

No. 118 of 1967.

Petroleum (Submerged Lands) Act 1967 (Adopted).

Certified on: 22/11/1967.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. 118 of 1967.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

Petroleum (Submerged Lands) Act 1967 (Adopted),

An Act relating to the Exploration for, and the Exploitation of, the Petroleum Resources, and certain other Resources, of the Continental Shelf of Australia and of certain Territories

of the Commonwealth and of certain other Submerged Land.

Preamble

WHEREAS in accordance with international law Australia as a coastal state has sovereign rights over the continental shelf beyond the limits of Australian territorial waters for the purpose of exploring it and exploiting its natural resources:

AND WHEREAS Australia is a party to the Convention on the Continental Shelf signed at Geneva on the twenty-ninth day of April, One thousand nine hundred and fifty-eight, in which those rights are defined:

AND WHEREAS the exploration for and the exploitation of the petroleum resources of submerged lands adjacent to the Australian coast would be encouraged by the adoption of legislative measures applying uniformly to the continental shelf and to the sea-bed and subsoil beneath territorial waters:

States have decided, in the national interest, that, without raising questions concerning, and without derogating from, their respective constitutional powers, they should co-operate for the purpose of ensuring the legal effectiveness of authorities to explore for or to exploit the petroleum resources of those submerged lands:

AND WHEREAS the Governments of the Commonwealth and of the States have accordingly agreed to submit to their respective Parliaments legislation relating both to the continental shelf and to the sea-bed and subsoil beneath territorial waters and have also agreed to co-operate in the administration of that legislation:

BE IT THEREFORE enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I. – PRELIMINARY.

1. Short title.

This Act may be cited as the *Petroleum (Submerged Lands) Act 1967*.

2. Commencement.

Subject to the next succeeding section, this Act shall come into operation on the day on which it receives the Royal Assent.

3. Date of effect of certain provisions.

Part II. or Part III. does not have effect in respect of an adjacent area until such date as is fixed by Proclamation as the date from and including which that Part is to have effect in respect of that adjacent area.

4. 5. Interpretation.

(1) In this Act, unless the contrary intention appears—

“**access authority**” means an access authority under Part III.;

“**adjacent area**” means an area specified in the Second Schedule to this Act as being adjacent to a State or Territory and “the adjacent area”, in relation to a State or Territory, means the area specified in the Second Schedule to this Act as being

adjacent to that State or Territory;

“application for a primary licence” means an application under sub-section (1) or (2) of section 40 of this Act and “primary licence” means a licence granted on such an application;

“application for a secondary licence” means an application under sub-section (3) of section 40 of this Act and “secondary licence” means a licence granted on such an application;

“approved” means approved by the Designated Authority;

“block” means a block constituted as provided by section 17 or 149 of this Act;

“construct” includes “place” and “construction” has a corresponding meaning;

“document” includes any map, book, record or writing;

“good oil-field practice” means all those things that are generally accepted as good and safe in the carrying on of exploration for petroleum, or in operations for the recovery of petroleum, as the case may be;

“graticular section” means a section referred to in section 17 of this Act;

“inspector” means a person appointed under section 125 of this Act;

“licence” means a production licence for petroleum under Part III.;

“licence area” means the area constituted by the blocks that are the subject of a licence;

“licensee” means the registered holder of a licence;

“location” means a block or blocks in respect of which a declaration under section 37 of this Act is in force;

“natural resources” has the same meaning as in the Convention;

“partly cancelled” means—

- (a) in relation to a permit or licence—cancelled as to one or more but not all of the blocks the subject of the permit or licence; and
- (b) in relation to a pipeline licence—cancelled as to a part of the pipeline the subject of the licence;

“partly determined”, in relation to a permit, means determined as to one or more but not all of the blocks the subject of the permit;

“permit” means an exploration permit for petroleum under Part III.;

“permit area” means the area constituted by the blocks that are the subject of a permit;

“permittee” means the registered holder of a permit;

“petroleum” means—

- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state;
- (b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) any naturally occurring mixture of one or more hydrocarbons, whether

in a gaseous, liquid or solid state, and one or more of the following, that is to say, hydrogen sulphide, nitrogen, helium and carbon dioxide,

and includes any petroleum as defined by paragraph (a), (b) or (c) of this definition that has been returned to a natural reservoir in an adjacent area;

“petroleum pool” means a naturally occurring discrete accumulation of petroleum;

“pipeline” means a pipe or system of pipes in an adjacent area for conveying petroleum but does not include a pipe or system of pipes—

- (a) for returning petroleum to a natural reservoir;
- (b) for conveying petroleum for use for the purposes of petroleum exploration operations or operations for the recovery of petroleum;
- (c) for conveying petroleum that is to be flared or vented; or
- (d) for conveying petroleum from a well to a terminal station without passing through another terminal station, whether the terminal station to which the petroleum is conveyed is in the same adjacent area or in another adjacent area;

“pipeline licence” means a licence under Part III. to construct and operate a pipeline;

“pipeline licensee” means the registered holder of a pipeline licence;

“primary entitlement”, in relation to a permittee, means the number of blocks forming part of a location in the permit area in respect of which that permittee may make an application under subsection (1) of section 40 of this Act;

“pumping station” means equipment for pumping petroleum or water and includes any structure associated with that equipment;

“Register” means a Register kept in pursuance of Division 5 of Part III. and “the Register”, in relation to the Designated Authority in respect of an adjacent area, means the Register so kept by that Designated Authority;

“registered holder”, in relation to a permit, licence, pipeline licence or access authority, means the person whose name is for the time being shown in the Register as being the holder of the permit, licence, pipeline licence or access authority;

“secondary line” means a pipe or system of pipes for any purpose referred to in paragraphs (a), (b), (c) and (d) of the definition of “pipeline”;

“special prospecting authority” means a special prospecting authority under Part III.;

“tank station” means a tank or system of tanks for holding or storing petroleum and includes any structure associated with that tank or system of tanks;

“terminal station” means a pumping station, a tank station or a valve station declared to be a terminal station under section 63 of this Act;

“Territory” means Territory of the Commonwealth in which this Act applies or to which this Act extends;

“the applied provisions” means the provisions applied in accordance with section 9 of this Act, or the laws and instruments applied in accordance with section 11 of this Act, as the case may be;

“the continental shelf” means the continental shelf, within the meaning of the Convention, adjacent to the coast of Australia or of a Territory not forming part of the Commonwealth;

“the Convention” means the Convention entitled “Convention on the Continental Shelf” signed at Geneva on the twenty-ninth day of April, One thousand nine hundred and fifty-eight, being the Convention a copy of which in the English language is set out in the First Schedule to this Act;

“the Designated Authority”, in relation to—

- (a) an act, matter, circumstance or thing touching, concerning, arising out of or connected with—
 - (i) the exploration of the sea-bed or subsoil of an adjacent area, or of part of an adjacent area, for petroleum; or
 - (ii) the exploitation of the natural resources, being petroleum, of that sea-bed or subsoil; or
- (b) petroleum recovered in an adjacent area, means the Designated Authority in respect of that adjacent area;

“the Registration Fees Act” means the *Petroleum (Submerged Lands) (Registration Fees) Act 1967*;

“the relinquished area” means—

- (a) in relation to a permit or licence that has expired—the area constituted by the blocks in respect of which the permit or licence was in force but has not been renewed;
- (b) in relation to a permit that has been wholly determined or partly determined—the area constituted by the blocks as to which the permit was so determined;
- (c) in relation to a permit or licence that has been wholly cancelled or partly cancelled—the area constituted by the blocks as to which the permit or licence was so cancelled;
- (d) in relation to a pipeline licence that is no longer in force the part of the adjacent area in which the pipeline was constructed;
- (e) in relation to a pipeline licence that has been wholly cancelled or partly cancelled—the part of the adjacent area in which the pipeline or the part of the pipeline, as the case may be, was constructed; and
- (f) in relation to a special prospecting authority or access authority that has been surrendered or cancelled or has expired—the area constituted by the blocks in respect of which that authority was in force;

“the Royalty Act” means the *Petroleum (Submerged Lands) (Royalty) Act 1967*;

“valve station” means equipment for regulating the flow of petroleum and includes any structure associated with that equipment;

“vessel” means a vessel used in navigation, other than air navigation, and includes a barge, lighter or other floating vessel;

“water line” means a pipe or system of pipes for conveying water in connection with petroleum exploration operations or operations for the recovery of petroleum;

“well” means a hole in the sea-bed or subsoil made by drilling, boring or any other means in connection with exploration for petroleum or operations for the recovery of petroleum, but does not include a seismic shot hole;

“wholly cancelled”, in relation to a permit, licence or pipeline licence, means cancelled as to all the blocks, or as to the whole of the pipeline, the subject of the permit, licence or pipeline licence;

“wholly determined”, in relation to a permit, means determined as to all the blocks the subject of the permit.

(2) In this Act, a reference to the term of a permit, licence, pipeline licence, special prospecting authority or access authority is a reference to the period during which the permit, licence, pipeline licence, special prospecting authority or access authority remains in force and a reference to the date of expiration of a permit, licence, pipeline licence, special prospecting authority or access authority is a reference to the day on which the permit, licence, pipeline licence, special prospecting authority or access authority ceases to have effect.

(3) In this Act, a reference to a year of the term of a permit, licence or pipeline licence is a reference to a period of one year commencing on the date from and including which the permit, licence or pipeline licence, as the case may be, has effect or on any anniversary of that date.

(4) In this Act, a reference to the renewal, or to the grant of a renewal, of a permit is a reference to the grant of a permit in respect of all or some of the blocks specified in the first-mentioned permit to commence on the day after the date of expiration of the first-mentioned permit or on the day after the date of expiration of the permit granted upon a previous renewal of the first-mentioned permit.

(5) In this Act, a reference to the renewal, or to the grant of a renewal, of a licence in respect of the blocks specified in the licence is a reference to the grant of a licence in respect of those blocks to commence on the day after the date of expiration of the first-mentioned licence or on the day after the date of expiration of the licence granted upon a previous renewal of the first-mentioned licence.

(6) In this Act, a reference to the renewal, or to the grant of a renewal, of a pipeline licence in respect of a pipeline is a reference to the grant of a pipeline licence in respect of that pipeline to commence on the day after the date of expiration of the first-mentioned pipeline licence or on the day after the date of expiration of the pipeline licence granted upon a previous renewal of the first-mentioned pipeline licence.

(7) In this Act, a reference to a pipeline includes a reference to a part of a pipeline.

(8) In this Act, a reference to a permit, licence, pipeline licence or access authority is a reference to the permit, licence, pipeline licence or access authority as varied for the time being under this Act.

6. Spaces above and below adjacent areas.

For the purposes of this Act and the regulations—

(a) the space above or below an adjacent area shall be deemed to be in that area; and

- (b) the space above or below an area that is part of an adjacent area shall be deemed to be in that part.

7. Extension to certain Territories.

This Act extends to the following Territories of the Commonwealth:—

- (a) the Territory of Papua;
- (b) the Territory of New Guinea; and
- (c) the Territory of Ashmore and Cartier Islands.

8. Application of Act.

This Act applies to all natural persons, whether Australian citizens or not, and whether resident in the Commonwealth or a Territory or not, and to all corporations, whether incorporated or carrying on business in the Commonwealth or a Territory or not.

PART II. – APPLICATION OF LAWS.

9. Application of laws in areas adjacent to States.

(1) Subject to this Act, the provisions of the laws in force in a State, whether written or unwritten, and as in force from time to time, and the provisions of any instrument made under any of those laws, apply in the adjacent area.

(2) The provisions referred to in the last preceding sub-section apply to and in relation to all acts, matters, circumstances and things touching, concerning, arising out of or connected with the exploration of the sea-bed or subsoil of the adjacent area for petroleum and the exploitation of the natural resources, being petroleum, of that sea-bed or subsoil, and not otherwise, and so apply as if that area were part of that State and of the Commonwealth.

(3) This section does not—

- (a) extend to the provisions of any law or instrument—
 - (i) in so far as they apply to or in relation to exploration for, or operations for the recovery of, petroleum;
 - (ii) in so far as they apply to or in relation to the construction or operation of pipelines;
 - (iii) in so far as they are incapable of application in the adjacent area; or
- (iv) in so far as they are expressed not to extend to or apply in the adjacent area; or
- (b) affect the operation that any law has apart from this section;
- (c) apply to the provisions of any law or instrument that is not within the authority of the Parliament or Government of the Commonwealth;
- (d) apply so as to impose any tax;
- (e) apply so as to confer judicial power on a court, tribunal, authority or officer of a State; or
- (f) apply so as to confer on a court of a State any power that is not judicial power.

(4) The regulations may provide that any provisions referred to in sub-section (1) of

this section that are specified in the regulations do not apply by reason of this section or apply with prescribed modifications only.

(5) Regulations made for the purposes of the last preceding subsection may provide that prescribed provisions be added to or substituted for any of the provisions referred to in subsection (1) of this section.

10. Jurisdiction of State courts.

(1) Subject to this section, the several courts of a State are invested with federal jurisdiction in all matters arising under the applied provisions having effect in the adjacent area.

(2) The jurisdiction with which courts are invested by the last preceding sub-section is invested within the limits (other than limits having effect by reference to localities) of their several jurisdictions, whether those limits are as to subject-matter or otherwise, but subject to the conditions and restrictions specified in paragraphs (a), (b) and (c) of subsection (2) of section 39 of the *Judiciary Act* 1903-1966.

(3) The jurisdiction invested in a court of summary jurisdiction by this section shall not be judicially exercised except by a Chief, Police, Stipendiary, Resident or Special Magistrate.

11. Application of laws in areas adjacent to Territories.

(1) Subject to this Act, the laws in force in a Territory, whether written or unwritten, and as in force from time to time, and any instrument made under any of those laws, apply in the adjacent area.

(2) The laws and instruments referred to in the last preceding subsection apply to and in relation to all acts, matters, circumstances and things touching, concerning, arising out of or connected with the exploration of the sea-bed or subsoil of the adjacent area for petroleum and the exploitation of the natural resources, being petroleum, of that sea-bed or subsoil, and not otherwise, and so apply as if that area were part of that Territory and, in the case of the Northern Territory of Australia, were part of the Commonwealth.

(3) This section does not—

(a) extend to any law or instrument—

- (i) in so far as it applies to or in relation to exploration for, or operations for the recovery of, petroleum;
- (ii) in so far as it applies to or in relation to the construction or operation of pipelines;
- (iii) in so far as it is incapable of application in the adjacent area; or
- (iv) in so far as it is expressed not to extend to or apply in the adjacent area;

(b) affect the operation that any law has apart from this section;

(c) apply so as to impose any tax;

(d) apply so as to appropriate any public moneys of a Territory; or

(e) apply so as to confer judicial power on any court, tribunal, authority or officer of a Territory.

(4) The regulations may provide that any law or instrument referred to in sub-section

(1) of this section specified in the regulations does not apply by reason of this section or applies with prescribed modifications only.

(5) Regulations made for the purposes of the last preceding subsection may provide that prescribed provisions be added to or substituted for any law or instrument referred to in subsection (1) of this section.

12. Jurisdiction of Territory courts . . .

[Note: Later sections of this Act have not been reproduced, as only Section 11 applies in Papua New Guinea. The earlier sections were included so as to give an overview of Section 11 and to allow the definition section to be used.]

Office of Legislative Counsel, PNG