

Cost recovery and financial assurance for the onshore gas industry in the Northern Territory

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Introduction

On 1 December 2022, the Legislative Assembly passed the Petroleum Legislation Amendment Bill 2022, which received assent on 16 December 2022, becoming the [Petroleum Legislation Amendment Act 2022](#) (the amending Act).

The amending Act and supporting regulations will commence on 22 June 2023. The following legislation, as amended or in place from 22 June 2023, will determine how costs are recovered and the requirements for financial assurance:

- [Petroleum Act 1984 \(Act\)](#),
- [Petroleum Regulations 2020 \(Petroleum Regulations\)](#)
- [Petroleum \(Environment\) Regulations 2016 \(PER 2016\)](#)
- [Petroleum \(Transitional\) Regulations 2023](#).¹

The amending Act outlines a full cost recovery system for the regulation of the onshore gas industry in the Northern Territory.

New fees will apply that more accurately reflect the costs of service provision relating to title administration and assessment.

A new monitoring and compliance levy has been introduced to cover costs that are likely to be incurred by the Department of Industry, Tourism and Trade (**DITT**) and the Department of Environment, Parks and Water Security (**DEPWS**) when undertaking their regulatory obligations.

A review of the charging framework after three years will provide an opportunity to recalibrate fees to align with actual industry activity and regulatory costs.

The amending Act also provides for a comprehensive financial assurance framework that will introduce mandatory environmental remediation and petroleum infrastructure decommissioning securities as well as mandatory insurance requirements for all petroleum interests.

Transitional regulations

Transitional regulations have been developed to support commencement of the amending Act and provide clarity around how and when new arrangements will apply to existing titles, applications, approvals and requirements.

New fees and levies are applicable immediately upon commencement. Environmental securities, which are already required, will continue to be required. There is a two year transitional period for the payment of petroleum decommissioning securities for existing wells or wells that are under construction at the time of commencement of the amending Act. However, from commencement all new wells will require a decommissioning security to be paid prior to drilling.

The amending Act establishes that it is a condition of a petroleum interest that an interest holder must maintain an insurance policy as required by the Minister. At the time of commencement, existing requirements for insurance remain current.

¹ *Petroleum (Transitional) Regulations 2023* are temporary in nature and will be automatically repealed two years after their commencement.

Cost recovery

Revised Fees

Administered by the Energy Development Branch, DITT

The amended Petroleum Regulations include an updated schedule (Schedule 1) of fees expressed in revenue units. Table 1 (page 5) lists the new fees expressed in dollar terms, using the 2023/24 revenue unit value of \$1.35².

Most fees relating to the general administration of petroleum titles, including those for the grant, renewal and variation of exploration permits, retention licences and production licences have been revised to reflect direct costs of service provision.

Annual fees will remain at current levels. The annual fee is payable in advance on the commencement of the exploration permit, retention or production licence, and each subsequent anniversary or its last renewal and is based on the number of blocks held under title.

Fees for resource management, activity and infrastructure plans

Administered by the Energy Development Branch, DITT

The amending Act inserts new Schedule 1A into the Petroleum Regulations to prescribe fees and calculation processes for resource management, activity and infrastructure plans.

These new fees are application fees for approval of the new permissioning plans described in section 60 of the amending Act, which include: a Well Operation Management Plan (WOMP), Petroleum Surface Infrastructure (PSIP) and Field Management Plans (FMPs).

Fees have been categorised to differentiate between simple and highly complex proposals. The applicable fees are listed in Table 2 (page 6).

Fees for environment management plans (EMPs)

Administered by the Petroleum Operations Branch, DEPWS

The amending Act inserts new Schedule 1B into the Petroleum Regulations to describe fees and calculation processes for EMPs.

EMPs, required by the PER 2016, will also adopt a complexity-fee that will vary based on the number of activities proposed and the number of titles covered by the EMP.

Plan assessment and approval fees will be calculated based on the number and type of activities proposed in plans to ensure that charges will match the size and complexity of different operations.

The applicable fees are listed in Table 3 (page 7). A User Guide and Calculator tool have been developed to assist in calculating this fee.

² Revenue units are a simple way of maintaining the real value of NT fees and charges while taking into account inflation. The value of a revenue unit increases each financial year by the annual percentage change in Darwin's Consumer Price Index (CPI), or by 3% – whichever is higher

Monitoring and Compliance levy

Accepted for consideration by the Petroleum Operations Branch, DEPWS, then approved and invoiced by the Energy Development Branch, DITT on the advice of DEPWS.

The amending Act inserts new Schedule 4A; Monitoring and compliance levy into the Petroleum Regulations to describe the components and calculation processes for this new levy.

The monitoring and compliance levy is payable annually based on the number and type of activities approved in an in-force EMP (to be carried out during the relevant financial year). An additional levy may be imposed on a pro-rata basis during a financial year if additional activities are approved during the financial year.

The monitoring and compliance levy is intended to recover the costs of a range of DITT and DEPWS monitoring and compliance activities. As with EMPs, the monitoring and compliance levy is based on activity weightings.

EMPs have been used to calculate relevant monitoring and compliance levies because they must address all regulated activities included in regulations 5(1)-(2) of the PER 2016, including the construction, operation, modification, decommissioning, dismantling or removal of a well, pipeline or other facility (which are also included in a WOMP or PSIP).

Because EMPs are administered, accepted and assessed by the Petroleum Operations Branch, DEPWS, DEPWS will also be responsible for assessing and endorsing nominated levy amounts against the relevant EMPs.

Notably, an EMP that includes different types of regulated activities over a larger number of titles will generally result in a higher levy, however a number of caps have been incorporated into the calculation methodology to recognise efficiencies that apply to the regulator's costs of monitoring and compliance in certain circumstances:

- the cost of monitoring and compliance for a regulated activity will be calculated for a maximum of two titles;
- if two or more activities on a title area fall into the same activity category, for example land clearing and earthworks, that category will only be counted once in relation to that title area;
- if two or more seismic surveys are to be undertaken in a title area, a maximum compliance rating of four will be applied to any combined survey length exceeding 100 km in length, irrespective of the number of surveys.

Regulated activities in the Beetaloo Sub-basin will incur an **uplift factor** to recover costs that have been incurred by the Northern Territory Government to meet Inquiry Recommendations that required a Strategic Regional Environment Baseline Assessment (SREBA). The uplift factor will only be charged until such time as costs required for the SREBA have been recuperated.

A User Guide and Calculator tool have been developed to assist in calculating this levy.

Table 1: Schedule 1 Fees and amounts for Act and Regulations

Provision	Description	Revenue units	Fee (\$) 23/24
S 16	Application for grant of permit	15 748	\$21 259
S 23	Application for renewal of permit	8 184	\$11 048
S 26	Annual fee in relation to a permit per block per annum	435	\$587
S 28	Variation, suspension or waiver of condition of permit	6 034	\$8145
S 32	Application for retention licence	17 504	\$23 630
S 37	Application for renewal of retention licence	8 087	\$10 917
S 39	Annual fee in relation to a retention licence per block per annum	9 415	\$12 710
S 41	Variation of condition of retention licence	6 263	\$8455
S 45	Application for production licence	36 316	\$49 026
S 51	Application for renewal of production licence	6 671	\$9005
S 53	Annual fee in relation to a production licence per block or part of a block per annum	11 500	\$15525
S 55	Variation of condition of production licence	4 847	\$6543
S 57A	Application for grant of access authority	5 006	\$6758
S 57AAA	Application to approve recovery of petroleum on appraisal basis	18 158	\$24 513
S 57AAB	Application to approve transfer of interest in application	1 415	\$1910
S 73	Application to surrender all or part of permit area	761	\$1027
S 73	Application to surrender all or part of licence area	761	\$1027
S 93	Application to approve transfer of an interest	1 934	\$2610
S 94(2)	Entry in Register of name of applicant as permittee or licensee	57	\$76
S 96(4)	Approval of instruments relating to interests	165	\$222
S 100	Inspection of Register and instruments	19	\$25
S 102(2)	Copy of or extract from Register or instrument (page)	6	\$8
S 102(3)	Certificate issued by Registrar	33	\$44
S 104E	Application to approve change in control	1 415	\$1910
Reg 31	Application for approval of access agreement	1 142	\$1541
Reg 33	Application for registration of access agreement	666	\$899
Reg 35	Application for inspection of register	19	\$25
Reg 36	Application for certified copy or certificate	33	\$44
Reg 39	Application for approval and registration of variation of access agreement (other than a variation by order of the Tribunal)	1 142	\$1541
Reg 39	Application for registration of variation of access agreement by order of the Tribunal	666	\$899
Reg 69(4)	Application for registration of agreement under transitional provisions	1 142	\$1541

Table 2: Schedule 1A Fees for resource management, activity and infrastructure plans

New fees have been categorised to differentiate between simple and highly complex proposals.

Description	Revenue units	Fee \$ 23/24
Application for a well operations management plan (WOMP) - s61(2)(b):		
high complexity , for the management of a well that includes any of the following: <ul style="list-style-type: none"> ○ high pressure – the maximum anticipated surface pressure $\geq 10,000$ psi (69 MPa) or needs the deployment of pressure control equipment with a rated working pressure in excess of 10,000 psi (69 MPa); ○ high temperature – the undisturbed bottom hole temperature at prospective reservoir depth or total depth is $\geq 149^{\circ}\text{C}$ or (300 $^{\circ}\text{F}$); ○ hydraulic fracturing/well stimulation; ○ the management of risks arising from the presence of hydrogen sulphide from the reservoir, including by the deployment of additional equipment, plans and emergency procedures; ○ managed pressure drilling; ○ a well outside known fields, or the first well drilled in an petroleum field where no other petroleum production exists; ○ novel drill operations and equipment needing the deployment of specific non-standard or new equipment or techniques not currently in use or approved for use; 	11 614	\$15 678
medium complexity , not high complexity and covers more than one well;	7 946	\$10 727
low complexity , being all other plans	6 113	\$8252
Application for a field management plan (FMP) - s61(2)(b)	34 622	\$46 739
Application for a petroleum surface infrastructure plan (PSIP) - s61(2)(b)	11 397	\$15 385
Application for a revised WOMP - s61B(5) - determined by complexity: <ul style="list-style-type: none"> - high complexity; - medium complexity; - low complexity 	8 333 5 702 4 386	\$11 249 \$7697 \$5921
Application for a revised FMP - s61B(5) determined by its complexity as follows: <ul style="list-style-type: none"> – medium complexity, being a revised plan that is not low complexity; – low complexity, being a revised plan with a minimum of 10 years production data; or where the permittee or licensee does not propose to make a significant change to development or management strategy 	16 061 12 354	\$21682 \$16677
Application for a revised PSIP - s61B(5) determined by its complexity as follows: <ul style="list-style-type: none"> – high complexity, includes a new petroleum processing facility; – medium complexity, is not high complexity; and includes the development of new well site facilities and pipelines; – low complexity, being any other revised plan 	7 944 5 435 4 181	\$10 724 \$7337 \$5644
The fee for an application to vary a condition of an approved plan under section 61C(3)(b) of the Act	4 386	\$5921

Fees for environment management plans (New Schedule 1B)

The fee for assessing an EMP is based on complexity. The fee will vary according to the number and location of activities proposed. The fee for a proposed revision of an EMP is the same as the fee for the approval of an EMP. The fee for an EMP application has two components, being a base fee and an assessment rating which is multiplied by a unit value.

These figures are determined by Schedule 1B of the Petroleum Regulations:

1. **Base fee** of 28 047 revenue units; and
2. **Assessment ratings** for each regulated activities proposed in the EMP relates (see table below);
3. **Unit value** of 2 104 revenue units.

Table 3: Assessment ratings for activity categories

Activity category	Assessment rating
Land clearing (any purpose) and earthworks (incl cutting, filling, excavating, trenching)	2
Seismic surveys (total length) up to 100 km	1
Seismic surveys (total length) more than 100 km	2
The drilling, completion, operation, modification, decommissioning, suspension or abandonment of a well that <u>does not include</u> hydraulic fracture stimulation activities	
up to 3 wells	2
4 or more wells	4
The drilling, completion, operation, modification, decommissioning, suspension or abandonment of a well that <u>includes</u> hydraulic fracture stimulation activities	
up to 3 wells	6
4 or more wells	12
The construction, operation, modification, decommissioning, dismantling or removal of other facilities used for the recovery or processing of petroleum	6
The construction, operation, modification, decommissioning, dismantling or removal of any other facilities	3

- (a) If 2 or more activities to be undertaken in a particular title area fall into a particular activity category, that category will be counted once in relation to that title area; and
- (b) an activity to be undertaken in 2 or more title areas will be counted once for each title area; and
- (c) for 2 or more seismic surveys to be undertaken in a title area, the total length of seismic surveys in that title area are to be added together for the purposes of the Table.

A User Guide and Calculator tool have been developed to assist in calculating these fees.

Financial Assurance Framework

In the case of the onshore gas industry, financial assurances are a regulatory tool intended to prevent the Government and community from bearing the financial costs of environmental rehabilitation or decommissioning petroleum infrastructure, where there is a corporate failure. New Part VC of the amending Act introduces two kinds of security.

1. Environmental securities must be calculated and the calculated amount submitted for assessment as part of an EMP submission. Once the EMP is approved and the amount of environmental security determined by the Environment Minister, the security must be paid prior to the commencement of any regulated activities commencing. The Minister for Environment is responsible for determining these securities; and
2. Petroleum infrastructure decommissioning securities must be calculated and submitted for assessment as part of a WOMP or PSIP, and once approved, must be paid prior to drilling an approved well or commencing construction of petroleum surface infrastructure approved for production purposes or the sale of appraisal gas. The Minister for Mining and Industry is responsible for administering and determining these securities.

The respective Ministers must also determine the form of security required after taking into account any direction of the Treasurer about acceptable or appropriate securities. Examples include a cash bond posted to the Territory Government and held in trust; or a bank guarantee, or a surety bond or insurance bond.

Environmental securities

The amending Act establishes that an environmental security may provide for:

- a) standardised costs to address specific costs, liabilities and risks associated with environmental impacts and risk of environmental harm resulting from activities to which an approved EMP relates, including costs for remediation and rehabilitation; and
- b) standardised costs to manage residual risk of environmental harm, including monitoring, after remediation and rehabilitation has been undertaken; and
- c) a contingency amount to reduce the risk that the value of the security is inadequate.

The standardised costs and method required to calculate environmental securities are still being finalised. Once these have been determined by the Environment Minister they will be published online. In the interim, petroleum interest holders must continue to calculate and pay environmental securities in accordance with the current requirements.

Petroleum infrastructure decommissioning securities

The amending Act establishes that new petroleum infrastructure decommissioning securities will be required to secure costs and liabilities associated with:

- a) well decommissioning applicable to an approved or submitted WOMP; and
- b) decommissioning petroleum surface infrastructure to which an approved PSIP; and
- c) decommissioning appraisal production infrastructure.

As with environmental securities, the standardised costs and methodologies required to calculate these securities are still being finalised. Once these have been determined by the Minister for Mining and Industry they will be published online.

Insurance

New section 57AAE of the amending Act establishes that, as a condition of a petroleum permit or licence, all petroleum interest holders must maintain an insurance policy as required by the Minister. Insurance

policies will need to be issued by an appropriately regulated entity and should contain an appropriate minimum coverage per unexpected petroleum incident and will need to adequately cover third party damages and liabilities, including environmental impacts and damages.

Orphan well levy

The orphan well levy is a non-refundable levy that must be paid by all petroleum interest holders for the purpose of long-term monitoring, management and remediation of abandoned onshore gas wells in the NT.

New Part VE of the amending Act establishes that an orphan well levy must be paid annually, per graticular block, across all petroleum titles. The amount payable in 2023/24 will be 84 revenue units per block increasing by 15 revenue units per year (or a number specified by regulation). New Part 5C of the Petroleum Regulations describes an annual increase in the rate of the levy that will apply until 2034/2035.

The Table below provides an indication of levy amounts payable, taking into account the increasing number of revenue units described in Part 5C of the Petroleum Regulations, as well as the minimum 3% increase expected in the value of individual revenue unit.

Orphan Well Levy		
Year	Levy Amount per Block ³	Maximum Levy per title (200 blocks)
2023/2024	84 revenue units x \$1.35 (\$113)	\$22,680
2024/2025	99 revenue units x \$1.39 (\$137)	\$27,400
2025/2026	114 revenue units x \$1.43 (\$163)	\$32,600
2026/2027	129 revenue units x \$1.47 (\$189)	\$37,800
2027/2028	144 revenue units x \$1.51 (\$217)	\$43,400
2028/2029	159 revenue units x \$1.55 (\$246)	\$49,200
2029/2030	174 revenue units x \$1.59 (\$276)	\$55,200
2030/2031	189 revenue units x \$1.63 (\$308)	\$61,600
2031/2032	204 revenue units x 1.67 (\$340)	\$68,000
2032/2033	219 revenue units x 1.71 (\$374)	\$74,800
2033/2034	234 revenue units x 1.75 (\$409)	\$81,800
2034/2035 ongoing	234 revenue units (no further increase) x 1.75 (+≥3% annual revenue unit increase)	

Failure to pay

A permittee or licensee who fails to pay an annual fee or levy in accordance with the Act will be charged interest at a rate determined by the [Taxation Administration Act 2007](#).

³ Dollar value shown is the number of revenue units by multiplied by \$1.35 which is the value of a revenue unit of the 2023/2024 year. The value of a revenue unit increases each financial year by the annual percentage change in Darwin's Consumer Price Index (CPI), or by 3% – whichever is higher