

1995

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

PRIMARY INDUSTRIES AND ENERGY LEGISLATION
AMENDMENT BILL (NO 2) 1995

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

(Circulated by authority of the Minister for Primary
Industries and Energy,
Senator the Hon Bob Collins)



AMENDMENTS TO BE MOVED TO PRIMARY INDUSTRIES AND ENERGY
LEGISLATION AMENDMENT BILL (NO.2) 1995

GENERAL OUTLINE

1. To introduce amendments to the *Australian Wool Research and Promotion Organisation Act 1993*; the *Petroleum (Submerged Lands) Act 1967*; and, the *Export Control Act 1982*.
2. To amend the *Australian Wool Research and Promotion Organisation Act 1993* to extend the functions of the Organisation to include the undertaking of chemical residue monitoring and education programs or providing for their funding. The Organisation's activities relating to chemical (pesticides) residues in wool were to cease at the end of 1995. This amendment will allow the continuation of these activities as prescribed functions, although the Organisation will have no regulatory powers in this regard.
3. The *Petroleum (Submerged Lands) Act 1967* (the *P(SL)Act*) is amended:
 - . to include native title rights and interests amongst those rights and interests which persons undertaking petroleum operations under the *P(SL)Act* must respect and not unduly interfere with (clause 1 and 2).
 - . to ensure that the regulation making powers of the *P(SL)Act* allow for the making of regulations related to the safety, health and welfare of persons involved in, or affected by, petroleum operations conducted under the *P(SL)Act* (clauses 3, 4, 5 and 8).
 - . to clarify that for those adjacent areas where State or Northern Territory occupational health and safety legislation applies through section 9 of the *P(SL)Act*, that Schedule 7 of the *P(SL)Act* does not apply (clauses 6 and 7).
4. The further amendments to the *Petroleum (Submerged Lands) Act 1967* provide a legislative basis for the guaranteed work program bidding system for the award of offshore petroleum exploration permits.
5. The amendments also validate decisions to award offshore petroleum exploration permits under the guaranteed work program bidding system since the introduction of the system in December 1985.
6. The *Export Control Act 1982* is amended by inserting a provision to impose fees for monitoring compliance with hardwood woodchip export licence conditions.

7. The licence fees provision will enable the Minister for Resources to make regulations under the Act to charge licence fees to recover from licensed hardwood woodchip exporters the costs of monitoring compliance with hardwood woodchip export licence conditions.

FINANCIAL IMPACT STATEMENT

8. The amendments to the *Australian Wool Research and Promotion Organisation Act 1993*, the *Petroleum (Submerged Lands) Act 1967* will have no impact on Government expenditure and will have no staffing implications for the Department of Primary Industries and Energy.
9. The amendments to the *Export Control Act 1982* also will have no impact on Government expenditure. Any additional staff requirements to enable monitoring compliance will be a cost recovered in the licence fees.

NOTES ON CLAUSES

Clause 1 - Commencement

10. This clause for the Act to commence on the day it receives Royal Assent apart from amendments to the *Australian Wool Research and Promotion Organisation Act 1993* which are to commence on 1 January 1996. The clause further provides that items 9 to 12 (inclusive), dealing with amendments to the *Petroleum (Submerged Lands) Act 1967*, are taken to have commenced on 1 December 1985.

Clause 2 -

11. At the end of Schedule 3 add the following Part:

PART 3 - FUNCTIONS OF THE ORGANISATION

Item 1: After paragraph 6(1)(e)

12. This item provides for the Organisation to undertake chemical residue monitoring and grower education programs or for the Organisation to provide funding to other entities or individuals for this purpose. The Organisation will not have any regulatory powers in this regard nor will it have the authority to prescribe and police chemical residue standards.

Item 2: Part 11

13. Part 11 of the *Australian Wool Research and Promotion Organisation Act 1993* is hereby repealed from 1 January 1996 as it would no longer have had effect from this date. This part makes savings provisions for the Organisation to continue certain functions, principally quality management and the making of payments for exotic animal disease control, from the now abolished Australian Wool Corporation. It also provides for Government appropriations to be paid to the Organisation.

Clause 3

14. After Schedule 3 add the following Schedules:

SCHEDULE 4

THE PETROLEUM (SUBMERGED LANDS) ACT 1967

PART 1 - PROTECTION OF NATIVE TITLE RIGHTS AND INTERESTS

Item 1: Paragraphs 124(a) and (b)

15. This clause provides for grammatical corrections to section 124 of the *Petroleum (Submerged Lands) Act 1967*.

Item 2: After paragraph 124(d)

16. This clause is amended to include native title rights and interests amongst those rights and interests which persons undertaking petroleum operations under the *Petroleum (Submerged Lands) Act 1967* must respect and not unduly interfere with.

PART 2 - WORK PRACTICES AND OCCUPATIONAL HEALTH AND SAFETY

Item 3 : Subsection 5(1)

17. This clause amends section 5 of the *Petroleum (Submerged Lands) Act 1967* to define an "operation" as an activity conducted under Part III of the Act.

Item 4: Division 6B of Part III (Heading):

18. This clause amends the heading of Division 6B to ensure that it reflects that the provisions contained in Division 6B will relate to the health and safety of all persons affected by operations conducted under the *Petroleum (Submerged Lands) 1967*, not only those undertaking the operations.

Item 5: Subsection 140H (1)

19. This clause amends s140H of the *Petroleum (Submerged Lands) Act 1967* to ensure that regulations made under s157 and related to health and safety matters described by s140I are not affected by schedule 7 of the Act.

Items 6 and 7: Subsection 140H(2)

20. These clauses amend s140H of the *Petroleum (Submerged Lands) Act 1967* to remove an ambiguity to ensure that for those adjacent areas where State or Northern Territory occupational health and safety legislation applies through s9 of the Act that the State or Northern Territory occupational health and safety legislation will apply and Schedule 7 of the Act will not apply.

Item 8: After section 140H

21. These clauses amend s157 of the *Petroleum (Submerged Lands) Act 1967* to clarify that the regulation making powers of that Act allow for the making of regulations related to the safety, health and welfare of persons involved in, or affected by, petroleum operations conducted under the Act. They also specifically allow for the making of regulations to require persons undertaking petroleum operations under that Act to, amongst other things, maintain a system of management to secure the safety, health and welfare of

persons involved in, or affected by, petroleum operations conducted under the Act.

PART 3 - GUARANTEED WORK PROGRAM BIDDING SYSTEM FOR EXPLORATION PERMITS

Item 9: Subsection 33(2)

22. This clause amends subsection 33(2) by setting out the conditions that may apply to a permit with respect to work to be carried out or amounts to be expended by the permittee. In particular, the conditions relating to work required to be carried out may apply to a period of one or more years.

Item 10: Before subsection 96(1)

23. This clause inserts a new subsection 96(1AA) to remove from work program permits, granted under section 22 or renewed under section 32 respectively, the requirement to commence work in those permits within six months of the grant or renewal. As the conditions of work program permits require work to be carried out in each year of the term of the permits, the requirement to commence work within six months of the grant or renewal of the permits is no longer necessary.

Item 11: Subsection 104(1)

24. This clause amends subsection 104(1) by removing the words "at any time". The removal of these words makes it clear to title holders that the conditions of titles are expected to be met before an application for consent to surrender a title may be made.

Item 12: After subsection 104(3)

25. This clause amends section 104 by inserting a new subsection relating specifically to work program permits granted or renewed under sections 22 or 32 respectively. The new subsection 104(3A) makes it clear that a permittee has not complied with the conditions of a permit if an application for consent to surrender the permit is made prior to completing the work required to be carried out during a specified period. The new subsection provides an example to illustrate how this new provision will operate.

Item 13: Permits granted before commencement

26. This clause validates all permits granted or renewed under sections 22 or 32 respectively, since the guaranteed work program bidding system was introduced in December 1985.

Item 14: Validity of past surrenders under section 104

27. This clause protects the validity of decisions taken by the Designated Authority to allow the surrender of any permits

since the introduction of the guaranteed work program bidding system in December 1985.

Item 15: Interpretation

28. This clause defines the term "past period" as the period which commenced with the introduction of the guaranteed work program bidding system in December 1985 and ending at the time these amendments receive Royal Assent.

SCHEDULE 5

EXPORT CONTROL ACT 1982

Item 1: Subparagraphs 7(3)(b)(i) and (ii)

29. Connecting word between subparagraphs of the Act to conform with contemporary drafting conventions of legislation.

Item 2: After subparagraph 7(3)(b)(ii)

30. Inserts a subparagraph in the section of the *Export Control Act 1982* headed 'prohibition on export of prescribed goods', which enables the Minister to impose fees to recover the costs of compliance monitoring undertaken by the Department of Primary Industries and Energy of hardwood woodchip export licences. These licences are approved by the Minister under regulations made pursuant to subsection 7(2) of that Act.

