

# Petroleum (Onshore) Regulation 2007

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Petroleum (Onshore) Act 1991*.

Minister for Mineral Resources

## Explanatory note

The object of this Regulation is to remake the provisions of the *Petroleum (Onshore) Regulation 2002* which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) plans and work programs for petroleum titles (Part 2),
- (b) reports to be furnished with respect to petroleum exploration operations (Part 3),
- (c) compensation to persons affected by petroleum exploration operations (Part 4),
- (d) the appointment of agents (Part 5),
- (e) the fees payable under the *Petroleum (Onshore) Act 1991* (Part 6),
- (f) rates of royalty payable on petroleum, including for the purposes of Division 3 of Part 14 of the *Mining Act 1992* for petroleum recovered under a mining lease for coal (Part 7),
- (g) other matters of a minor, consequential or ancillary nature (Parts 1 and 8).

This Regulation adopts as a code of practice the *Schedule of Onshore Petroleum Exploration and Production Safety Requirements*, first published by the Department of Mineral Resources in 1992.

This Regulation is made under the *Petroleum (Onshore) Act 1991*, including section 138 (the general regulation-making power) and sections 12, 13, 14, 23, 45D, 69G, 85, 93, 95, 96, 101, 108, 110, 118, 119, 120, 128, 131, 134, 137A and 138B.

## Part 1 – Preliminary

### 1 Name of Regulation

This Regulation is the *Petroleum (Onshore) Regulation 2007*.

### 2 Commencement

This Regulation commences on 1 September 2007.

This Regulation replaces the *Petroleum (Onshore) Regulation 2002* which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions and notes

(1) In this Regulation: "**commercial production**" of petroleum means the use by, or supply to, any person (including the holder of a petroleum title or mining lease) of any petroleum extracted from an area of land to which a petroleum title or mining lease relates for any purpose (other than for well assessment, flaring or equipment testing that does not result in the generation of energy or supply of petroleum for commercial purposes). The term "**petroleum title**" is defined in section 3 (1) of the Act to mean an exploration licence, assessment lease, production lease or special prospecting authority in force under the Act. "**fixed agenda**" means a fixed agenda referred to in clause 5 (3) or 6 (1) or (2). "**mining lease**" has the same meaning as it has in the *Mining Act 1992*. "**the Act**" means the *Petroleum (Onshore) Act 1991*. "**work program**" means a work program referred to in section 14 of

the Act.

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

## **Part 2 – Petroleum titles**

### **4 Drawing of plans: section 13**

(1) A map or plan accompanying an application for a petroleum exploration licence must be drawn on or overlay the Department of Mineral Resources New South Wales Block Identification Map Series 1 (1:1 500 000) showing blocks.

(2) A map or plan accompanying an application for any other petroleum title, or otherwise prepared for the purposes of the Act, must be drawn on or overlay:

(a) the Identification Map referred to in subclause (1) if the area to which the proposed title relates is larger than one block, or

(b) the Department of Mineral Resources New South Wales Block Identification Map Series 3 (1:100 000) showing units, or

(c) a standard topographical map or maps at a scale of 1:100 000, 1:50 000 or 1:25 000 or at such larger scale as the Minister may determine for that application, showing the co-ordinates (by reference to Map Grid of Australia co-ordinates) of all points where there is a change in direction of the boundaries of the land concerned.

(3) In this clause, "**Map Grid of Australia**" means a rectangular co-ordinate system using a Transverse Mercator projection with zones 6 degrees wide and based on the Geocentric Datum of Australia (within the meaning of the *Surveying Act 2002*).

### **5 Work programs: section 14**

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

(2) Under one 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.

(3) Under the other format (the "**two-part format**"), it may be divided into two 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 two years) of the term of the licence or lease, and

(b) a summary of intended operations during the remainder of the term.

(4) If prepared in the two-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.

(5) 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**

(1) If the work program supporting the application for a petroleum title was prepared using the two-part format, the holder of the title must, not later than 30 days before the end of the period covered by the fixed agenda supporting the application, lodge another fixed agenda of operations for the next period of two years or for the remainder of the term of the title.

(2) In the same way, further fixed agendas must be lodged, each not later than 30 days before the end of the period covered by the last agenda, until the entire term of the petroleum title is accounted for.

### **7 Details to be provided**

A fixed agenda must include details of:

(a) the objectives of any proposed exploration, and

- (b) the methods of exploration proposed to be employed, and
- (c) the expenditure, estimated on a yearly basis, required by the relevant work program.

### **8 Commencement of exploration activity**

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 program to be adhered to**

It is a condition of every petroleum title that the holder of the title will carry out the operations, and only the operations, described in the work program, as for the time being in force, in respect of the title.

### **10 Variation of work program**

- (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**

- (1) 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.
- (2) This clause extends to applications made, but not granted, before the commencement of this clause.

### **12 Records of titles: section 95**

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

- (a) must be kept in written form or by means of computer equipment, 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 period for which the petroleum title is to have effect,
  - (vi) the current status of the petroleum title (that is, "current", "expired" or "cancelled"),
  - (vii) any interest registered under section 97 of the Act in relation to the petroleum title.

### **13 Prescribed particulars for transfers of titles: section 96**

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 program of work,
- (e) an estimate of the amount of money proposed to be expended on prospecting,
- (f) a calculation of the cost of rehabilitating title areas disturbed by activities carried out or intended to be carried out pursuant to the title (whether carried out by the current holder or contemplated by the proposed transferee).

## **Part 3 – Reports**

### **14 Report on operations in accordance with agenda**

- (1) Within 6 months after the completion of:
  - (a) a seismic program, or
  - (b) the drilling of an exploration borehole, or
  - (c) any activity described in the conditions of the title as a significant component of a work program,

the holder of a petroleum title must forward to the Director-General, in the format specified in the conditions of the title, a report on operations carried out in the activity concerned, together with all raw and processed data and the main conclusions drawn from it.

- (2) After the end of the period covered by a fixed agenda, the holder of the title must forward to the Director-General:
  - (a) within 30 days, a summary of operations carried out during the period covered by the agenda, and
  - (b) within 6 months, a full report on operations carried out during that period.

Maximum penalty: 100 penalty units.

### **15 Geological plans and records: section 131**

- (1) The holder of a petroleum title must, in accordance with directions issued from time to time by the Director-General, keep geological plans and records relating to work carried out in connection with the title.
- (2) For the purposes of section 131 (1) of the Act, the prescribed form is any form that shows a summary of the operations conducted during the period to which the record relates, together with details of expenditure in respect of each such operation.
- (3) The requirements of this clause are in addition to the other requirements of this Part.
- (4) The holder of a petroleum title who does not keep geological plans and records as required by this clause, or who does not furnish to the Minister any record required to be furnished under section 131 of the Act within the time allowed under that section, is guilty of an offence. Maximum penalty (subclause (4)): 100 penalty units.

### **16 Scale of plans accompanying annual record of operations: section 131**

For the purposes of section 131 (1) of the Act, the prescribed scale for any plan accompanying an annual record of operations is any of the following scales, namely, 1:25 000, 1:100 000 or 1:250 000.

## **Part 4 – Compensation**

### **17 Time allowed for parties to agree: section 108**

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.

### **18 Manner of assessing and determining compensation: section 110**

- (1) If compensation is to be assessed by the warden, 7 days' notice must be given to all persons appearing to the warden to be interested in the assessment.
- (2) Proceedings may be conducted for the purposes of the assessment in the warden's

court or on the land concerned.

### **19 Manner of payment**

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

## **Part 5 – Agents**

### **20 Agents: section 134**

- (1) The following persons may appoint one 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 Director-General 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 Director-General.
- (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.

## **Part 6 – Fees**

### **21 Fees**

- (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 Director-General may determine.

### **22 Remission or waiver**

The Minister may remit or waive payment of the whole or part of any fee payable under this Regulation in relation to a particular person or class of persons, but only if the Minister is satisfied that there is sufficient cause to do so.

## **Part 7 – Royalty**

### **23 Rate of royalty: section 85**

- (1) For the purposes of section 85 (2) of the Act, the prescribed annual rate of royalty is as follows:
  - (a) for the first 5 years from the first commercial production date--nil,
  - (b) for the 6th, 7th, 8th and 9th years from the first commercial production date--6%, 7%, 8% and 9%, respectively, of the value at the well-head of the petroleum,
  - (c) for the 10th and subsequent years from the first commercial production date--10% of the value at the well-head of the petroleum.
- (2) For the purposes of this clause:
  - (a) the "**first commercial production date**" is the date on which commercial production of petroleum first began on the land to which the petroleum title relates, and
  - (b) a period of time referred to in subclause (1) is to be calculated inclusive of the first commercial production date, and
  - (c) the prescribed annual rate of royalty is to be determined only by reference to the first commercial production date and not by reference to the date or dates on which commercial production of petroleum began in relation to each well on the

land to which the petroleum title relates.

#### **24 Rate of royalty: Mining Act 1992 section 286**

(1) For the purposes of Division 3 of Part 14 of the *Mining Act 1992*, the prescribed rate of royalty for petroleum recovered under a mining lease for coal is as follows:

- (a) for the first 5 years from the first commercial production date--nil,
- (b) for the 6th, 7th, 8th and 9th years from the first commercial production date--6%, 7%, 8% and 9%, respectively, of the value at the well-head of the petroleum,
- (c) for the 10th and subsequent years from the first commercial production date--10% of the value at the well-head of the petroleum.

(2) For the purposes of this clause:

- (a) the "**first commercial production date**" is the date on which commercial production first began on the land to which the holding relates, and
- (b) a period of time referred to in subclause (1) is to be calculated inclusive of the first commercial production date, and
- (c) the prescribed rate of royalty is to be determined only by reference to the first commercial production date and not by reference to the date or dates on which commercial production began in relation to each well on the land to which the holding relates, and
- (d) if at any time there has been no commercial production of petroleum on the land to which the holding relates for a period of 5 years or more, any commercial production of petroleum that occurred on that land prior to that period is to be ignored in determining the first commercial production date in relation to the land.

(3) In this clause: "**holding**" means all land within the colliery holding registered under section 163 of the *Mining Act 1992* that includes the land within the mining lease from which the petroleum is extracted.

### **Part 8 – Miscellaneous**

#### **25 Notification of commencement of commercial production**

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 Director-General 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.

#### **26 Non-compliance notices**

- (1) If the Director-General is of the opinion that the holder of a petroleum title has contravened a provision of this Regulation in relation to the title, the Director-General may serve a notice (a "**non-compliance notice**") requiring the holder of the title to comply with the provision within the time limited by the notice.
- (2) It is a condition of every petroleum title that the holder of the title must comply with the terms of any non-compliance notice.
- (3) The provisions of this clause are in addition to any provision of this Regulation imposing a penalty for its contravention, and do not affect the liability of any person to pay any such penalty.

#### **27 Safety practices**

- (1) Subject to section 128 of the Act, all exploration or other activity carried out under the authority of a petroleum title is to be carried out in conformity with the *Schedule of Onshore Petroleum Exploration and Production Safety Requirements* published by the Department of Mineral Resources in August 1992 ("**the Schedule**"), as amended from time to time.
- (2) It is a condition of every petroleum title that the holder of the title will comply with the requirements of subclause (1).

(3) A copy of the Schedule, together with any amendments made to it from time to time, is to be made available at the main office of the Department of Primary Industries in Maitland, and at such other offices as the Director-General may appoint, for inspection by any person without fee.

(4) Copies of or extracts from the Schedule and any such amendments may be made or taken by any person on payment of the fee fixed by the Director-General.

### **28 Certificates of authority: section 101**

(1) The certificate must be signed by the Director-General (or by the Director-General'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.

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

(3) Such a certificate is the form of evidence required for the purposes of section 101 (1) (b) of the Act.

### **29 Penalty notices for contravention of petroleum title: section 137A**

For the purposes of section 137A (2) of the Act, the prescribed penalty for an offence under section 136A of the Act that consists of a contravention of or failure to comply with a condition of a petroleum title described in Column 1 of Schedule 2 is the penalty specified in Column 2 of that Schedule opposite the description of the condition.

### **30 References to officers in petroleum titles: section 138B**

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:

District Inspector,  
Inspector of Petroleum.

### **31 Savings and transitional provisions**

(1) Subject to subclause (2), any act, matter or thing that, immediately before the repeal of the *Petroleum (Onshore) Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.

(2) For the purposes of calculating royalties that are payable on or after the commencement of this Regulation, the provisions of clauses 23 (2) and 24 (2) extend to commercial production that was first begun on land before the commencement of this Regulation.

## **Schedule 1 Fees**

(Clause 21)

Matter	Fee
On application for a petroleum title (section 12)	\$1,000
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 grant of a petroleum exploration licence (section 93):	
(a) for a term of less than 3 years	\$10,000
(b) for a term of not less than 3 years	\$15,000

On renewal of a petroleum exploration licence (section 93):	
(a) for a term of less than 3 years	\$10,000
(b) for a term of not less than 3 years	\$15,000
On grant of a petroleum assessment lease (section 93):	
(a) for a term of less than 3 years	\$10,000
(b) for a term of not less than 3 years	\$15,000
On renewal of a petroleum assessment lease (section 93):	
(a) for a term of less than 3 years	\$10,000
(b) for a term of not less than 3 years	\$15,000
On grant of a petroleum production lease (section 93):	
(a) if associated with methane drainage in or over a colliery	\$5,000
(b) in any other case	\$40,000
On renewal of a petroleum production lease (section 93):	
(a) if associated with methane drainage in or over a colliery	\$5,000
(b) in any other case	\$40,000
On grant of a special prospecting authority (section 93)	\$1,000
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 118	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 119	120% of the cost to the Department of making available the cores, cuttings or samples to which the request relates
Release of information in accordance with a request under section 120	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

## Schedule 2 Penalty notice offences

(Clause 29)

Column 1	Column 2
Nature of condition	Penalty for contravention or failure to comply
Any condition identified in the title as a condition related to environmental management	\$2,500

Any other condition of a title	\$1,250
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### Historical notes

The following abbreviations are used in the Historical notes:

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

Table of amending instruments *Petroleum (Onshore) Regulation 2007 (422)*. GG No 108 of 31.8.2007, p 6455. Date of commencement, 1.9.2007, cl 2.