

Western Australia

LEGISLATIVE COUNCIL

**Acts Amendment (Mining and Petroleum)
Bill 1998**

A Bill for

An Act to amend the —

- *Mining Act 1978*;
 - *Petroleum Act 1967*; and
 - 5 • *Petroleum (Submerged Lands) Act 1982*,
- and for related purposes.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Acts Amendment (Mining and Petroleum) Act 1998*.

5 **2. Commencement**

The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

Part 2 — Amendments to *Mining Act 1978*

3. The Act amended

The amendments in this Part are to the *Mining Act 1978*.*.

[* Reprinted as at 27 February 1996.

5 For subsequent amendments see 1997 Index to Legislation of
 Western Australia, Table 1, pp. 156-7 and Acts Nos. 31 of
 1997 and 10 of 1998.]

4. Section 26 amended

(1) Section 26(1)(d) is amended as follows:

10 (a) by inserting after “Minister” —

“

 , within such period as the Minister specifies in
 writing,

”;

15 (b) by deleting “in accordance with section 126”.

(2) After section 26(1) the following subsection is inserted —

“

(1a) A security referred to in subsection (1)(d) shall be in
 accordance with and subject to section 126.

20

”.

5. Section 49 amended

After section 49(2) the following subsections are inserted —

“

25 (3) If, after an application is made under subsection (1) in
 respect of land the subject of a prospecting licence —

 (a) the holder of the licence transfers the licence;
 or

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(b) where there are 2 or more holders of the licence, a holder transfers the holder's interest in the licence,

5 the application continues in the name of the transferee of the licence or interest as if the transferee were the applicant or one of the applicants, as the case requires.

10 (4) For the purposes of subsection (3), where there are 2 or more transferees of the prospecting licence, each of the transferees is to be regarded as an applicant for an interest in the relevant mining lease or general purpose lease that corresponds to the interest held by that transferee in the licence.

”.

6. Section 52 amended and consequential amendments

15 (1) After section 52(1) the following subsection is inserted —

“

20 (1a) The Minister may require the holder of a prospecting licence to lodge at the office of the mining registrar or the Department at Perth, within such period as the Minister specifies in writing, an additional security for compliance with conditions imposed in relation to the licence under section 46A.

”.

(2) Section 52(2) is amended by inserting after “subsection (1)” —

25 “ or (1a) ”.

(3) Section 92 is amended as follows:

(a) by deleting “and 47” and inserting instead —

“ , 47 and 52(1a) ”;

- (b) by deleting “an application for the grant of”;
- (c) by deleting “sections” and inserting instead —
“ provisions ”.

(4) Section 96(2) is amended as follows:

- 5 (a) by deleting “or” after paragraph (b);
- (b) after paragraph (ba) by inserting —
“
10 (bb) any requirement under section 52(1a) is not
complied with; or
”.

7. Section 60 amended and consequential amendment

(1) After section 60(1) the following subsection is inserted —

- “
15 (1a) The Minister may require the holder of an exploration
licence to lodge at the office of the mining registrar or
the Department at Perth, within such period as the
Minister specifies in writing, an additional security for
compliance with conditions imposed in relation to the
20 licence under section 63AA.
”.

(2) Section 60(2) is amended by inserting after “subsection (1)” —
“ or (1a) ”.

(3) After section 63A(a) the following paragraph is inserted —

- “
25 (aa) any requirement under section 60(1a) in
relation to the exploration licence is not
complied with;
”.

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8. Section 61 amended

After section 61(3) the following subsection is inserted —

“

- 5 (4) If the holder of an exploration licence transfers the licence after making an application for the extension of the term of the licence under subsection (2), the application continues in the name of the transferee of the licence as if the transferee had made it.

”.

10 **9. Section 67 amended**

After section 67(2) the following subsections are inserted —

“

- 15 (3) If, after an application is made under subsection (1) in respect of land the subject of an exploration licence —
- (a) the holder of the licence transfers the licence;
or
- (b) where there are 2 or more holders of the licence, a holder transfers the holder’s interest in the licence,

20 the application continues in the name of the transferee of the licence or interest as if the transferee were the applicant or one of the applicants, as the case requires.

- 25 (4) For the purposes of subsection (3), where there are 2 or more transferees of the exploration licence, each of the transferees is to be regarded as an applicant for an interest in the relevant mining lease or general purpose lease that corresponds to the interest held by that transferee in the licence.

”.

10. Section 70C amended

After section 70C(6) the following subsections are inserted —

“

- 5 (7) If, after an application is made under subsection (1) in respect of land the subject of a primary tenement —
- (a) the holder of the tenement transfers the tenement; or
 - (b) where there are 2 or more holders of the tenement, a holder transfers the holder’s
- 10 interest in the tenement,

the application continues in the name of the transferee of the tenement or interest as if the transferee were the applicant or one of the applicants, as the case requires.

- 15 (8) For the purposes of subsection (7), where there are 2 or more transferees of the primary tenement, each of the transferees is to be regarded as an applicant for an interest in the relevant retention licence that corresponds to the interest held by that transferee in the primary tenement.

20

”.

11. Section 70E amended

- (1) Section 70E(3) is amended by deleting “Where an application for the renewal of a retention licence is made by the holder of the licence” and inserting instead —

25 “ If an application for renewal is made under this section ”.

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(2) After section 70E(3) the following subsection is inserted —

“

(4) If the holder of a retention licence transfers the licence after making an application for renewal under this section, the application continues in the name of the transferee of the licence as if the transferee had made it.

”.

12. Section 70IA inserted and consequential amendments

(1) After section 70I the following section is inserted —

“

70IA. Programme of work

(1) On the granting of a retention licence, or at any subsequent time, the Minister may impose on the holder of the licence a condition requiring the holder to comply with a specified programme of work in respect of the land the subject of the licence within a specified period.

(2) Before imposing a condition under subsection (1), the Minister may require the applicant for the licence or the holder of the licence, as the case requires, to submit to the Minister a draft programme of work in a form approved by the Minister and the applicant or the holder, as the case requires, shall comply with that requirement.

(3) Subsections (2) and (3) of section 70I apply to a condition imposed under subsection (1) as if it were a condition imposed under that section.

(4) In subsection (1) —
“**specified**” means specified in writing by the Minister.

(2) Section 70H(1)(c) is deleted.

5 (3) Section 70H(2) is amended by deleting paragraph (a) and the
“or” after that paragraph.

(4) Section 70K(b)(ii) is amended by inserting after “70I” —
“ or 70IA ”.

10 (5) Section 70L(1)(b) is deleted and the following paragraph is
inserted instead —

“
(b) subject to satisfactory compliance with any
conditions imposed under section 70I or 70IA;
”.

15 **13. Section 70L amended**

After section 70L(2) the following subsections are inserted —

“

(3) If, after an application is made under subsection (1) in
respect of land the subject of a retention licence —

- 20 (a) the holder of the licence transfers the licence; or
(b) where there are 2 or more holders of the
licence, a holder transfers the holder’s interest
in the licence,

25 the application continues in the name of the transferee
of the licence or interest as if the transferee were the
applicant or one of the applicants, as the case requires.

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- 5 (4) For the purposes of subsection (3), where there are 2 or more transferees of the retention licence, each of the transferees is to be regarded as an applicant for an interest in the relevant mining lease or general purpose lease that corresponds to the interest held by that transferee in the licence.

”.

14. Section 78 amended

- 10 (1) Section 78(3) is amended by deleting “Where an application for the renewal of a mining lease is made by the holder of the lease” and inserting instead —

“ If an application for renewal is made under this section ”.

- (2) After section 78(3) the following subsection is inserted —

“

- 15 (4) If, after an application for renewal is made under this section —

(a) the holder of the mining lease transfers the lease; or

- 20 (b) where there are 2 or more holders of the mining lease, a holder transfers the holder’s interest in the lease,

the application continues in the name of the transferee of the lease or interest as if the transferee were an applicant or one of the applicants, as the case requires.

25

”.

15. Section 84A inserted and consequential amendment

(1) After section 84 the following section is inserted —

“

84A. Security relating to mining lease

5 (1) The Minister may require the holder of a mining lease
to lodge at the office of the mining registrar or the
Department at Perth, within such period as the Minister
specifies in writing, a security for compliance with
conditions imposed in relation to the lease under
10 section 84.

(2) A security referred to in subsection (1) shall be in
accordance with and subject to section 126.

”.

15 (2) Section 82(1)(g) is amended by inserting after “the lease” in the
second place where it occurs the following —

“

, if he fails to comply with any requirement under
section 84A(1) in relation to the lease

”.

20 **16. Section 86 amended**

(1) Section 86(3) is amended by inserting after “10 hectares” —

“

, unless the Minister is satisfied that a larger area of
land is required for the purposes of the lease,

25

”.

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(2) After section 86(4) the following subsection is inserted —

“

(5) An application for the grant of a general purpose lease in respect of an area of land which exceeds 10 hectares shall be accompanied by a statement specifying the reasons why such an area of land is required for the purposes of the lease.

”.

17. Section 88 amended

(1) Section 88(2) is repealed and the following subsection is inserted instead —

“

(2) Notwithstanding subsection (1), on receipt of an application made in the prescribed manner during the final year of the term of the lease, the Minister —

(a) shall renew the term of the lease as to the whole of the land the subject of the lease —

(i) for one further period of 21 years; and

(ii) on the terms and conditions to which the lease was subject before its renewal;

and

(b) may, in the case of a lease renewed under paragraph (a), renew or further renew the term of the lease as to the whole or any part of the land the subject of the lease —

(i) for a period not exceeding 21 years; and

(ii) on such terms and conditions as the Minister thinks fit.

”.

(2) After section 88(3) the following subsection is inserted —

“

(4) If, after an application for renewal is made under this section —

- 5 (a) the holder of the general purpose lease transfers the lease; or
- (b) where there are 2 or more holders of the general purpose lease, a holder transfers the holder’s interest in the lease,

10 the application continues in the name of the transferee of the lease or interest as if the transferee were an applicant or one of the applicants, as the case requires.

”.

18. Section 90 amended

15 Section 90 is amended by inserting after “84,” —

“ 84A, ”.

19. Section 126 amended

(1) Section 126(1) is amended as follows:

20 (a) by deleting “or 70F” and inserting instead —
“ , 70F or 84A; ”;

(b) by deleting paragraphs (a), (b) and (c) and inserting instead —

“

- 25 (a) shall be for such amount —
 (i) in the case of a security referred to in section 26, 52(1a), 60(1a), 70F or 84A, as the Minister in a particular case

Part 3 — Amendments to *Petroleum Act 1967*

20. The Act amended

The amendments in this Part are to the *Petroleum Act 1967**.

[* Reprinted as at 17 December 1992.

5 For subsequent amendments see 1997 Index to Legislation of
 Western Australia, Table 1, p. 177 and Act No. 31 of 1997.]

21. Section 5 amended

Section 5(1) is amended in the definition of “Crown land” as follows:

- 10 (a) by deleting paragraph (a);
 (b) by deleting paragraph (d) and inserting instead —
 “
 (d) any land reserved, declared or otherwise
 dedicated under the *Land Administration*
15 *Act 1997* or any other written law;
 ”;
- (c) in paragraph (e) by inserting before “State” —
 “ without limiting paragraph (d), ”;
- (d) by deleting paragraphs (f) and (g).

20 22. Section 15 amended and consequential amendments

- (1) Section 15(1) is amended by inserting after “Subject to this
 Act” —
 “ and to any condition referred to in section 91B(2) ”.
- (2) Section 15(2), (3) and (4) are repealed.
- 25 (3) Section 28A(2) is repealed.
- (4) Section 152 is repealed.

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23. Section 15A inserted and saving provision

(1) After section 15 the following section is inserted —

“

15A. Consent of Minister required for entry on reserves for purposes of exploration, etc.

5

- (1) A permittee, holder of a drilling reservation, access authority or special prospecting authority, lessee or licensee shall not enter upon any land that is —
- (a) comprised in the permit, drilling reservation, access authority, special prospecting authority, lease or licence of which he is the holder; and
 - (b) reserved, declared or otherwise dedicated under the *Land Administration Act 1997* or any other written law,

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for the purpose of —

- (c) exploring for petroleum; or
- (d) carrying out operations for the recovery of petroleum,

20

unless the consent in writing of the Minister has been first obtained.

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- (2) Consent may be given for the purposes of subsection (1) subject to the inclusion in the permit, drilling reservation, access authority, special prospecting authority, lease or licence of such conditions as the Minister thinks fit and specifies in the consent.
- (3) Before giving consent for the purposes of subsection (1), the Minister shall consult with the responsible Minister and obtain that Minister's

recommendations on the conditions, if any, which should be included in the permit, drilling reservation, access authority, special prospecting authority, lease or licence.

- 5 (4) Without limiting subsection (2), the Minister may specify in the consent conditions for the purpose of ensuring, so far as is practicable, that any operations carried out on the land under the authority of the permit, drilling reservation, access authority, special
10 prospecting authority, lease or licence are carried out in such a manner as to minimize the risk of damage to any native fauna or flora on the land.
- 15 (5) The responsible Minister for the purposes of subsection (3) is the Minister responsible for the administration of the land or the written law under which the land is reserved, declared or dedicated, and if any question arises as to who is the responsible Minister under subsection (3), the question is to be determined by the Governor whose decision is final.
- 20 (6) Nothing in this section limits or otherwise affects the operation of sections 13A(3) and 13B(9) of the *Conservation and Land Management Act 1984*. ”.
- 25 (2) Section 15A as inserted into the *Petroleum Act 1967* by subsection (1) does not prohibit operations being carried out under the authority of —
- 30 (a) a relevant licence on land that immediately before the commencement of section 22 was declared under section 15(2) of that Act to be Crown land and land to which that Act applied; or
- (b) the Barrow Island lease.

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(3) In subsection (2) —

“**Barrow Island lease**” has the meaning given in section 128 of the *Petroleum Act 1967*;

5 “**relevant licence**” means a production licence for petroleum in force under Part III of the *Petroleum Act 1967* immediately before the commencement of this section.

24. Section 16 amended

Section 16(1) is repealed and the following subsections are inserted instead —

10

“

(1) A permittee, holder of a drilling reservation, access authority or special prospecting authority, lessee or licensee shall not enter upon any land to which this section applies for the purpose of —

15

- (a) exploring for petroleum; or
- (b) carrying out operations for the recovery of petroleum,

unless the consent in writing of the owner or trustees, as the case may be, of the land has been first obtained.

20

(1a) This section applies to land that is comprised in the permit, drilling reservation, access authority, special prospecting authority, lease or licence and is —

25

- (a) private land not exceeding 2 000 square metres in extent;
- (b) used as a cemetery or burial place; or
- (c) less than 150 metres in lateral distance from any cemetery or burial place, reservoir or any substantial improvement.

”.

25. Section 43E amended

Section 43E(2) is amended by deleting “a period of 12 months” and inserting instead —

“

5 such period, not exceeding 3 years, as is specified by the Minister

”.

26. Section 43F amended and transitional provision

(1) Section 43F(2) is amended by deleting “that is satisfactory”.

10 (2) After section 43F(2) the following subsection is inserted —

“

(2a) An extension of the period for which a drilling reservation is effective shall not be granted if that period has previously been extended under this section.

15

”.

(3) Section 43F(3)(a) is deleted.

(4) Section 43F(5) is repealed and the following subsection is inserted instead —

“

20 (5) Subject to subsections (2) and (2a), where —

(a) an application has been made under subsection (1); and

25

(b) the conditions to which the drilling reservation is, or has from time to time been, subject, and the provisions of this Part and the regulations, have been complied with,

the Minister shall grant an extension of a drilling reservation for a period of 12 months commencing

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from the expiration of the period for which the drilling reservation is effective.

”.

- 5 (5) Despite the amendments made by this section, section 43F of the *Petroleum Act 1967* continues to apply to and in relation to the extension of a drilling reservation in force on the commencement of this section.

27. Section 91B inserted

After section 91A the following section is inserted —

10 “

91B. Conditions prohibiting entry on certain land

- (1) In this section —
“**holder**” means the holder of the permit, drilling reservation, lease or licence.
- 15 (2) The conditions subject to which a permit, drilling reservation, lease or licence is granted may include a condition prohibiting the holder from entering specified land within the permit area, drilling reservation, lease area or licence area.
- 20 (3) The Minister may, at any time, by instrument in writing served on the holder, vary or revoke a condition referred to in subsection (2).

”.

Part 4 — Amendments to *Petroleum (Submerged Lands) Act 1982*

28. The Act amended

5 The amendments in this Part are to the *Petroleum (Submerged Lands) Act 1982**.

[* *Reprinted as at 24 March 1992.*

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 178.]

29. Section 124 amended

10 Section 124 is amended as follows:

(a) after paragraph (c) by deleting “or”;

(b) after paragraph (d) by deleting the comma and inserting —
“

; or

15 (e) the enjoyment of native title rights and interests
(within the meaning of the *Native Title Act 1993* of the Commonwealth),

”.

30. Section 127 replaced

20 Section 127 is repealed and the following section is inserted
instead —

“

127. Property in petroleum

25 Subject to this Act, if petroleum is recovered by a
permittee, lessee or licensee in the permit area, lease
area or licence area —

(a) the petroleum becomes the property of the
permittee, lessee or licensee; and

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5

- (b) it is not subject to any rights of other persons (other than any person to whom the permittee, lessee or licensee transfers, assigns or otherwise disposes of the petroleum or an interest in the petroleum).

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