



ANNO QUADRAGESIMO

**ELIZABETHAE II REGINAE**

A.D. 1991

\*\*\*\*\*

No. 60 of 1991

An Act to amend the Petroleum Act 1940.

[Assented to 28 November 1991]

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Petroleum (Miscellaneous) Amendment Act 1991*.
- (2) The *Petroleum Act 1940* is referred to in this Act as "the principal Act".

**Commencement**

2. This Act will come into operation on a day to be fixed by proclamation.

**Interpretation**

3. Section 3 of the principal Act is amended by striking out from subsection (1) the definition of "pipeline" and substituting the following definition:

"pipeline" means a pipe or system of pipes for conveying petroleum and includes related tanks, machinery and equipment:.

**Insertion of s. 4ab**

4. The following section is inserted after section 4a of the principal Act:

**Delegation**

4ab. (1) The Minister may, by instrument published in the *Gazette*—

- (a) delegate any of the Minister's powers or functions under this Act to a person named in the instrument, or to any person who is, when the occasion for exercising the relevant power or function arises, holding, or acting in an office specified in the instrument;

or

- (b) vary or revoke a delegation under this section.

(2) A delegation under this section does not prevent the exercise of the delegated power or function by the Minister.

**Substitution of s. 42**

5. Sections 42 and 43 of the principal Act are repealed and the following sections are substituted:

**Consent to dealing with licence**

42. (1) Subject to subsection (2)—

(a) a provision of a contract or other instrument under which a licensee transfers, assigns or otherwise deals with, or undertakes to transfer, assign or otherwise deal with a licence or an interest in a licence;

or

(b) a provision of a partnership agreement, a joint venture agreement or any other similar agreement under which a licensee confers on a person (whether or not that person is a joint licensee) a present, future or contingent right to—

(i) petroleum produced from land comprised in a licence, or a share in such petroleum;

or

(ii) profits derived from the production of petroleum from land comprised in a licence, or a share in such profits,

cannot take effect unless approved by the Minister (but, once approved it may, if it so provides, take effect from a day antecedent to the date of approval).

(2) A licence or an interest in a licence may be mortgaged or charged without the Minister's approval but—

(a) the licensee must, within 28 days after granting the mortgage or charge (or such longer time as the Director may allow), lodge a copy of the instrument creating the mortgage or charge with the Director and in the event of a failure to do so is guilty of an offence and liable to a division 5 fine;

(b) the mortgagee or chargee cannot transfer or assign the licence or the interest, or obtain the transfer or assignment of the licence or the interest, in pursuance of the mortgage or charge, without the Minister's approval.

(3) The Minister may, at his or her discretion, grant or refuse approval under this section, or grant approval subject to conditions, but must not exercise that discretion capriciously or unreasonably.

(4) If a condition in the nature of a condition precedent is imposed by the Minister under subsection (3) and the condition is fulfilled, the licensee must, within 28 days after the condition is fulfilled, notify the Minister of that fact.

Penalty: Division 5 fine.

(5) Where an approval has been granted under this section, no further approval is required for an instrument to give effect to the approved provision, but the licensee must lodge a copy of any such instrument with the Director within 28 days after execution (or such longer time as the Director may allow).

Penalty: Division 5 fine.

(6) The prescribed fee is payable on any application for the Minister's approval under this section.

**Joint operating agreements**

43. (1) Where a licence is held jointly by two or more licensees, a copy of any joint operating agreement between the licensees or any two or more of them must be lodged with the Director within 28 days after the date of the agreement (or such longer time as the Director may allow).

(2) Where a joint operating agreement between two or more joint licensees had been entered into before the commencement of this section, and the agreement was

still in operation at that date, a copy of the agreement must be lodged with the Director within 28 days after the commencement of this section (or such longer time as the Director may allow).

(3) If a copy of a joint operating agreement is not lodged as required by this section, each licensee who is a party to the agreement is guilty of an offence.

Penalty: Division 5 fine.

(4) This section does not apply to—

(a) a joint operating agreement containing a provision for which the Minister's approval has been sought or obtained under section 42;

or

(b) a joint operating agreement of which a copy had been lodged with the Director before the commencement of this section.

#### **Substances not to be deposited on land**

6. Section 64 of the principal Act is amended by striking out "A" being the first word of subsection (1) and substituting "Except as allowed by the regulations or by the Minister, a".

#### **Insertion of s. 80ca**

7. The following section is inserted in Part IIB of the principal Act immediately before section 80d:

##### **Interpretation**

80ca. In this Part—

"pipeline" means a pipeline for conveying petroleum from, or from the vicinity of, the place it is recovered from the earth to some other place (even though one or both of those places may be outside the State) but does not include—

(a) a pipeline insofar as it is located outside the State;

(b) a pipeline located entirely within the area comprised in a petroleum production licence;

(c) a pipeline that forms part of a gas reticulation system within any city, town or other centre of population or industry;

or

(d) a pipeline exempted by regulation from the provisions of this Part.

#### **Conditions of licence**

8. Section 80h of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

(1a) The Minister may agree with a licensee, or prospective licensee, in respect of a pipeline designed principally to carry natural gas, that ownership of the pipeline, and of any related land identified or referred to in the agreement, will vest in the Crown at some future time and, where such an agreement exists, ownership will, subject to the conditions of the agreement vest in accordance with the agreement, without the need for any transfer or conveyance.;

and

(b) by inserting in subsection (3) "42," after "14,".

#### **Substitution of s. 80i**

9. Section 80i of the principal Act is repealed and the following section is substituted:

**Term and renewal of licence**

80i. (1) The term for which a pipeline licence is granted or renewed will be 21 years or some lesser period agreed between the Minister and the licensee or prospective licensee.

(2) Subject to any agreement between the Minister and the licensee or prospective licensee to exclude or limit this right of renewal, a licensee may from time to time apply for renewal of a pipeline licence and the Minister must, if satisfied that the licensee has complied with this Act and the conditions of the licence during the preceding term of the licence, renew the licence for a further term.

(3) The Minister may, on renewing a pipeline licence, add to, vary or revoke any of the conditions of the licence but if the licence includes limitations on the exercise of the power conferred by this subsection, the power may only be exercised subject to those limitations.

(4) The above power to add to, vary or revoke conditions does not apply in relation to Pipeline Licence No. 2.

**Acquisition of land**

10. Section 80j of the principal Act is amended—

(a) by inserting after “land” at the end of subsection (3) “in accordance with the *Land Acquisition Act 1969*”;

and

(b) by striking out subsection (4).

**Minister may require operator to convey petroleum**

11. Section 80l of the principal Act is amended—

(a) by striking out “produced by a licensee who holds a petroleum production licence”;

(b) by striking out “by the licensees” and substituting “by the pipeline licensee and the person for whom the petroleum is to be conveyed,”;

and

(c) by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) The Land and Valuation Court may, on the application of the pipeline licensee or the person for whom petroleum is to be conveyed, review a determination of the Minister under subsection (1) and vary its terms as may be just.

**Offences**

12. Section 87 of the principal Act is amended—

(a) by striking out from subsection (1) “a penalty of not less than four hundred dollars and not more than four thousand dollars” and substituting “a fine not exceeding, where the offender is a licensee or body corporate, a division 1 fine or, in any other case, a division 5 fine”;

and

(b) by striking out subsection (2) and substituting the following subsection:

(2) Where a person commits a continuing offence, that person is liable, in addition to the fine prescribed for that offence, to a further fine of not less than one-tenth and not more than one-half the maximum prescribed for that offence for each day on which the offence continues after the day on which the offence commenced.

**Schedule of amendments to penalties and monetary amounts**

**13. The principal Act is further amended as follows:**

**SCHEDULE**

Provision Amended	How Amended
Section 5 (1)	Insert at the foot of subsection (1) "Penalty: Division 1 fine."
Section 7 (2)	Strike out "a fee of four hundred dollars" and substitute "the prescribed fee".
Section 13 (1)	Strike out "four thousand dollars" and substitute "the prescribed amount".
Section 17 (2)	Strike out "approved works" wherever occurring and substitute, in each case, "exploratory operations". Strike out "minimum expenditure referred to in subsection (1) of this section" and substitute "required minimum expenditure".
Section 18a (1) (a)	Strike out "sixty-two dollars" and substitute "\$100".
Section 18a (1) (b)	Strike out "eighty dollars" and substitute "\$125".
Section 18a (1) (c)	Strike out "ninety-four dollars" and substitute "\$150".
Section 18c	Strike out this section and substitute: <b>Annual fees</b> 18c. A licensee who holds a petroleum exploration licence must pay to the Minister annually and in advance an annual licence fee calculated in accordance with the prescribed scale.
Section 32 (2) (c)	Strike out "a fee of four hundred dollars" and substitute "the prescribed fee".
Section 34	Strike out "a fee of one dollar for every hectare of the area comprised in the licence" and substitute "a licence fee calculated in accordance with the prescribed scale".
Section 80d (1)	Insert at the foot of subsection (1) "Penalty: Division 1 fine."
Section 80o	Strike out "a fee of fifty dollars for every kilometre which the pipeline does or is to traverse" and substitute "a licence fee calculated in accordance with the prescribed scale".
Section 80v (2)	Strike out "a penalty of four hundred dollars" and substitute "a division 8 fine".
Section 84 (4)	After "offence" insert "and liable to a division 1 fine".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor