) states that the amount of levy payable will be worked out in accordance with the regulations.
- Section 10F(2) states that the regulations may specify different amounts of pipeline management plan levy, or different means of working out amounts of pipeline management plan levy, for different classes of pipeline management plan.

Division 5 – DSMS levy

- Section 10G(1) states that there will be a levy payable if, for the whole or a part of a levy period, there is an accepted DSMS (diving safety management system).
- Section 10G(2) states that the levy is payable in accordance with the regulations.
- Section 10H states that the levy is payable by the diving contractor.
- Section 10I(1) states that the amount of levy payable will be worked out in accordance with the regulations.

- Section 10I(2) states that the regulations may specify different amounts of DSMS levy, or different means of working out amounts of DSMS levy, for different classes of diving safety management system.

Clause 10 Section 10 amended

This clause provides for the amendment of section 10 of the Act to include the *Petroleum (Submerged Lands) Act 1982*, allowing the CEO to make a levy assessment on the basis of information obtained or provided under that Act.

Clause 11 Section 21 amended

This clause provides for the amendment of section 21 of the Act to include each listed OSH law as defined in the *Petroleum (Submerged Lands) Act 1982* section 4, and allow monies held in the Levies Account to be used in payment of costs and expenses incurred in their administration and enforcement.

Clause 12 Section 26 amended

This clause provides for the amendment of section 26 of the Act to expand the regulations making power to:

- provide for the classification of safety management systems, safety cases, pipeline management plans and diving safety management systems; and
- without limiting the above, authorise or require the CEO to determine the classification of a safety management system, safety case, pipeline management plan or diving safety management system for the purposes of assessing the amount of safety levy payable in respect of the safety management system, safety case, pipeline management plan or diving safety management system, as the case requires.