



## ***Petroleum and Geothermal Energy Act 2000***

The *Petroleum and Geothermal Energy Act 2000* provides two mechanisms for licence suspensions:

- Section 76A – Suspension of conditions of licence by agreement; and
- Section 90 – Suspension of licence by agreement.

### **Objectives of the Act**

The objectives of the *Petroleum and Geothermal Energy Act 2000* (PGE Act) are:

- to create an effective, efficient and flexible regulatory system for the industries involving exploration for, and the recovery or commercial utilisation of, petroleum and other resources (including geothermal resources and natural reservoirs suitable for gas storage or production purposes) to which this Act applies; and
- to encourage and maintain an appropriate level of competition in exploitation for and production of petroleum and other resources to which the PGE Act applies; and
- to create an effective, efficient and flexible regulatory system for the construction and operation of transmission pipelines for transporting petroleum and other substances to which the PGE Act applies; and
- to minimise environmental damage from activities involved in –
  - exploration for, or the recovery or commercial utilisation of, petroleum and other resources to which the Act applies; and
  - the construction or operation of transmission pipelines for transporting petroleum and other substances to which the PGE Act applies; and
- to establish appropriate consultative processes involving people directly affected by regulated activities and the public generally; and
- to ensure as far as reasonably practicable security of supply for users of natural gas; and
- to protect the public from risks inherent in regulated activities.

### **Licence suspensions**

#### ***Section 76A Petroleum and Geothermal Energy Act 2000 – Suspension of conditions of licence by agreement***

The PGE Act allows for the suspension of licence conditions by agreement together with an extension of the term of the licence. The Department for Energy and Mining will only consider a suspension (and where appropriate, a corresponding extension to the term of the licence) where the work program commitment requires on ground activity or where a subsequent year/s work program is reliant on the work to be undertaken during the period of suspension.



A suspension of licence conditions will not change the reporting due date for licence annual reports and full annual licence fees will continue to be levied during these periods of suspension.

Regulated activities are able to continue in the area of a licence during a licence condition suspension period.

Suspension of a work program licence condition suspends the deadline to complete a work program commitment activity. A suspension only (without corresponding period of extension of licence term) will defer the end date of the current licence year but will not alter the end date of subsequent licence years.

A suspension of licence condition with a corresponding extension will defer the end date of the licence year and all subsequent years.

### Section 90 *Petroleum and Geothermal Energy Act 2000* – Suspension of licence by agreement

In accordance with section 90 of the PGE Act, licences may be suspended with the agreement of the licensee and the Department for Energy and Mining.

Regulated activities are not permitted to be carried out in the area of a licence during a period of licence suspension. However, should the licensee wish to undertake regulated activities during this period, the suspension may be either temporarily or permanently lifted to enable activities to proceed.

### Force Majeure

If the ability of a licensee to meet a work program commitment is adversely impacted by an event that cannot be reasonably anticipated or controlled during the course of a work program via experience or care (*force majeure*) the Department for Energy and Mining may approve a licence suspension.

An application for a licence suspension on force majeure grounds must include substantial and compelling evidence to demonstrate how the force majeure circumstance has adversely impacted the ability to complete the work program, and a proposed schedule for the forward work program.

Where a licence is suspended on force majeure grounds annual licence fees will not be levied for the period of suspension.

Commercial circumstances and common risks to the industry are not considered to constitute force majeure. These may influence the perceived commercial viability of an activity but would not normally prevent an explorer from meeting its commitment. Such circumstances and risks may include, but are not limited to:

- avoidable delays in receiving processes/reprocessed data from contractors;
- failure to mature a drillable prospect;
- changes in oil price;
- changes in operating costs;



- avoidable delays in contracting a drilling rig/seismic crew;
- disappointing exploration results;
- the need to wait for results of exploration work undertaken outside the permit area by the same licensee/operator;
- rescheduling of appraisal/development wells ahead of exploration wells.

Whilst licence suspensions may be approved for any of the purposes listed above (and not genuine *force majeure* grounds), annual licence fees at the rate of 50% of the fee for the period of suspension will be imposed. Licensees will be issued with an invoice for the fee payable upon approval of any period of suspension.

During periods of suspension, the Department for Energy and Mining may require regular reporting on progress towards resolution of the issue, and the Department for Energy and Mining may end the suspension at any time if it believes that genuine progress towards exploration is not being made.

Whilst there is no prescribed time limit for a suspension, suspensions of a shorter time frame are considered more likely to be successful (subject to the reasoning of the suspension). Unless there are compelling circumstances, it is unlikely a suspension for longer than 12-months will be approved.

When considering an application for suspension, the Department for Energy and Mining will take into consideration work program obligations and any previous periods of licence suspension. Where the licence has been granted as the result of a competitive tender process and genuine force majeure grounds are not a factor in a suspension application, the Department will consider impacts on the second ranked applicant by reviewing bid scores if the total period of suspension is going to equal or exceed 12 months.

Where a suspension is lifted (either temporarily or permanently) to enable activities to proceed, there will be no refund of annual licence fees paid.