

**PETROLEUM (COMPENSATION) AMENDMENT BILL
1985**

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Petroleum Act 1955 so as—

- (a) to expand the grounds on which compensation may be payable by holders of licences and leases under that Act and by persons to whom easements and rights of way have been granted under that Act; and
- (b) to provide that appeals concerning assessments of compensation made by the warden under that Act shall lie to the District Court and to the Supreme Court,

for the purpose of making the provisions of that Act relating to compensation more consistent with those of the Mining Act 1973.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day appointed by the Governor-in-Council.

Clause 3 defines the Principal Act.

Clause 4 lists the Schedules to the proposed Act. Schedule 1 contains amendments to the scheme provided by the Principal Act for determining the compensation payable for loss caused as a consequence of exploration and mining for petroleum and Schedule 2 contains a saving and transitional provisions.

Clause 5 is a formal provision that gives effect to the Schedule of amendments.

Clause 6 is a formal provision that gives effect to Schedule 2.

Schedule 1 (1) omits section 48 of the Principal Act which section is made redundant by the proposed amendment to section 55 of that Act.

Schedule 1 (2) (a), (b), (c) and (d) make amendments to section 53 of the Principal Act so as to make it clear that the compensation payable under that Act is for actual loss and likely future loss referred to in section 55 of that Act.

Schedule 1 (3) substitutes section 55 (1) of the Principal Act with proposed section 55 (1) and (1A) so as to expand the present grounds for compensation required to be taken into account in making an assessment. Except for the retention (in proposed section 55 (1A)) of a ground which is peculiar to the case in which an easement or right of way is granted under the Principal Act so as to affect a licence or lease previously so granted, the new grounds parallel those set out in section 124 (1) (b) of the Mining Act 1973.

Schedule 1 (4) substitutes section 56 (1) of the Principal Act as a consequence of the proposed amendment which will permit appeals against assessments of compensation to be made to the District Court and, in certain cases, to the Supreme Court.

Schedule 1 (5) inserts proposed sections 56A and 56B into the Principal Act. Proposed section 56A ensures that further assessments of compensation may be made under that Act after an initial assessment has been made if further loss has been incurred. That proposed section is parallel to section 126 of the Mining Act 1973. Proposed section 56B applies provisions of the Mining Act 1973 permitting appeals to the District Court against any assessments of compensation made under the Principal Act by the warden. Those provisions also enable further appeals against decisions made by the District Court relating to those assessments to be made to the Supreme Court, where the amount of the original claim or the value of the property involved exceeded \$500, and for appeals to be made from a warden's court directly to the Supreme Court on a point of law arising out of any such assessment. Proposed section 56B parallels section 127 of the Mining Act 1973.

Schedule 2 saves any regulations made under the Principal Act relating to the manner in which compensation is required to be assessed, which would otherwise be repealed by the substitution of section 56 (1) of that Act (clause 1) and provides—

- (a) that assessments of compensation made pursuant to an application or complaint notified to the warden before the commencement of the proposed amendments to the Principal Act shall be dealt with as if that Act had not been amended (clause 2 (1)); and
 - (b) that the arbitration procedures formerly laid down in section 127 of the Mining Act 1973 shall continue to apply to any disputes concerning any such assessment of compensation (clause 2 (2)).
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**PETROLEUM (COMPENSATION) AMENDMENT BILL
1985**

No. , 1985

A BILL FOR

An Act to amend the Petroleum Act 1955 with respect to compensation payable under that Act.

Petroleum (Compensation) Amendment 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Petroleum (Compensation) Amendment Act 1985".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 (2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

15 3. The Petroleum Act 1955 is referred to in this Act as the Principal Act.

Schedules

4. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO COMPENSATION

20 SCHEDULE 2—SAVING AND TRANSITIONAL PROVISIONS

Amendment of Act No. 28, 1955

5. The Principal Act is amended in the manner set forth in Schedule 1.

Saving and transitional provisions

6. Schedule 2 has effect.

Petroleum (Compensation) Amendment 1985

SCHEDULE 1

(Sec. 5)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
COMPENSATION

- 5 (1) Section 48—
Omit the section.
- (2) (a) Section 53 (1)—
Omit “in accordance with this Act”, insert instead “, for loss referred to in section 55 (1) and in the manner provided by this Act,”.
- 10 (b) Section 53 (1A)—
Omit “in accordance with this Act”, insert instead “, for loss referred to in section 55 (1A) and in the manner provided by this Act,”.
- 15 (c) Section 53 (1), (1A)—
After “affected” wherever occurring, insert “, or likely to be so affected,”.
- (d) Section 53 (2)—
After “affect”, insert “, and are not likely to affect,”.
- 20 (3) Section 55 (1), (1A)—
Omit section 55 (1), insert instead:
- (1) Where compensation is assessed under this Act by the warden, the assessment shall be of the loss caused or likely to be caused—
- 25 (a) by damage to the surface of land, and damage to the crops, trees, grasses or other vegetation on land, or damage to buildings and improvements thereon, being damage which has been caused by or which may arise from prospecting or petroleum mining operations;
- 30 (b) by deprivation of the possession or of the use of the surface of land or any part of the surface;
- (c) by severance of land from other land of the owner or occupier of that land;

Petroleum (Compensation) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
COMPENSATION—*continued*

(d) by surface rights of way and easements;

(e) by destruction or loss of, or injury to, or disturbance of, or interference with, stock on land; and

(f) by all consequential damage.

5 (1A) Without affecting the generality of subsection (1), where—

(a) the holder of a licence or lease is liable under section 53 (1A) to compensate another holder of a licence or lease; and

10 (b) the compensation is assessed under this Act by the warden, the assessment shall be of the loss caused or likely to be caused by the operations of the other holder being detrimentally affected, or being likely to be so affected, as referred to in section 53 (1A).

(4) Section 56 (1)—

15 Omit the subsection, insert instead:

(1) Where compensation is assessed under this Act by the warden, the assessment shall be made in the manner prescribed and after notice to the persons who appear to the warden to be interested in the assessment.

20 (5) Sections 56A, 56B—

After section 56, insert:

Additional assessment

25 56A. Where, after an assessment has been made in accordance with sections 55 and 56, it is proved to the satisfaction of the warden—

(a) that the whole of the amount paid into court pursuant to section 56 (3) has been duly paid out; and

*Petroleum (Compensation) Amendment 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
COMPENSATION—*continued*

(b) that since the date of the payment out, or the last payment out, as the case may be, further loss has been caused to the land to which the assessment relates, or to other land, being loss arising from any one or more of the causes referred to in section 55 (1) and (1A),

the warden shall, subject to the terms of any relevant valid agreement under section 54 (1), assess that loss and order that the amount so assessed be paid by the holder of the licence or lease, or by the person to whom the easement or right of way has been granted, to which the assessment relates, within the time and to the persons specified in the order.

Appeals from assessments

56B. The provisions of sections 152–162 of the Mining Act 1973 apply to and in respect of an assessment made by the warden in pursuance of this Act, and to and in respect of a person dissatisfied with such an assessment, as if the assessment were a decision of a warden's court and the person were a party to a complaint or proceeding dissatisfied with the decision.

SCHEDULE 2

(Sec. 6)

SAVING AND TRANSITIONAL PROVISIONS

Saving of certain regulations

1. Any regulation—

(a) which was made under the Principal Act for the purposes of section 56 (1) of that Act; and

(b) which was in force immediately before the commencement of this Act,

shall, on that commencement, be deemed to have been made for the purposes of section 56 (1) of the Principal Act, as amended by this Act.

Petroleum (Compensation) Amendment 1985

SCHEDULE 2—*continued*

SAVING AND TRANSITIONAL PROVISIONS—*continued*

Transitional arrangements relating to pending assessments

2. (1) Except as provided by subclause (2), Division 5 of Part III of the Principal Act, as in force immediately before the commencement of this Act, applies to and in respect of an assessment of compensation under that Part pursuant to an application or
5 complaint notified to the warden before that commencement and it so applies as if this Act had not been enacted.

(2) Section 127 of the Mining Act 1973, as in force before 29 August 1980, applies to and in respect of an assessment of compensation made by the warden under Division
10 5 of Part III of the Principal Act pursuant to an application or complaint notified to the warden before the commencement of this Act in the same way as that section applied to and in respect of an assessment of compensation made under Part VIII of the Mining Act 1973 before that date.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985

PETROLEUM (COMPENSATION) AMENDMENT ACT 1985 No. 176

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. 176, 1985

An Act to amend the Petroleum Act 1955 with respect to compensation payable under that Act. [Assented to, 3rd December, 1985.]

Petroleum (Compensation) Amendment 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Petroleum (Compensation) Amendment Act 1985".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

3. The Petroleum Act 1955 is referred to in this Act as the Principal Act.

Schedules

4. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO COMPENSATION

SCHEDULE 2—SAVING AND TRANSITIONAL PROVISIONS

Amendment of Act No. 28, 1955

5. The Principal Act is amended in the manner set forth in Schedule 1.

Saving and transitional provisions

6. Schedule 2 has effect.

Petroleum (Compensation) Amendment 1985

SCHEDULE 1

(Sec. 5)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
COMPENSATION

(1) Section 48—

Omit the section.

(2) (a) Section 53 (1)—

Omit “in accordance with this Act”, insert instead “, for loss referred to in section 55 (1) and in the manner provided by this Act,”.

(b) Section 53 (1A)—

Omit “in accordance with this Act”, insert instead “, for loss referred to in section 55 (1A) and in the manner provided by this Act,”.

(c) Section 53 (1), (1A)—

After “affected” wherever occurring, insert “, or likely to be so affected,”.

(d) Section 53 (2)—

After “affect”, insert “, and are not likely to affect,”.

(3) Section 55 (1), (1A)—

Omit section 55 (1), insert instead:

(1) Where compensation is assessed under this Act by the warden, the assessment shall be of the loss caused or likely to be caused—

- (a) by damage to the surface of land, and damage to the crops, trees, grasses or other vegetation on land, or damage to buildings and improvements thereon, being damage which has been caused by or which may arise from prospecting or petroleum mining operations;
- (b) by deprivation of the possession or of the use of the surface of land or any part of the surface;
- (c) by severance of land from other land of the owner or occupier of that land;

Petroleum (Compensation) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
COMPENSATION—*continued*

- (d) by surface rights of way and easements;
- (e) by destruction or loss of, or injury to, or disturbance of, or interference with, stock on land; and
- (f) by all consequential damage.

(1A) Without affecting the generality of subsection (1), where—

- (a) the holder of a licence or lease is liable under section 53 (1A) to compensate another holder of a licence or lease; and

- (b) the compensation is assessed under this Act by the warden,

the assessment shall be of the loss caused or likely to be caused by the operations of the other holder being detrimentally affected, or being likely to be so affected, as referred to in section 53 (1A).

- (4) Section 56 (1)—

Omit the subsection, insert instead:

(1) Where compensation is assessed under this Act by the warden, the assessment shall be made in the manner prescribed and after notice to the persons who appear to the warden to be interested in the assessment.

- (5) Sections 56A, 56B—

After section 56, insert:

Additional assessment

56A. Where, after an assessment has been made in accordance with sections 55 and 56, it is proved to the satisfaction of the warden—

- (a) that the whole of the amount paid into court pursuant to section 56 (3) has been duly paid out; and

Petroleum (Compensation) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
COMPENSATION—*continued*

- (b) that since the date of the payment out, or the last payment out, as the case may be, further loss has been caused to the land to which the assessment relates, or to other land, being loss arising from any one or more of the causes referred to in section 55 (1) and (1A),

the warden shall, subject to the terms of any relevant valid agreement under section 54 (1), assess that loss and order that the amount so assessed be paid by the holder of the licence or lease, or by the person to whom the easement or right of way has been granted, to which the assessment relates, within the time and to the persons specified in the order.

Appeals from assessments

56B. The provisions of sections 152–162 of the Mining Act 1973 apply to and in respect of an assessment made by the warden in pursuance of this Act, and to and in respect of a person dissatisfied with such an assessment, as if the assessment were a decision of a warden's court and the person were a party to a complaint or proceeding dissatisfied with the decision.

SCHEDULE 2

(Sec. 6)

SAVING AND TRANSITIONAL PROVISIONS

Saving of certain regulations

1. Any regulation—

- (a) which was made under the Principal Act for the purposes of section 56 (1) of that Act; and
- (b) which was in force immediately before the commencement of this Act,

shall, on that commencement, be deemed to have been made for the purposes of section 56 (1) of the Principal Act, as amended by this Act.

Petroleum (Compensation) Amendment 1985

SCHEDULE 2—*continued*

SAVING AND TRANSITIONAL PROVISIONS—*continued*

Transitional arrangements relating to pending assessments

2. (1) Except as provided by subclause (2), Division 5 of Part III of the Principal Act, as in force immediately before the commencement of this Act, applies to and in respect of an assessment of compensation under that Part pursuant to an application or complaint notified to the warden before that commencement and it so applies as if this Act had not been enacted.

(2) Section 127 of the Mining Act 1973, as in force before 29 August 1980, applies to and in respect of an assessment of compensation made by the warden under Division 5 of Part III of the Principal Act pursuant to an application or complaint notified to the warden before the commencement of this Act in the same way as that section applied to and in respect of an assessment of compensation made under Part VIII of the Mining Act 1973 before that date.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985



