

Petroleum (Onshore) Regulation 2016

As at 12 August 2016

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Petroleum (Onshore) Regulation 2016*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

3 Definitions

(Former clause 3 of 2007 Reg)

(1) In this Regulation: "**fixed agenda**" means a fixed agenda referred to in clause 5 (3) or 6. "**rehabilitation**" means the treatment or management of disturbed land or water for the purpose of establishing a safe and stable environment. "**rehabilitation cost estimate**" means an estimate of the rehabilitation costs in relation to any land or water, prepared and calculated in accordance with guidelines approved by the Secretary. "**the Act**" means the *Petroleum (Onshore) Act 1991*. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

For the purposes of comparison, a number of provisions of this Regulation contain bracketed notes in headings drawing attention ("Former") to equivalent or comparable (though not necessarily identical) provisions of the *Petroleum (Onshore) Regulation 2007* ("2007 Reg").

Part 2 – Petroleum titles

4 Drawing of maps and plans: section 13

(Former clause 4 of 2007 Reg)

(1) For the purposes of section 13 of the Act, a map or plan accompanying an application for an exploration licence or a special prospecting authority must:

- (a) delineate the alignment of the boundaries of the land to which it relates relative to the Graticular Reference Grid, and
- (b) describe the mapcode and blocks incorporated within the boundaries of the licence or authority.

(2) A map or plan accompanying an application for an assessment lease or production lease must:

- (a) delineate the alignment of the boundaries of the land to which it relates relative to the Map Grid of Australia 1994 (MGA94), and
- (b) show the coordinates of all points where there is a change in the direction of the boundaries.

(3) In addition, a map or plan accompanying an application for a petroleum title must:

- (a) be in electronic form and drawn to an appropriate standard scale to optimally display the area to which the petroleum title is intended to apply, or
- (b) if it is not possible for the map or plan to be in electronic form, be drawn on a standard topographic or cadastral map published by a State or Commonwealth Government Department, or

(c) if it is not possible for the map or plan to be in electronic form or to be drawn on such a standard topographic or cadastral map, be drawn at a scale that the Secretary has approved in writing.

(4) In this clause: "**Graticular Reference Grid**" is defined in the NSW Block Identification Index Map 2016. "**MGA94**" means the Geocentric Datum of Australia 1994 (GDA94), using the Map Grid of Australia 1994 (MGA94) standard map projection expressed in Universal Transverse Mercator (UTM) projection coordinates with zones 6 degrees wide.

Clauses 12 (1) and 13 impose the same requirements for maps and plans accompanying applications for partial renewal or partial cancellation of a petroleum title as those imposed by this clause.

Section 19 (5) of the Act has the effect that the requirements of this clause extend to applications for renewal of a petroleum title. Clause 12 (2) contains additional requirements for all applications for renewal.

5 Work programs for exploration licences or assessment leases: section 14

(Former clause 5 of 2007 Reg)

(1) For the purposes of section 14 (1) (d) of the Act, a work program supporting an application for an exploration licence or an assessment lease must include particulars of the estimated amount of money that the applicant proposes to spend on carrying out operations and activities on the land comprised in the licence or lease.

(2) The work program supporting an application for an exploration licence or assessment lease may be prepared in either of 2 formats.

(3) Under 1 format, it may consist of a fixed agenda describing in detail the nature and extent of operations to be carried on under the licence or lease during the whole of its term.

(4) Under the other format (the "**2-part format**"), it may be divided into 2 parts, namely:
(a) a fixed agenda describing in detail the nature and extent of operations to be carried on during an initial period (at least the first 2 years) of the term of the licence or lease, and
(b) a summary of intended operations during the remainder of the term.

(5) If prepared in the 2-part format, it is a condition of the petroleum title, if granted, that the holder of the title will provide progressive agendas in accordance with clause 6.

(6) The work program for a special prospecting authority is to be a fixed agenda describing in detail the nature and extent of operations to be carried on under the authority during the whole of its term.

6 Progressive agendas: section 14 (1) (d)

(Former clause 6 of 2007 Reg)

(1) For the purposes of section 14 (1) (d) of the Act, if the work program supporting an application for an exploration licence or assessment lease was prepared using the 2-part format, the holder of the licence or lease must lodge another fixed agenda of operations:

- (a) for a period of not less than 2 years commencing on the conclusion of the period covered by the previous fixed agenda, or
- (b) for the remainder of the term of the licence or lease.

(2) That further fixed agenda must be lodged not later than 2 calendar months before the end of the initial period covered by the fixed agenda supporting the application.

(3) In the same way, further fixed agendas must be lodged, each not later than 2 calendar months before the end of the period covered by the previous agenda, until the entire term of the licence or lease is accounted for.

(4) The Minister may require that the holder of a petroleum title revise and submit a fixed agenda lodged under this clause if the Minister is of the opinion that the fixed agenda does not meet the Minister's minimum standards with respect to the work program.

(5) It is a condition of every exploration licence or assessment lease that the holder of the licence or lease comply with any such requirement.

7 Details to be provided: section 14

(Former clause 7 of 2007 Reg)

A fixed agenda must include details of:

- (a) the objectives of any proposed exploration, and
- (b) the methods of exploration proposed to be employed.

8 Commencement of exploration activities

(Former clause 8 of 2007 Reg)

Not later than 14 days before starting work on any exploration borehole, seismic survey or other exploration within the area of a petroleum title, the holder of the title must advise the Minister of the intention to commence it.

Maximum penalty: 100 penalty units.

9 Work programs to be adhered to: clause 6 (1) (c) of Schedule 1B

(Former clause 9 of 2007 Reg)

For the purposes of clause 6 (1) (c) of Schedule 1B to the Act, it is a condition of every petroleum title that the holder of the title will:

- (a) carry out the operations, and any other activities, described in the work program, as for the time being in force, in respect of the title, and
- (b) comply with any commitments in relation to the conduct of operations specified in the work program, as for the time being in force, in respect of the title.

10 Variation of work programs

(Former clause 10 of 2007 Reg)

- (1) The holder of a petroleum title who wishes to vary the work program in force in respect of the title must lodge a submission with the Minister providing adequate details of the variation proposed to be made and setting out the reasons for making it.
- (2) The Minister may approve of the variation if the Minister is satisfied that there is just and sufficient cause for making the variation and if the revised work program meets the Minister's requirements.
- (3) The variation becomes effective when the Minister signifies approval of it by a notice in writing served on the holder of the title.
- (4) The Minister's approval of a variation may also, to any extent the Minister considers necessary or convenient, vary the requirements of this Part in so far as it applies to the holder of the title concerned.

11 Applications for low-impact prospecting titles: section 45D

(Former clause 11 of 2007 Reg)

A low-impact prospecting title is not to be granted during the period of 4 months following service of notice of the application for the title on the representative bodies referred to in section 45D (1) (c) of the Act.

12 Applications for renewal of petroleum titles: section 19 (2AA) and (2AB)

(Former clause 11A of 2007 Reg)

- (1) For the purposes of section 19 (2AA) (b) of the Act, in the case of an application for

renewal of a petroleum title that relates to part only of the land comprised in the title, the prescribed manner of describing the land is by means of a map prepared in accordance with the requirements of clause 4 for a map accompanying an application for a petroleum title of that type.

(2) For the purposes of section 19 (2AB) (b) of the Act, an application for renewal of a petroleum title must be accompanied by the following information:

- (a) particulars of the financial capability and relevant technical advice available to the applicant,
- (b) a renewal justification statement, that is, a statement that contains the following information:
 - (i) details of the operations carried out on the land comprised in the title during the current term of the title, including the following:
 - (A) the types of operations carried out,
 - (B) a map showing the location of operations carried out,
 - (C) any expenditure incurred in relation to those operations,
 - (ii) a summary of the known resources, and potential resources, on the land comprised in the title,
 - (iii) a summary of the potential for the development of resources on the land comprised in the title,
 - (iv) a statement giving the reasons for which the applicant considers the renewal to be justified,
- (c) a rehabilitation cost estimate in relation to the title,
- (d) a work program for the proposed term of renewal that complies with the requirements of section 14 of the Act.

Clause 4 imposes requirements for maps and plans accompanying applications for a petroleum title. Section 19 (5) of the Act has the effect that the requirements of clause 4 extend to applications for renewal of a petroleum title.

13 Cancellation of petroleum titles: section 22 (2)

(Former clause 11B of 2007 Reg)

For the purposes of section 22 (2) of the Act, in relation to a request for the cancellation of a petroleum title that relates to part only of the land comprised in the title, the prescribed manner of describing the land is by means of a map prepared in accordance with the requirements of clause 4 for a map accompanying an application for a petroleum title of that type.

14 Records of titles: section 95

(Former clause 12 of 2007 Reg)

For the purposes of section 95 (2) of the Act, the record required to be kept:

- (a) must be kept in written or electronic form, and
- (b) must contain the following particulars:
 - (i) the type of petroleum title and the identifying number or code allocated to it,
 - (ii) the date on which the petroleum title was first granted,
 - (iii) the name and address of each person who is a holder of the petroleum title,
 - (iv) a description of the land over which the petroleum title is in force,
 - (v) the annual rental fee area for a petroleum title granted or proposed to be granted, if the Secretary is required to keep a record of the annual rental fee area under Part 7,
 - (vi) the period for which the petroleum title is to have effect,
 - (vii) the current status of the petroleum title (that is, "current", "expired" or "cancelled"),

(viii) any interest registered under section 97 of the Act in relation to the petroleum title.

15 Prescribed particulars for transfers of titles: section 96

(Former clause 13 of 2007 Reg)

For the purposes of section 96 (2) (c) of the Act, the following particulars are prescribed:

- (a) the name of the proposed transferee,
- (b) a description of the financial resources available to the proposed transferee,
- (c) details of any person providing technical advice to the proposed transferee,
- (d) a description of the proposed work program,
- (e) an estimate of the amount of money proposed to be expended on prospecting,
- (f) a rehabilitation cost estimate in relation to the title.

16 Beneficial use of gas: section 28B

(Former clause 13A of 2007 Reg)

- (1) For the purposes of section 28B (1) (a) of the Act:
 - (a) all assessable prospecting operations authorised by an exploration licence or assessment lease, and by an activity approval, may be carried out to enable the beneficial use of gas, and
 - (b) all operations authorised by an exploration licence or assessment lease in relation to which a relevant development consent is in force authorising works that facilitate the beneficial use of gas may be carried out to enable the beneficial use of gas.
- (2) In relation only to an assessable prospecting operation authorised by an activity approval, for the purposes of section 28B (1) (b) of the Act:
 - (a) the right to the beneficial use of gas conferred by section 28B of the Act is limited to a period of 1,000 days (whether or not consecutive), per well, in total, and
 - (b) gas cannot be used beneficially unless the activity approval for the assessable prospecting operation involved specifically extends to include the beneficial use of the gas.
- (3) For the purposes of section 28B (2) of the Act, royalty is payable under and in accordance with Part 7 of the Act in respect of any petroleum recovered by the holder of the petroleum title and used beneficially, unless that recovery and use is authorised by a relevant development consent.
- (4) In this clause: "**relevant development consent**" means development consent or approval granted under Part 3A, 4 or 5.1 of the *Environmental Planning and Assessment Act 1979* before 18 December 2015.

Part 3 – Use of information and protected documents

17 Use of audit information: section 83H

(Former clause 14 of 2007 Reg)

For the purposes of the definition of "**relevant agency**" in section 83H (3) of the Act, the following legislation is prescribed:

- (a) the *Crimes Act 1900*,
- (b) the *Electricity Supply Act 1995*,
- (c) the *Explosives Act 2003*,

- (d) the *Forestry Act 2012*,
- (e) the *Hunter Water Act 1991*,
- (f) the *Pipelines Act 1967*,
- (g) the *Sydney Water Act 1994*,
- (h) the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*.

18 Protected voluntary audit documents not admissible in certain proceedings or otherwise protected: section 83K

(Former clause 15 of 2007 Reg)

(1) For the purposes of section 83K (1) (a) of the Act, the following legislation is prescribed:

- (a) the *Crimes Act 1900*,
- (b) the *Electricity Supply Act 1995*,
- (c) the *Explosives Act 2003*,
- (d) the *Forestry Act 2012*,
- (e) the *Hunter Water Act 1991*,
- (f) the *Pipelines Act 1967*,
- (g) the *Sydney Water Act 1994*,
- (h) the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* or any of the other work health and safety legislation (within the meaning of the *Mining Act 1992*).

(2) For the purposes of section 83K (1) (b) of the Act, the following agencies, departments and authorities are prescribed authorities:

- (a) Dams Safety NSW,
- (b) the Department of Finance, Services and Innovation,
- (c) the Independent Commission Against Corruption,
- (d) a local council,
- (e) Local Land Services,
- (f) the Mine Subsidence Board,
- (g) the NSW Police Force or the police force of another State or Territory,
- (h) the Regulatory Authority (within the meaning of the *Water NSW Act 2014*),
- (i) Roads and Maritime Services,
- (j) SafeWork NSW,
- (k) the Sydney Harbour Foreshore Authority,
- (l) the Western Lands Commissioner,
- (m) any other agency or authority administering any relevant legislation.

(3) In this clause: "**relevant legislation**" means the following legislation:

- (a) the *Petroleum (Onshore) Act 1991*,
- (b) the *Mining Act 1992*,
- (c) the *Environmental Planning and Assessment Act 1979*,
- (d) any of the environment protection legislation,
- (e) any legislation set out in subclause (1).

19 Disclosure of protected documents: section 113M

(Former clause 16 of 2007 Reg)

For the purposes of section 113M (1) (g) of the Act, the following legislation is prescribed:

- (a) the *Crimes Act 1900*,
- (b) the *Electricity Supply Act 1995*,
- (c) the *Explosives Act 2003*,
- (d) the *Forestry Act 2012*,
- (e) the *Hunter Water Act 1991*,

- (f) the *Pipelines Act 1967*,
- (g) the *Sydney Water Act 1994*.

Part 4 – Records and reports

20 Keeping of geological plans, maps and records: section 97A

(Former clause 16A of 2007 Reg)

- (1) For the purposes of section 97A (a) of the Act:
 - (a) the holder of a petroleum title must, in accordance with written directions issued from time to time by the Secretary, keep geological plans, maps and records relating to the land comprised in the title, and
 - (b) those records must include a summary of the operations conducted during the period to which the records relate, together with details of expenditure in respect of each such operation.
- (2) For the purposes of section 97A (b) of the Act, the holder of a petroleum title must, in accordance with written directions issued from time to time by the Minister, furnish to the Minister such geological and other plans and information as to the progress of operations on such land within the time specified by the Minister.
- (3) The requirements of this clause are in addition to the other requirements of this Part.

21 Annual reports: section 97C

(Former clause 16B of 2007 Reg)

- (1) For the purposes of section 97C (2) (a) of the Act, the holder of a petroleum title must prepare and lodge with the Secretary an annual report that complies with this clause.
- (2) An annual report must be lodged within 1 calendar month of the grant anniversary date (within the meaning of section 94B of the Act), or such other date notified by the Secretary in writing, regardless of whether an application to renew the petroleum title area has been lodged and not yet determined.
- (3) An annual report must contain the following:
 - (a) full particulars of all surveys and other operations and activities carried out by or on behalf of the holder of the petroleum title during the preceding 12-month period within which the petroleum title had effect,
 - (b) details of expenditure on operations and activities carried out by or on behalf of the holder of the petroleum title during the preceding 12-month period within which the petroleum title had effect,
 - (c) the results and conclusions of such surveys and any other operations,
 - (d) the operations proposed to be conducted during the next 12-month period.

22 Reports on drilling and seismic activities: section 97C

(Former clause 16C of 2007 Reg)

- (1) For the purposes of section 97C (2) (a) of the Act, the holder of a petroleum title must prepare and lodge with the Secretary a report that complies with this clause on the operations carried out under the title in relation to:
 - (a) each seismic program, and
 - (b) the drilling of each borehole.
- (2) A report on a seismic program or the drilling of a borehole must be lodged within 6 months after the completion of the program or the drilling of the borehole concerned.
- (3) A report on a seismic program or the drilling of a borehole must provide details on the operations carried out in the activity concerned, together with all raw and processed data and the conclusions drawn from it.

23 Partial relinquishment reports: section 97C

(Former clause 16D of 2007 Reg)

(1) For the purposes of section 97C (2) (a) of the Act, the holder of a petroleum title must prepare and lodge with the Secretary a partial relinquishment report that complies with this clause when the holder's title has been:

- (a) partially cancelled, or
- (b) renewed over an area of land that is less than the area over which the petroleum title applied prior to its renewal.

(2) A partial relinquishment report must be lodged with the Secretary within 1 calendar month after the Secretary gives notice of the cancellation or renewal as referred to in subclause (1).

(3) A partial relinquishment report is only required in relation to the area of land that formed part of the authority before the cancellation or renewal of the kind referred to in subclause (1).

(4) A partial relinquishment report must contain the following:

- (a) a summary of all surveys and other operations carried out by or on behalf of the holder of the petroleum title during the period within which the land that has been relinquished was subject to the petroleum title,
- (b) detailed data of all surveys and other operations,
- (c) the results and conclusions of such surveys and any other operations.

24 Final reports: section 97C

(Former clause 16E of 2007 Reg)

(1) For the purposes of section 97C (2) (a) of the Act, the holder of a petroleum title must prepare and lodge with the Secretary a final report that complies with this clause.

(2) A final report must be lodged with the Secretary within 1 calendar month after the expiry or cancellation of the petroleum title.

(3) A final report must contain the following:

- (a) a summary of all surveys and other operations carried out by or on behalf of the holder of the petroleum title during the period within which the land that has been relinquished was subject to the title,
- (b) detailed data of all surveys and other operations not previously provided,
- (c) the results and conclusions of such surveys and any other operations.

25 Requirements of reports

(Former clause 16F of 2007 Reg)

(1) The Secretary may issue further requirements relating to reports under clause 21, 22, 23 or 24. Any such requirements must be published in the Gazette.

(2) A report under clause 21, 22, 23 or 24 must be prepared and lodged in accordance with any requirements issued by the Secretary.

26 Maps, plans and data in reports

(Former clause 16G of 2007 Reg)

A report under clause 21, 22, 23 or 24 must contain all maps, plans and data that are necessary to satisfactorily interpret and evaluate the report.

27 Extension of time to lodge reports: section 97C (2) (b)

(Former clause 16H of 2007 Reg)

(1) The holder of a petroleum title may apply to the Secretary for an extension of the period during which a report must be lodged under clause 21 (2), 22 (2), 23 (2) or 24 (2).

(2) An application for an extension must be lodged with the Secretary not less than 30 days before the date the report is required to be lodged and must contain the following information:

- (a) the authority number or other identifying code for the petroleum title,
- (b) the name of the holder of the petroleum title,
- (c) the period of the extension sought,
- (d) the reason for seeking the extension.

(3) On receipt of an application for an extension the Secretary may:

- (a) grant an extension of the time by which a report must be lodged, or
- (b) refuse the application.

(4) The Secretary must advise the applicant of the determination in writing within 21 days after receipt of the application.

28 Exemption from obligation to prepare and lodge reports: section 97C (2) (b)

(Former clause 16H of 2007 Reg)

(1) For the purposes of section 97C (2) (b) of the Act, the Secretary may, by order published in the Gazette, exempt any person, class of persons, petroleum title or class of petroleum titles from a requirement to prepare and lodge a report under clause 21, 22, 23 or 24.

(2) The holder of a petroleum title may apply to the Secretary for an exemption from a requirement to prepare and lodge a report under section 97C of the Act.

(3) An application for an exemption must be lodged with the Secretary not less than 30 days before the date the report is required to be lodged and must contain the following information:

- (a) the authority number or other identifying code for the petroleum title,
- (b) the name of the holder of the petroleum title,
- (c) the reason for seeking the exemption.

(4) On receipt of an application for an exemption the Secretary may:

- (a) grant an exemption, or
- (b) refuse the application.

(5) The Secretary must advise the applicant of the determination in writing within 21 days after receipt of the application.

29 Collection of cores and samples: section 97G

(Former clause 16I of 2007 Reg)

For the purposes of section 97G of the Act, the holder of a petroleum title must:

(a) so far as is reasonably practicable, collect, retain and preserve:

- (i) all drill cores and percussion chips remaining after sampling, including any material obtained under previous petroleum titles, and
- (ii) all characteristic samples of the rock or strata encountered on any drill hole or well on the land comprised in the petroleum title, including any material obtained under previous petroleum titles, and
- (iii) samples of any petroleum discovered in any well on such land, and

(b) collect, retain and preserve samples of any water discovered in any well on the land comprised in the petroleum title, where requested to do so by written notice from the Secretary, and

(c) label any such drill core, percussion chips or samples for reference, and

(d) so far as is reasonably practicable, preserve the integrity of any such drill core, percussion chip or sample for the life of the title, and

(e) if the holder of the title intends to dispose of any of the drill cores, percussion chips or samples:

- (i) offer those drill cores, percussion chips or samples to the Secretary for preservation, and
- (ii) if requested to do so, provide them to the Secretary for preservation in such manner as the Secretary determines.

Part 5 – Compensation

30 Time allowed for parties to agree: section 108

(Former clause 17 of 2007 Reg)

For the purposes of section 108 (2) of the Act, the prescribed time is 30 days after the service by either party on the other of a notice requiring an agreement as to the amount of compensation payable.

31 Manner of assessing and determining compensation: section 110

(Former clause 18 of 2007 Reg)

- (1) If compensation is to be assessed by the Land and Environment Court, 7 days' notice must be given to all persons appearing to the Court to be interested in the assessment.
- (2) Proceedings may be conducted for the purposes of the assessment in the Land and Environment Court or on the land concerned.

32 Manner of payment

(Former clause 19 of 2007 Reg)

- (1) The Land and Environment Court may order that compensation be paid into court in 1 amount or in instalments.
- (2) The order is to fix the time within which any such payment is required to be made.

Part 6 – Agents

33 Agents: section 134

(Former clause 20 of 2007 Reg)

- (1) The following persons may appoint 1 or more agents for the purposes of the Act and this Regulation:
 - (a) the holder of a petroleum title,
 - (b) an applicant for a petroleum title,
 - (c) any person who owns or occupies land over which a petroleum title is in force or to which an application for a petroleum title relates.
- (2) The Secretary may refuse to deal with a person who claims to be acting as an agent unless notice of the person's appointment as an agent, and of the agent's powers and functions in relation to the Act and this Regulation, have been served on the Secretary.
- (3) The appointment of a person as an agent for the service of documents on the principal does not render invalid the service of any document otherwise than on the agent.

34 Notification of agents: section 97F

(Former clause 20A of 2007 Reg)

For the purposes of section 97F of the Act:

- (a) a person who has appointed an agent for the purposes of that section must provide written notice of the appointment to the Secretary, and

(b) any notice of that same person's appointment under section 134 of the Act (made in accordance with clause 33 (2)) is sufficient notice for the purposes of section 97F of the Act.

Part 7 – Fees

Division 1 – General

35 Fees

(Former clause 21 of 2007 Reg)

(1) The fees prescribed in Schedule 1 are payable in connection with the matters indicated in that Schedule.

(2) Copies of or extracts from any record may be obtained from the Department on payment of such charge as the Secretary may determine.

Division 2 – Annual rental fees

36 Calculation of annual rental fee

(Former clause 22A of 2007 Reg)

(1) An annual rental fee specified in Schedule 1 as per block, per hectare, per square kilometre or per unit is to be calculated on the basis of the annual rental fee area.

(2) The "**annual rental fee area**" is the number of blocks, hectares, square kilometres or units of land comprised in the annual rental fee area for the petroleum title for which the annual rental fee is payable, as specified in the record kept by the Secretary under the Act.

(3) If the annual rental fee area includes a part of a unit or block, that part is to be disregarded.

(4) If the annual rental fee area includes a part of a hectare, or square kilometre, that part is to be included in the calculation.

(5) If there is no annual rental fee area for a petroleum title for which an annual rental fee is payable, the annual rental fee is to be calculated as if the description of the land over which the petroleum title is in force, as specified in the record of the petroleum title kept by the Secretary under the Act, were the annual rental fee area.

(6) To avoid doubt, subclause (5) continues to apply until an annual rental fee area is determined for the petroleum title under this Division and specified in the record kept by the Secretary under the Act.

37 Annual rental fee area

(Former clause 22B of 2007 Reg)

(1) The Secretary is to determine an annual rental fee area for any petroleum title that is granted or proposed to be granted on or after 1 July 2012.

(2) The Secretary may determine (and must determine, if required to do so by this Division) an annual rental fee area for a petroleum title granted before 1 July 2012.

(3) The annual rental fee area is a description of the land to which the petroleum title applies, or is proposed to apply, in terms that enable an annual rental fee payable under Part 7A of the Act to be calculated in respect of the petroleum title.

(4) Exclusions specified, or proposed to be specified, in a petroleum title are to be counted towards the annual rental fee area.

(5) The Secretary is required to record an annual rental fee area determined under this clause in the record kept by the Secretary under section 95 of the Act.

(6) The Secretary may, if the Secretary considers it is fair and reasonable to do so, revise his or her determination of the annual rental fee area for a petroleum title by varying the

determination or substituting a new determination.

(7) If the Secretary revises his or her determination of the annual rental fee area for a petroleum title, the Secretary is to update the record of the annual rental fee area kept under section 95 of the Act to reflect that revision.

(8) It is not necessary to determine an annual rental fee area in respect of a petroleum title if the petroleum title is exempt from the requirement to pay an annual rental fee.

38 Minimum annual rental fee

(Former clause 22C of 2007 Reg)

If the annual rental fee payable in respect of a petroleum title under Part 7A of the Act would, but for this clause, be less than \$100, the annual rental fee is taken to be \$100.

39 References to initial term, second and subsequent terms (Schedule 1)

(Former clause 22D of 2007 Reg)

(1) In Schedule 1, a reference to the "**initial term**" of a petroleum title is a reference to the initial term for which the petroleum title is granted.

(2) The initial term of a petroleum title does not include any period starting when the title, as granted, would have expired, but for section 20 of the Act, and during which the title continues in force under that section.

(3) In Schedule 1, a reference to the "**second term**" of a petroleum title is a reference to:

- (a) any part of the term of the petroleum title that starts when the initial term ends and during which the title continues in force under section 20 of the Act, and
- (b) the term (if any) for which the title is first renewed.

(4) The second term of a petroleum title does not include the period starting when the title, as renewed, would have expired, but for section 20 of the Act, and during which the title continues in force under that section.

(5) In Schedule 1, a reference to a "**subsequent term**" of a petroleum title is a reference to:

- (a) any part of the term of the petroleum title that starts when the previous term ends and during which the title continues in force under section 20 of the Act, and
- (b) the term (if any) for which the title is subsequently renewed.

(6) A subsequent term of a petroleum title does not include the period starting when the title, as renewed, would have expired, but for section 20 of the Act, and during which the title continues in force under that section.

(7) A term of a petroleum title is "**after**" another term, for the purposes of Schedule 1, if it starts when, or at any time after, the other term ends.

40 Grant anniversary date occurring during period in which petroleum title is automatically extended

(Former clause 22F of 2007 Reg)

(1) The amount of the annual rental fee payable under Part 7A of the Act in respect of a grant anniversary date that occurs during a period in which a petroleum title is taken to continue in force under section 20 of the Act is to be reassessed if the Minister finally disposes of an application for renewal of the petroleum title by refusing it.

(2) In such a case, the annual rental fee payable in respect of the most recent grant anniversary date to have occurred is taken to be the relevant proportion of the annual rental fee that, but for this clause, would be payable.

(3) The "**relevant proportion**" is the proportion that the number of days in the period from (and including) that most recent grant anniversary date to (but not including) the date the application is refused bears to 366 days.

(4) A refund is to be provided, as necessary, in accordance with the reassessment.

Division 3 – Administrative levies

41 Grant anniversary date occurring during period in which petroleum title is automatically extended

(Former clause 22H of 2007 Reg)

- (1) The amount of the administrative levy payable under Part 7A of the Act in respect of a grant anniversary date that occurs during a period in which a petroleum title is taken to continue in force under section 20 of the Act is to be reassessed if the Minister finally disposes of an application for renewal of the petroleum title by refusing it.
- (2) In such a case, the administrative levy payable in respect of the most recent grant anniversary date to have occurred is taken to be the relevant proportion of the administrative levy that would, but for this clause, be payable.
- (3) The "**relevant proportion**" is the proportion that the number of days in the period from (and including) that most recent grant anniversary date to (but not including) the date the application is refused bears to 366 days.
- (4) A refund is to be provided, as necessary, in accordance with the reassessment.

Part 8 – Royalty

Division 1 – Rates of royalty

42 Rate of royalty: section 85

(Former clause 23 of 2007 Reg)

For the purposes of section 85 (2) of the Act, the prescribed annual rate of royalty is 10% of the value at the well-head of the petroleum.

43 Rate of royalty: Mining Act 1992, section 286

(Former clause 24 of 2007 Reg)

For the purposes of Division 3 of Part 14 of the *Mining Act 1992*, the prescribed annual rate of royalty is 10% of the value at the well-head of the petroleum.

Division 2 – Refunds or rebates of royalty where contribution made to authorised fund providing for community benefits

44 Definitions

(Former clause 24AB (1) of 2007 Reg)

In this Division:

"authorised fund" means a fund the subject of an order under clause 45.

"exploration phase", in relation to a petroleum title, means the period during which the holder of that petroleum title carries out prospecting in the project area for that title under the authority of an exploration licence, assessment lease or special prospecting authority.

"project area", in relation to a petroleum title held by a person, means the local government area in which prospecting or mining authorised by the petroleum title is carried out and any local government area adjacent to that area that is affected by that prospecting or mining.

45 Declaration of authorised funds

(Former clause 24AB (2)-(5) of 2007 Reg)

- (1) The Minister may, by order published in the Gazette, declare a fund that is administered by a government entity, and that has as its principal object the provision of benefit to the community, to be an authorised fund for the purpose of this Division.
- (2) An order must specify the geographical area to which the authorised fund relates.
- (3) An order may also specify the following:
 - (a) the government entity that administers the relevant authorised fund,
 - (b) the guidelines that must be followed by that government entity in administering the authorised fund.
- (4) The entity that administers an authorised fund is to:
 - (a) comply with any guidelines specified in the order that declares the fund to be an authorised fund, and
 - (b) notify the Chief Commissioner, at the end of each financial year, of the details of any holder of a petroleum title who has made a contribution to an authorised fund and the value of the contributions made to the fund.

46 Rebates against royalty payable

(Former clause 24AB (6)-(9) of 2007 Reg)

- (1) For the purposes of section 91A of the Act, the holder of a petroleum title is eligible for a rebate of royalty payable by the holder in respect of petroleum recovered by that holder under that petroleum title, or any other petroleum title in the same project area as the title in respect of which royalty was paid or is payable, if:
 - (a) a contribution was made to an authorised fund by that holder of that title in respect of any petroleum title held by that holder in the project area, and
 - (b) any part of the project area to which the petroleum title relates is located within the area specified in the Ministerial order as the area to which the authorised fund relates, and
 - (c) refunds or rebates, or both, have not previously been paid or claimed in respect of the total amount of the contribution in the year.
- (2) A rebate under this clause:
 - (a) first becomes payable at the end of the first full financial year (1 July to 30 June) in which the holder of the title recovers petroleum in relation to which royalty is payable under the authority of a production lease in the title's project area ("**the first full production year**"), and
 - (b) is to be offset against the amount of royalties owing by the holder of the title for any title in the same project area in the relevant financial year.
- (3) To avoid doubt, in the case where the holder of a petroleum title made a contribution to an authorised fund during the exploration phase that relates to the title, the rebate is carried over and credited against royalty payable in the first full production year referred to in subclause (2) (a).
- (4) The amount that a holder of a petroleum title who is liable to pay royalty in a financial year is entitled to claim as a rebate on the royalty payment in the same year as a contribution is made, or that is carried over in accordance with subclause (3), is \$1 for every \$2 that the holder of the title contributed to an authorised fund, up to a maximum of 10% of the royalty payable by the holder of the title in relation to production in the title's project area in that year.

47 Refunds of royalty paid

(Former clause 24AB (10)-(12) of 2007 Reg)

- (1) For the purposes of section 91A of the Act, the holder of a petroleum title is eligible for a refund of royalty paid by the holder in respect of petroleum recovered by that holder under that petroleum title, or any other petroleum title in the same project area as the title

in respect of which royalty was paid or is payable, if:

- (a) a contribution was made to an authorised fund by that holder of that title in respect of any petroleum title held by that holder in the project area, and
 - (b) any part of the project area to which the petroleum title relates is located within the area specified in the Ministerial order as the area to which the authorised fund relates, and
 - (c) an overpayment of royalty has been paid after a rebate has been calculated and any possible rebate against royalty has been exhausted, and
 - (d) refunds or rebates, or both, have not previously been paid or claimed in respect of the total amount of the contribution in the year.
- (2) A refund under this clause first becomes payable at the end of the first full financial year (1 July to 30 June) in which the holder of the title recovers petroleum, in relation to which royalty was paid, under the authority of a production lease in the title's project area.
- (3) The amount that a holder of a petroleum title who was paid royalty in a financial year is entitled to claim as a refund on royalty paid in the same year as a contribution is made is \$1 for every \$2 that the holder of the title contributed to an authorised fund, up to a maximum of 10% of the royalty paid by the holder of the title in relation to production in the title's project area in that year.

48 Refunds (of royalty paid) and rebates (against royalty payable)

(Former clause 24AB (13) and (14) of 2007 Reg)

- (1) A refund or rebate does not apply in relation to any period where the obligation to pay royalty arose because gas was beneficially produced during the exploration phase in relation to the title, in accordance with section 28B (Right to beneficial use of gas yielded through prospecting) of the Act and clause 16.
- (2) To avoid doubt, no refund or rebate is payable in relation to any interest earned on any contribution to an authorised fund.

Part 9 – Miscellaneous

49 Minimum deposit--security deposit conditions

(Former clause 24A of 2007 Reg)

For the purposes of section 106H of the Act, the minimum deposit for a petroleum title is \$10,000.

50 Notifications of commencement of commercial production

(Former clause 25 of 2007 Reg)

- (1) It is a condition of every assessment lease or production lease in force under the Act that:
- (a) the holder of the lease must notify the Secretary in writing of the date on which commercial production first commences on the land to which the lease relates, and
 - (b) the notification must be given within the period of 7 days after that date.
- (2) In this clause: "**commercial production**" of petroleum means the use by, or supply to, any person (including the holder of a petroleum title or of a mining lease under the *Mining Act 1992*) of any petroleum extracted from an area of land to which a petroleum title or mining lease relates for any purpose (but not for well assessment, flaring or equipment testing that does not result in the generation of energy or supply of petroleum

for commercial purposes).

51 Certificates of authority: section 104N

(Former clause 28 of 2007 Reg)

(1) For the purpose of authorising a person to exercise a power conferred by Part 9 of the Act, the Secretary may issue the person with a certificate of authority.

(2) The certificate must be signed by the Secretary (or by the Secretary's delegate, if issued under delegation) and must include the following particulars:

- (a) a statement to the effect that it is issued under the *Petroleum (Onshore) Act 1991*,
- (b) the name of the person to whom it is issued,
- (c) the nature of the powers it confers.

(3) Such a certificate is the form of evidence required for the purposes of section 104N

(1) (b) of the Act.

52 Penalty notice offences and penalties: section 125N

(Former clause 29 of 2007 Reg)

(1) For the purposes of section 125N of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 2 is an offence for which a penalty notice may be served, and
- (b) the penalty prescribed for each such offence is:
 - (i) in the case of an offence committed by an individual--the amount specified opposite the provision in Column 2 of the Schedule, or
 - (ii) in the case of an offence committed by a body corporate--the amount specified opposite the provision in Column 3 of the Schedule.

(2) If the reference to a provision in Column 1 of Schedule 2 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

53 References to officers in petroleum titles: section 138B

(Former clause 30 of 2007 Reg)

Pursuant to section 138B of the Act, a reference in any petroleum title to any of the following officers is, for the purpose of the performance of a function involving rehabilitation or environmental requirements, taken to be a reference to the Minister:

- (a) District Inspector,
- (b) Inspector of Petroleum.

54 Repeal and savings and transitional provisions

(Former clause 31 of 2007 Reg)

(1) The *Petroleum (Onshore) Regulation 2007* is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the *Petroleum (Onshore) Regulation 2007*, had effect under that Regulation continues to have effect under this Regulation.

(3) The reference to Dams Safety NSW in clause 18 (2) (a) includes a reference to the Dams Safety Committee constituted under the *Dams Safety Act 1978*, until that Act is repealed.

Schedule 1 Fees

(Part 7)

Matter	Fee
General administrative fees	
On application for a petroleum title (section 12)	\$50,000
On application for a renewal of a petroleum title (section 19)	\$1,000
On application for the appointment of an arbitrator under section 69G	\$180
On application for approval of a transfer of a title, for each title	\$1,000
On registration of a transfer	\$180
On lodgment of a caveat	\$250
Registration of any instrument under section 97	\$250
On application by a person for the grant of an easement or right of way under section 105	\$1,000
On application by a person for the grant of a right of way under section 106	\$1,000
Release of information in accordance with a request under section 113E	120% of the cost to the Department of making available the information to which the request relates
Inspection of cores, cuttings or samples in accordance with a request under section 113F	120% of the cost to the Department of making available the cores, cuttings or samples to which the request relates
Release of information or summary in accordance with a request under section 113G or 113H	120% of the cost to the Department of making available the information to which the request relates
On application by a person on whom the rights of the registered holder of a title have devolved by operation of law to have the person's name recorded as the registered holder of the title, for each title	\$250
For noting a change of name of the registered holder of a title, for each title	\$250
Title fees	
Title fee--on grant of a petroleum exploration licence (section 94F):	
(a) for a term of less than 3 years	\$10,000
(b) for a term of not less than 3 years	\$15,000
Title fee--on renewal of a petroleum exploration licence (section 94F):	
(a) for a term of less than 3 years	\$10,000
(b) for a term of not less than 3 years	\$15,000
Title fee--on grant of a petroleum assessment lease (section 94F):	
(a) for a term of less than 3 years	\$10,000
(b) for a term of not less than 3 years	\$15,000
Title fee--on renewal of a petroleum assessment lease (section 94F):	

(a) for a term of less than 3 years	\$10,000
(b) for a term of not less than 3 years	\$15,000
Title fee--on grant of a petroleum production lease (section 94F):	
(a) if associated with methane drainage in or over a colliery	\$5,000
(b) in any other case	\$40,000
Title fee--on renewal of a petroleum production lease (section 94F):	
(a) if associated with methane drainage in or over a colliery	\$5,000
(b) in any other case	\$40,000
Title fee--on grant of a special prospecting authority (section 94F)	\$1,000
Annual rental fees	
Annual rental fee--petroleum exploration licence (section 94I):	
(a) for a grant anniversary date occurring during the initial term of the licence	\$60 per block or \$2.40 per unit
(b) for a grant anniversary date occurring during the second term of the licence	\$104 per block or \$4.16 per unit
(c) for a grant anniversary date occurring during any subsequent term of the licence after the second term	\$187.50 per block or \$7.50 per unit
Annual rental fee--assessment lease (section 94I):	
(a) for a grant anniversary date occurring during the initial term of the lease	\$9,000 per block or \$120 per sq km
(b) for a grant anniversary date occurring during any subsequent term of the lease	\$18,000 per block or \$240 per sq km
Annual rental fee--special prospecting authority (section 94I)	\$18.75 per block
Annual rental fee--production lease (section 94I)	\$10,000 per block or \$133.33 per sq km or \$1.33 per ha

Schedule 2 Penalty notice offences

(Clause 52)

Column 1	Column 2	Column 3
Offence	Natural person	Body corporate
Section 7 (1)	\$2,500	\$5,000
Section 78A	\$2,500	\$5,000
Section 91 (1A)	\$2,500	\$5,000
Section 94C (3)	\$500	\$1,000
Section 97C (3)	\$1,250	\$2,500
Section 104O (1) (in relation to a failure to comply with a requirement under section 101, 104, 104C or 104F)	\$1,250	\$2,500
Section 104O (1) (in relation to failure to comply with a requirement under section 104H (1))	\$500	--
Section 104O (3)	\$1,250	\$2,500
Section 125C	\$250	--
Section 125D	\$1,250	\$2,500
Section 125E (1)	\$2,500	\$5,000

Section 125ZM	\$1,250	\$2,500
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Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
Cl	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Petroleum (Onshore) Regulation 2016 (500)*. LW 12.8.2016. Date of commencement, on publication on LW, cl 2.