

LEGISLATIVE COUNCIL

Petroleum (Onshore) Amendment (NSW Gas Plan) Bill 2014

First print

Proposed amendments

- No. 1 **Cancelled petroleum titles**
Page 3, Schedule 1, line 3. Omit all words on those lines. Insert instead “**Schedules 2 and 3**”.
- No. 2 **Cancelled petroleum titles**
Page 4, Schedule 1. Insert after line 26:

Schedule 3 Cancellation of certain petroleum titles

1 Application

This Schedule has effect despite any other provision of this Act.

2 Definitions

In this Schedule:

cancellation date means the date on which the *Petroleum (Onshore) Amendment (NSW Gas Plan) Act 2014* commences.

conduct includes any statement, or any act or omission:

- (a) whether unconscionable, negligent, false, misleading, deceptive or otherwise, and
- (b) whether constituting an offence, tort, breach of contract, breach of statute or otherwise.

relevant land means the area to which a relevant licence relates or any part of the area to which a relevant licence relates.

relevant licence means each of the licences referred to in clause 3 (1).

statement includes a representation of any kind, whether made orally or in writing.

3 Applications for petroleum titles expunged

- (1) Each of the following petroleum titles under this Act are cancelled by this Schedule:
 - (a) petroleum exploration licence number 2 dated 29 March 1993,
 - (b) petroleum exploration licence number 6 dated 9 December 1993,
 - (c) petroleum exploration licence number 267 dated 20 January 1984,

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- (d) petroleum exploration licence number 426 dated 21 April 1998,
 - (e) petroleum exploration licence number 428 dated 15 September 1998,
 - (f) petroleum exploration licence number 437 dated 7 May 2001,
 - (g) petroleum exploration licence number 445 dated 19 April 2004,
 - (h) petroleum exploration licence number 450 dated 16 June 2006,
 - (i) petroleum exploration licence number 452 dated 10 January 2007,
 - (j) petroleum exploration licence number 454 dated 27 March 2007,
 - (k) petroleum exploration licence number 462 dated 22 October 2008,
 - (l) petroleum exploration licence number 475 dated 4 September 2009,
 - (m) petroleum exploration licence number 476 dated 11 November 2009,
 - (n) petroleum exploration licence number 478 dated 11 December 2009.

- (2) The cancellation takes effect on the cancellation date.
- (3) The cancellation of a petroleum title by this Schedule does not affect any liability incurred before the cancellation date by or on behalf of a holder of a relevant licence or by or on behalf of a director or person involved in the management of a holder of a relevant licence.

4 Compensation not payable

- (1) Compensation is not payable by or on behalf of the State:
 - (a) because of the enactment or operation of this Schedule, the *Petroleum (Onshore) Amendment (NSW Gas Plan) Act 2014* or any Act that amends this Schedule, or
 - (b) because of any direct or indirect consequence of any such enactment or operation (including any conduct under the authority of any such enactment), or
 - (c) because of any conduct relating to any such enactment or operation.

- (2) This clause extends to conduct and any other matter occurring before the commencement of this clause.

- (3) This clause does not exclude or limit any personal liability of a person for conduct occurring before the grant of a relevant licence.

Note. However, clause 5 absolves the State and certain employees of the State from liability for such conduct.

- (4) In this clause:
 - compensation** includes damages or any other form of compensation.
 - the State** means the Crown within the meaning of the *Crown Proceedings Act 1988* or an officer, employee or agent of the Crown.

5 State not liable for certain conduct

- (1) The State is not liable, and is taken never to have been liable, whether vicariously or otherwise, for any conduct (**relevant conduct**) before the cancellation date in relation to a relevant licence or mining on relevant land (whether occurring before or after the grant of a relevant licence).

- (2) In addition, the State is not liable, and is taken never to have been liable, whether under any contract, policy or other arrangement for self-insurance or otherwise, to indemnify any person against any personal liability of the person for relevant conduct.

- (3) To remove doubt, this clause extends to the following conduct as relevant conduct:

- (a) conduct that facilitated the grant of an authority in respect of relevant land or that facilitated mining on relevant land,

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- (b) conduct relating to the provision of assistance, advice or information (including mining information) in relation to relevant land or an authority for relevant land,
 - (c) conduct relating to the licensing process in connection with relevant land,
 - (d) any conduct occurring in the course of events that culminated in the grant of a relevant licence.
- (4) This clause extends to all types of civil liability, whether at law or in equity, and whether arising in tort or contract, or under an enactment or otherwise.
 - (5) An employee (or former employee) of the State acting honestly and in good faith in the performance or purported performance of his or her functions as an employee of the State has the same protections and immunities as the State under this clause.
 - (6) This clause does not apply in respect of any liability arising solely in respect of an authority granted before the cancellation date that is not a relevant licence.
 - (7) This clause applies despite the *Law Reform (Vicarious Liability) Act 1983* and the *Civil Liability Act 2002*.
 - (8) In this clause:
 - employee of the State** means a person employed under the *Public Sector Employment and Management Act 2002*.
 - licensing process** means any practice, process or procedure relating to the obtaining of or grant of an authority, including in relation to expressions of interest, tenders, applications, investigations, inquiries or consents, and whether or not provided for by this Act.
 - mining** includes prospecting.
 - mining information** includes information about:
 - (a) the mineral bearing capacity of land, or
 - (b) the licensing process.
 - the State** means the Crown in right of New South Wales and includes a statutory body representing the Crown.

No. 3 **Cancelled petroleum titles**

Long title. Insert “and for certain petroleum titles to be cancelled” after “expunged”.