

2004-2005

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Offshore Petroleum (Registration Fees)
Bill 2005**

No. , 2005

(Industry, Tourism and Resources)

**A Bill for an Act to impose, as taxes, fees for the
registration under the *Offshore Petroleum Act 2005*
of transfers of titles and approvals of dealings**

Contents

1	Short title.....	1
2	Commencement	1
3	Application of Chapter 1 of the <i>Offshore Petroleum Act 2005</i>	2
4	Application of Part 3.1 of the <i>Offshore Petroleum Act 2005</i>	2
5	Imposition of fee—transfer of title.....	3
6	Imposition of fee—approval of dealing.....	6
7	Regulations.....	10
8	Transitional provisions.....	10

Schedule 1—Transitional provisions 11

1	Pre-commencement entries etc.	11
2	Transitional—regulations	11
3	Re-enactment of the <i>Petroleum (Submerged Lands)</i> <i>(Registration Fees) Act 1967</i>	12

1 **A Bill for an Act to impose, as taxes, fees for the**
2 **registration under the *Offshore Petroleum Act 2005***
3 **of transfers of titles and approvals of dealings**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Offshore Petroleum (Registration*
7 *Fees) Act 2005*.

8 **2 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with

Section 3

1 column 2 of the table. Any other statement in column 2 has effect
2 according to its terms.
3

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Sections 3 to 8	At the same time as Chapter 2 of the <i>Offshore Petroleum Act 2005</i> commences.	
3. Schedule 1	At the same time as the provision(s) covered by table item 2.	

4 Note: This table relates only to the provisions of this Act as originally
5 passed by the Parliament and assented to. It will not be expanded to
6 deal with provisions inserted in this Act after assent.

7 (2) Column 3 of the table contains additional information that is not
8 part of this Act. Information in this column may be added to or
9 edited in any published version of this Act.

10 **3 Application of Chapter 1 of the *Offshore Petroleum Act 2005***

11 Chapter 1 of the *Offshore Petroleum Act 2005* applies to this Act in
12 a corresponding way to the way in which it applies to the *Offshore*
13 *Petroleum Act 2005*.

14 Note: This means, for example, that the definitions in section 6 of the
15 *Offshore Petroleum Act 2005* apply to this Act.

16 **4 Application of Part 3.1 of the *Offshore Petroleum Act 2005***

17 Part 3.1 of the *Offshore Petroleum Act 2005* applies to this Act in a
18 corresponding way to the way in which it applies to Chapter 3 of
19 the *Offshore Petroleum Act 2005*.

20 Note: This means, for example, that the definition of *title* in section 251 of
21 the *Offshore Petroleum Act 2005* applies to this Act.

5 Imposition of fee—transfer of title

Imposition of fee

- (1) A fee is imposed on the entry in the Register of a memorandum of the transfer of a title, where the entry is made under section 262 of the *Offshore Petroleum Act 2005* after the commencement of this section.

Amount of fee

- (2) The amount of the fee is worked out using the table:

Amount of fee		
Item	In this case...	the amount of the fee is...
1	(a) an entry is made in the Register of a memorandum of the transfer of a title; and (b) none of items 2, 3 and 4 apply	the amount calculated at the rate of 1.5% of whichever is the greater of the following: (a) the value of the consideration for the transfer; (b) the value of the title transferred
2	(a) an entry is made in the Register of a memorandum of the transfer of a title; and (b) assuming that item 1 had applied, the amount worked out under that item would have been less than the amount prescribed by the regulations	the amount prescribed by the regulations

Section 5

Amount of fee

Item	In this case...	the amount of the fee is...
3	(a) an entry is made in the Register of a memorandum of the transfer of a title; and (b) assuming that item 1 had applied, the amount of the fee would have been more than the amount prescribed by the regulations; and (c) the transfer was executed for the purpose of giving effect to a dealing; and (d) a fee was imposed by section 6 on the entry in the Register of an approval of the dealing; and (e) the fee mentioned in paragraph (d) has been paid; and (f) the transfer was agreed to under the dealing	the amount prescribed by the regulations

Amount of fee

Item	In this case...	the amount of the fee is...
4	(a) an entry is made in the Register of a memorandum of the transfer of a title; and (b) assuming that item 1 had applied, the amount of the fee would have been more than the amount prescribed by the regulations; and (c) the parties to the transfer satisfy the Designated Authority that: <ul style="list-style-type: none"> (i) the parties are related bodies corporate within the meaning of the <i>Corporations Act 2001</i>; and (ii) the transfer was executed solely for the purpose of a reorganisation of the corporations concerned or any of them or solely for the purpose of securing the better administration of the corporations concerned or any of them; and (iii) the transfer was not executed substantially for the purpose of avoiding or reducing the fees that would, apart from this item, be payable under this section on the entry in the Register of a memorandum of the transfer 	the amount prescribed by the regulations

1 (3) Different amounts may be prescribed for different items of the
 2 table.

3 *Tax*

4 (4) The fee imposed by this section is imposed as a tax.

5 Note: For collection of fees, see Part 4.6 of the *Offshore Petroleum Act*
 6 *2005*.

1 **6 Imposition of fee—approval of dealing**

2 *Imposition of fee*

3 (1) A fee is imposed on the entry in the Register of the approval of a
 4 dealing, where the entry is made under section 276 of the *Offshore*
 5 *Petroleum Act 2005* after the commencement of this section.

6 *Amount of fee*

7 (2) The amount of the fee is worked out using the table:
 8

Amount of fee		
Item	In this case...	the amount of the fee is...
1	(a) a dealing relates to only one title; and (b) an entry is made in the Register of the approval of the dealing in so far as it relates to that title; and (c) none of items 2, 5 and 6 apply	1.5% of the value of the consideration for the dealing
2	(a) a dealing relates to only one title; and (b) an entry is made in the Register of the approval of the dealing in so far as it relates to that title; and (c) the entry of the approval relates to an interest in a production licence, infrastructure licence or pipeline licence; and (d) the value of the interest is greater than the value of the consideration for the dealing; and (e) the dealing has an effect of the kind referred to in item 1, 2, 4 or 5 of the table in section 269 of the <i>Offshore Petroleum Act 2005</i> ; and (f) the Designated Authority is satisfied that the dealing was not made under another dealing that relates to that title, where a fee has been paid under this section in relation to an entry of the approval of the other dealing	1.5% of the value of the interest

Amount of fee		
Item	In this case...	the amount of the fee is...
3	(a) a dealing relates to 2 or more titles; and (b) an entry is made in the Register of the approval of the dealing in so far as it relates to any one of those titles; and (c) none of items 4, 5 and 6 apply	1.5% of the amount worked out by dividing the value of the consideration for the dealing by the number of titles in relation to which the dealing is approved by the Designated Authority
4	(a) a dealing relates to 2 or more titles; and (b) an entry is made in the Register of the approval of the dealing in so far as it relates to any one of those titles; and (c) the entry of the approval relates to an interest in a production licence, infrastructure licence or pipeline licence; and (d) the value of the interest is greater than the amount worked out by dividing the value of the consideration for the dealing by the number of titles in relation to which the dealing is approved by the Designated Authority; and (e) the dealing has an effect of the kind referred to in item 1, 2, 4 or 5 of the table in section 269 of the <i>Offshore Petroleum Act 2005</i> ; and (f) the Designated Authority is satisfied that the dealing was not made under another dealing that relates to any of those titles, where a fee has been paid under this section in relation to an entry of the approval of the other dealing	1.5% of the value of the interest

Section 6

Amount of fee

Item	In this case...	the amount of the fee is...
5	(a) a dealing relates to one or more titles; and (b) an entry is made in the Register of the approval of the dealing in so far as it relates to any one of those titles; and (c) either: (i) apart from this item, the amount of the fee imposed by this section on the entry would have been less than the amount prescribed by the regulations; or (ii) Part 3.6 of the <i>Offshore Petroleum Act 2005</i> applies to the dealing only because the dealing creates, varies or terminates a charge over some or all of the assets of a body corporate	the amount prescribed by the regulations

Amount of fee

Item	In this case...	the amount of the fee is...
6	(a) a dealing relates to one or more titles; and (b) an entry is made in the Register of the approval of the dealing in so far as it relates to any one of those titles; and (c) apart from this item, the amount of the fee imposed by this section on the entry would have been more than the amount prescribed by the regulations; and (d) the parties to the dealing satisfy the Designated Authority that: <ul style="list-style-type: none"> (i) the parties are related bodies corporate within the meaning of the <i>Corporations Act 2001</i>; and (ii) the dealing was entered into solely for the purpose of a reorganisation of the corporations concerned or any of them or solely for the purpose of securing the better administration of the corporations concerned or any of them; and (iii) the dealing was not entered into substantially for the purpose of avoiding or reducing the fees that would, apart from this item, be payable under this section on the entry of approval of the dealing 	the amount prescribed by the regulations

1 (3) Different amounts may be prescribed for different items of the
2 table.

3 *Deduction from the value of the consideration for a dealing*

4 (4) For the purposes of subsection (2), deduct from the value of the
5 consideration for a dealing the value, as determined by the
6 Designated Authority, of any exploration works that were, as at the
7 date of the instrument evidencing the dealing:

8 (a) to be carried out under the dealing; and

1 (b) required or permitted to be carried out by or under the
2 relevant title.

3 *Deduction from the value of the interest in a production licence*

4 (5) For the purposes of subsection (2), deduct from the value of the
5 interest in a production licence the value, as determined by the
6 Designated Authority, of any exploration works that were, as at the
7 date of the instrument evidencing the dealing:

8 (a) to be carried out under the dealing; and

9 (b) permitted to be carried out by or under the licence.

10 *Tax*

11 (6) The fee imposed by this section is imposed as a tax.

12 Note: For collection of fees, see Part 4.6 of the *Offshore Petroleum Act*
13 *2005*.

14 **7 Regulations**

15 The Governor-General may make regulations for the purposes of
16 sections 5 and 6.

17 **8 Transitional provisions**

18 Schedule 1 has effect.

Schedule 1—Transitional provisions

Note: See section 8.

1 Pre-commencement entries etc.

(1) Despite the repeal of the *Petroleum (Submerged Lands) (Registration Fees) Act 1967*, that Act continues to apply, in relation to an entry made before the commencement of this clause, as if that repeal had not happened.

(2) Item 3 of the table in subsection 5(2) of this Act, and items 2, 4 and 6 of the table in subsection 6(2) of this Act, have effect as if each reference in those items to section 6 of this Act included a reference to subsection 4(5) of the repealed *Petroleum (Submerged Lands) (Registration Fees) Act 1967*.

(3) Item 4 of the table in subsection 5(2) of this Act has effect as if the reference in that item to section 5 of this Act included a reference to subsection 4(2) of the repealed *Petroleum (Submerged Lands) (Registration Fees) Act 1967*.

2 Transitional—regulations

(1) This clause applies to regulations if:

- (a) the regulations were in force immediately before the commencement of this clause; and
- (b) the regulations were made for the purposes of a particular provision of the *Petroleum (Submerged Lands) (Registration Fees) Act 1967*.

(2) The regulations have effect, after the commencement of this clause, as if:

- (a) they had been made for the purposes of the corresponding provision of this Act; and
- (b) any requirement imposed by this Act or the *Legislative Instruments Act 2003* in relation to the making of the regulations (including a requirement about the form of words) had been satisfied.

Clause 3

- 1 (3) Subclause (2) does not prevent the regulations continuing to have
2 effect for the purposes of a particular provision of the *Petroleum*
3 *(Submerged Lands) (Registration Fees) Act 1967* as that Act
4 continues to apply after its repeal because of clause 1 of this
5 Schedule.
- 6 (4) For the purposes of this clause, in determining whether a provision
7 is a corresponding provision:
- 8 (a) regard must be had to the substance of the provision; and
9 (b) if the provision appears to have expressed the same idea in a
10 different form of words for the purpose of using a clearer
11 style—disregard the difference.

12 **3 Re-enactment of the *Petroleum (Submerged Lands) (Registration***
13 ***Fees) Act 1967***

14 This Act re-enacts the *Petroleum (Submerged Lands) (Registration*
15 *Fees) Act 1967* with certain modifications.

16 Note: Section 15AC of the *Acts Interpretation Act 1901* provides that if an
17 Act has expressed an idea in a particular form of words, and a later
18 Act appears to have expressed the same idea in a different form of
19 words for the purpose of using a clearer style, the ideas shall not be
20 taken to be different merely because different forms of words were
21 used.