

PETROLEUM (COMPENSATION) AMENDMENT ACT 1985 No. 176

New South Wales



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ELIZABETHÆ II REGINÆ

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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.

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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;

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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

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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.

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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.
