

**LEGISLATIVE COUNCIL**

**Petroleum (Onshore) Amendment Bill 2013**

**First print**

**Proposed amendments**

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No. 1 Page 4, Schedule 1. Insert after line 11:

**[5] Section 28B**

Insert after section 28A:

**28B Titles subject to prescribed codes of practice**

- (1) The regulations may prescribe codes of practice with respect to the carrying out of any activities under a petroleum title.
- (2) The regulations may designate any or all of the provisions of a code as mandatory provisions.
- (3) A mandatory provision is a condition of a petroleum title and is, for the purposes of this Act, taken to be a condition referred to in section 75.

No. 2 Page 4, Schedule 1 [6], proposed section 69DA. Insert after line 26:

**Note.** Costs in connection with arbitration are dealt with under section 69O.

No. 3 Page 5, Schedule 1. Insert after line 19:

**[7] Section 69H Arbitration**

Insert after section 69H (2):

- (2A) An arbitrator must ensure that notice under subsection (1) is given to, or served on, the holder of the prospecting title and each landholder at least 14 days before the first hearing.

**[8] Section 69I Right of appearance**

Omit section 69I (2). Insert instead:

- (2) A party to a hearing may be represented by an agent who is not an Australian legal practitioner.
- (3) A party to a hearing may be represented by an Australian legal practitioner but not if each landholder who is a party

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to the hearing has given notice in accordance with this section that the landholder does not wish to be represented by an Australian legal practitioner.

- (4) The notice under subsection (3) must be in writing and must be served on the arbitrator and each other party to the hearing at least 7 days before the day of the first hearing.

**[9] Section 69S Effect of access arrangement**

Omit “embodied in a deed that had been duly executed by each of the parties” from section 69S (b).

Insert instead “agreed (in writing) between the holder of the prospecting title and each landholder of the land to which the access arrangement applies”.

No. 4 Page 5, Schedule 1 [7], proposed section 72 (5), line 23. Omit “public road”. Insert instead “road within the meaning of the *Road Transport Act 2013*”.

No. 5 Page 23, Schedule 1 [11], proposed section 104Q. Insert after line 30:  
**Note.** A permit under this section does not authorise a person to prospect or mine for petroleum.

No. 6 Page 24, Schedule 1 [11], proposed section 104R. Insert after line 7:  
**Note.** A permit under this section does not authorise a person to prospect or mine for petroleum.

No. 7 Page 25, Schedule 1 [11]. Insert after line 29:

**104W Applicant must try to obtain consent before permit issued**

- (1) A permit may not be granted under this Division unless the Minister is satisfied that the applicant has made a reasonable effort to obtain the consent of each person whose consent is required for the applicant to enter land and carry out the activities to which the permit relates.
- (2) An applicant may still be granted a permit under this Division even though the applicant has obtained all necessary consent.

No. 8 Page 25, Schedule 1 [11], proposed section 104W (2), line 36. Omit “5 penalty units”. Insert instead “2,000 penalty units”.

No. 9 Page 50, Schedule 1 [17], proposed section 127 (1), line 20. Omit “hold”. Insert instead “have”.

No. 10 Page 50, Schedule 1 [17], proposed section 127 (1), line 20. Omit “a beneficial”. Insert instead “an”.

No. 11 Page 50, Schedule 1 [17], proposed section 127. Insert after line 32:

(4) A person has an interest in a petroleum title if the interest is the interest of:

- (a) the person, or
- (b) the person’s spouse or de facto partner or a relative of the person, or a partner or employer of the person, or
- (c) a company or other body that the person (or a nominee, partner or employer of the person):
  - (i) is involved in the management of, or
  - (ii) is a member, director or other office holder of.

(5) A person does not have an interest in a petroleum title if:

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- (a) the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the petroleum title, or
  - (b) the person is unaware of the interest and the interest is the interest of a person referred to in subsection (4) (b) or (c), or
  - (c) the interest is of a kind prescribed by the regulations.
- (6) For the purposes of this section:  
*interest* means any interest that a person has in a petroleum title that gives a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

No. 12 Page 51, Schedule 1 [19]. Insert after line 28:

**Arbitration**

The amendments made to sections 69H and 69I by the 2013 amending Act do not apply in respect of an arbitration if, before the commencement of those amendments, a notice has been given under section 69F requesting the appointment of an arbitrator in the matter, and in such a case, those sections, as in force immediately before the commencement of those amendments, continue to apply.

No. 13 Page 53, Schedule 2.1, lines 2–24. Omit all words on those lines.

No. 14 Page 53, Schedule 2.3. Insert after line 29:

**[1] Sections 5 and 6 (1)**

Omit “an authorisation” wherever occurring.

Insert instead “an authority, or a small-scale title”.

**[2] Sections 6 (3) (a)**

Omit “an authorisation”.

Insert instead “an authority or a small-scale title”.

No. 15 Page 53, Schedule 2.3 [1], proposed section 31 (6), line 33. Omit “public road”. Insert instead “road within the meaning of the *Road Transport Act 2013*”.

No. 16 Page 54, Schedule 2.3 [2], proposed section 49 (6), line 4. Omit “public road”. Insert instead “road within the meaning of the *Road Transport Act 2013*”.

No. 17 Page 54, Schedule 2.3. Insert after line 4:

**[3] Section 137A**

Insert after section 137:

**137A Authorities subject to prescribed codes of practice**

- (1) The regulations may prescribe codes of practice with respect to the carrying out of any activities under an authority.
- (2) The regulations may designate any or all of the provisions of a code as mandatory provisions.
- (3) A mandatory provision is a condition of an authority and is, for the purposes of this Act, taken to be a condition

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referred to in section 238 (Inclusion of conditions for protecting the environment).

No. 18 Page 54, Schedule 2.3 [4], proposed section 141A. Insert after line 19:

**Note.** Costs in connection with arbitration are dealt with under section 152.

No. 19 Page 54, Schedule 2.3. Insert after line 26:

**[5] Section 145 Arbitration**

Insert after section 145 (2):

- (2A) An arbitrator must ensure that notice under subsection (1) is given to, or served on, the holder of the prospecting title and each landholder at least 14 days before the first hearing.

**[6] Section 146 Right of appearance**

Omit section 146 (2). Insert instead:

- (2) A party to a hearing may be represented by an agent who is not an Australian legal practitioner.
- (3) A party to a hearing may be represented by an Australian legal practitioner unless each landholder who is a party to the hearing has given notice in accordance with this section that the landholder does not wish to be represented by an Australian legal practitioner.
- (4) The notice under subsection (3) must be in writing and must be served on the arbitrator and each other party to the hearing at least 7 days before the day of the first hearing.

**[7] Section 156 Effect of access arrangement**

Omit “embodied in a deed that had been duly executed by each of the parties” from section 156 (b).

Insert instead “agreed (in writing) between the holder of the prospecting title and each landholder of the land to which the access arrangement applies”.

**[8] Section 219B**

Insert after section 219A:

**219B Mineral claims subject to prescribed codes of practice**

- (1) The regulations may prescribe codes of practice with respect to the carrying out of any activities under a mineral claim.
- (2) The regulations may designate any or all of the provisions of a code as mandatory provisions.
- (3) A mandatory provision is a condition of a mineral claim and is, for the purposes of this Act, taken to be a condition referred to in section 238 (Inclusion of conditions for protecting the environment).

No. 20 Page 56, Schedule 2.3. Insert after line 24:

**[17] Section 250 Surveys and ore sampling**

Insert at the end of section 250 (1):

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**Note.** A permit under this section does not authorise a person to prospect or mine for any mineral.

**[18] Section 252 Environmental assessment**

Insert at the end of section 252 (1):

**Note.** A permit under this section does not authorise a person to prospect or mine for any mineral.

**[19] Section 257A**

Insert before section 258:

**257A Applicant must try to obtain consent before permit issued**

- (1) A permit may not be granted under Division 2 unless the Minister is satisfied that the applicant has made a reasonable effort to obtain the consent of each person whose consent is required for the applicant to enter land and carry out the activities to which the permit relates.
- (2) An applicant may still be granted a permit under Division 2 even though the applicant has obtained all necessary consent.

**[20] Section 258 Conditions of permit**

Omit “5 penalty units” from section 258 (2).

Insert instead “2,000 penalty units”.

No. 21 Page 57, Schedule 2.3 [18], proposed section 364 (1), line 9. Omit “hold”. Insert instead “have”.

No. 22 Page 57, Schedule 2.3 [18], proposed section 364 (1), line 9. Omit “a beneficial”. Insert instead “an”.

No. 23 Page 57, Schedule 2.3 [18]. Insert after line 21:

- (1B) A person has an interest in an authority, a mineral claim or an opal prospecting licence if the interest is the interest of:
  - (a) the person, or
  - (b) the person’s spouse or de facto partner or a relative of the person, or a partner or employer of the person, or
  - (c) a company or other body that the person (or a nominee, partner or employer of the person):
    - (i) is involved in the management of, or
    - (ii) is a member, director or other office holder of.
- (1C) A person does not have an interest in an authority, a mineral claim or an opal prospecting licence if:
  - (a) the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the authority, mineral claim or opal prospecting licence, or
  - (b) the person is unaware of the interest and the interest is the interest of a person referred to in subsection (1B) (b) or (c), or
  - (c) the interest is of a kind prescribed by the regulations.

No. 24 Page 57, Schedule 2.3 [18]. Insert after line 21:

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**[19] Section 364 (3)**

Insert after section 364 (2):

(3) For the purposes of this section:

*interest* means any interest that a person has in an authority, a mineral claim or an opal prospecting licence that gives a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

No. 25 Page 61, Schedule 2.3 [29]. Insert after line 11:

**Arbitration**

The amendments made to sections 145 and 146 by the *Petroleum (Onshore) Amendment Act 2013* do not apply in respect of an arbitration if, before the commencement of those amendments, a notice has been given under section 143 requesting the appointment of an arbitrator in the matter, and in such a case, those sections, as in force immediately before the commencement of those amendments, continue to apply.

No. 26 Page 61, Schedule 2.4 [1], lines 28 and 29. Omit all words on those lines. Insert instead:

**[1] Schedule 1 Amendment of Mining Act 1992**

Insert after Schedule 1 [88]:

**[88A] Sections 137A (3) and 219B (3)**

Omit “section 238 (Inclusion of conditions for protecting the environment)” wherever occurring.

Insert instead “section 239B (Conditions for environment protection and rehabilitation)”.

**[2] Schedule 1 [215]**

Omit the item.