

Commonwealth of Australia Offshore Minerals Act 1994

Introduction

On 1 March 1994 the Offshore Minerals Act 1994 together with seven associated Acts covering the payment of royalties, annual fees and user charges for licences came into effect. This new Act replaces the former Minerals (Submerged Lands) Act 1981 which had been in force since 1 February 1990.

The new Act provides the legal framework for the exploration and recovery of minerals, other than petroleum, on Australia's continental shelf. The extent of the continental shelf in respect to Western Australia (to be known as the "adjacent area") is illustrated in Diagram 1 on page 4 of this pamphlet.

Administration

The State will, on behalf of the Commonwealth, continue to be responsible for the administration of the offshore area adjacent to Western Australia.

The decision making powers under the Act are given to different bodies, ie. Designated Authority and Joint Authority. The Designated Authority is the State's responsible Minister (Minister for State Development in Western Australia) and the Joint Authority is constituted by the responsible State Minister and the responsible Commonwealth Minister.

The Joint Authority is responsible for the major decisions relating to titles, such as grants. The day to day administration of the Act is carried out by the Designated Authority for each State.

The new Act has been designed to simplify the offshore title grant process. Steps in the grant process are:-

- applicant applies for a licence;
- applicant advertises the licence application;
- Joint Authority provisionally grants the licence; and
- on the proper acceptance of the grant by the licence holder the Designated Authority registers the grant of the licence.

Blocks

The adjacent offshore area is divided into blocks bounded by one minute of latitude and one minute of longitude.

Blocks will fall into one of the following categories:

- Reserved Block - not available for application as it is set aside for a national purpose, conservation, environmental or other reason.
- Standard Block - a block that is not reserved and is available for application.
- Tender Block - a reserve block made available for application by way of a public invitation.

Principal Titles

The Act provides for 5 titles which have new names and replace the previous 4 titles that were available under the 1981 Act as follows:

Old Title	New Title
Exploration Permit	Exploration Licence
	Retention Licence
Production Licence	Mining Licence
Works Authority	Works Licence
Instrument of Consent	Special Purpose Consent

An information summary sheet covering area, term, fees, security and expenditure commitment for the new licences appears on page 3 of this pamphlet.

Exploration Licence

This title allows the holder to explore for all minerals.

Any person may apply for an exploration licence over a group of standard blocks that are vacant provided the group forms a discrete area and there are no more than 500 blocks in the group.

A fee of \$3 000 is payable on application plus an annual fee of \$20 per block, with a minimum of \$600.

The term of an exploration licence is for a period of 4 years and may be renewed for further periods of 2 years at a time to a maximum of 10 years. Each renewal application attracts a fee of \$600.

It is mandatory for the licence area to be reduced by 50% on each renewal.

Retention Licence

A holder of an exploration licence may apply for a retention licence over blocks within his exploration licence.

This new title allows the holder to retain rights over an area where he has identified and evaluated a significant mineral deposit but the deposit is not commercially viable and there is a reasonable prospect of development of the deposit in the longer term.

A fee of \$3 000 is payable on application and \$200 per block is payable for each year of the licence.

The term of a retention licence is for a specified period determined by the Joint Authority and may be renewed for a further specified period. Each renewal application attracts a fee of \$600. The specified period may be up to a maximum of 5 years.

Mining Licence

This title allows the holder to explore for and recover minerals over an area where a significant mineral deposit has been identified and evaluated.

Any person may apply for a mining licence over a group of standard vacant blocks provided the blocks form a discrete area. The maximum area is 20 blocks.

In addition, a holder of an exploration or retention licence may also apply for a mining licence over all or some of the blocks in his licence.

Before a mining licence can be granted the applicant must have lodged a mining development plan and an environmental impact statement for assessment and approval.

A fee of \$3 000 is payable on application and \$200 per block is payable for each year of the licence.

The term of a mining licence is for a specified period determined by the Joint Authority and may be renewed for a further specified period. The specified period may be up to a maximum of 21 years.

Works Licence

This title allows a licence holder to carry out major licence-related operations outside the licence area of his exploration, retention or mining licence.

Works Licences may be granted over areas that are the subject of another existing exploration, retention, mining or works licence.

There is no limitation on the maximum number of blocks that may be applied for, but the Joint Authority will specify the number of blocks that are included in the grant.

A fee of \$3 000 is payable on application and \$20 per hectare is payable for each year of the area under the licence.

The term of a Works Licence is for a specified period determined by the Joint Authority and may be renewed for a further specified period. The specified period may be up to a maximum of 5 years.

Special Purpose Consent

This title allows the holder to carry out a scientific investigation, a reconnaissance survey or the collection of only small amounts of minerals.

Special Purpose Consents can be granted over blocks which may be reserved or are the subject of an existing licence.

However, it does not give the holder any exclusive rights over the area nor any preference when it comes to the granting of a licence for the same area.

Any person may apply and there is a fee of \$300 payable on application.

The number of blocks included in the grant and the term of the consent is specified by the Joint Authority. The specified period may be up to a maximum of 12 months.

Advertising Provisions

A new provision is that all licence applications must be advertised within fourteen (14) days from the date of the application inviting comments from the public which should be lodged with the Designated Authority within 30 days.

On the lodgement of a licence application the applicant will be instructed to forward a copy of his licence application to The West Australian for advertising in the mining notices section of the Wednesday's edition of the West Australian.

Licence Conditions

On the grant or renewal of a licence the Joint Authority may impose various conditions including conditions requiring the licence holder to:

- lodge a security
- take steps to protect the environment
- repair any damage to the environment caused by his activities
- Monitoring and Performance

Under the Act inspectors are appointed to monitor the operations of licence holders and they are empower to carry out compliance inspections.

The Designated Authority may issue a direction to a licence holder that covers environmental protection, site rehabilitation, health, safety and welfare and the licence holder is required to comply with that direction.

Savings and Transitional Provisions

The purpose of these provisions is to ensure that existing title holders and applicants are not disadvantaged in the transition from the 1981 Act to the new Act.

A title issued under the 1981 Act has the same effect as if it was made under the corresponding provisions of the new Act.

Likewise a pending application made under the 1981 Act has the same effect as if it was an application under the new Act.

Approved Forms

The Designated Authority has approved the following forms for use by the public:

- application forms for exploration, retention, mining and works licences;
- application form for renewal of licences; and
- caveat and withdrawal of caveat forms

These forms are available from the Department of Mines and Petroleum, 1st Floor Mineral House, 100 Plain Street, East Perth WA 6004.

Diagram 1

Note 1:

For the "baseline" see Australia's territorial sea baseline (AGPS) 1988: generally the baseline is the lowest astronomical tide along the coast but it also includes lines enclosing bays and indentations that are not bays and straight baselines that depart from the coast.

Note 2:

The "Continental Shelf" in a legal sense starts not from the coast but from the outer limits of the territorial sea. In a geophysical sense, of course, the continental shelf starts at the coast. The diagram shows the outer edge of the continental margin as the limit of the Continental Shelf but sometimes the 200 nautical mile limit defines the limit of the Continental Shelf.

Note 3:

Sometimes the outer limit of the Commonwealth-State offshore area is a bilaterally negotiated boundary or a median line adopted pending bilateral negotiations.