



PRO-RATA REFUND OF ANNUAL FEES EXPLANATORY NOTE

Date Issued

12 January 2017

Target group

Petroleum Division staff and industry

Introduction

This explanatory note is for the application of a pro-rata refund for petroleum and geothermal energy title annual fees paid under the *Petroleum and Geothermal Energy Resources Act 1967* (PGERA67) and under the *Petroleum and Submerged Lands Act 1982* (PSLA82). The PGERA67 sections 138(2) and (3) does provide scope for reduced annual fees for production licences. The aim of this explanatory note is to provide clarity on when and how a pro-rata annual fee refund is appropriate where a year of a title term is in force for less than 12 months or there is a partial surrender. This does **not** apply to annual fees considered for pipeline licences or infrastructure licences under the PSLA82 or the *Petroleum Pipelines Act 1969*.

Principles

The principles are based on sections 137, 137A, 138(1), (2) & (3), 139 and 140 of the PGERA67; and sections 139, 139A, 140, 142 and 150 of the PSLA82.

A title annual fee is payable in respect of each year of the term of a title, calculated at the prescribed rate per block to which the title relates at the commencement of that year. The annual fee, incurred on the day a title comes into force and on every anniversary date of that date for the life of the title, is payable within one month; the “due date”. Late payment penalties are incurred if the fee is not discharged at or before the due date.

Therefore, if a title is in force when an anniversary date is encountered, the applicable annual fee is incurred and due within one month regardless of the remaining period of the title term. The matter of a pro-rata refund of the annual fee will be assessed when the title either ceases to be in force or a new title term commences.

Pro-rata refunds do not apply to late payment penalties.

1. Extensions of Title Term and Title Expiry

The Minister has the power to suspend or exempt a registered holder from compliance with any of the conditions to which a petroleum or geothermal energy exploration permit, drilling reservation, retention lease, production licence, special prospecting authority or access authority is subject. The Minister may also extend the term of an exploration permit, drilling reservation or retention lease by a period not exceeding the period of the suspension or exemption.

Where the effect of one or more extensions results in the last year of a title term being in force for less than a full calendar year prior to the expiry of the exploration permit, drilling reservation or retention lease, a pro-rata refund of the annual fee paid for that year may be considered appropriate on a case-by-case basis on application in writing.

2. Partial Surrender and Surrender

The Minister may consent to a partial surrender of a petroleum or geothermal exploration permit, drilling reservation, retention lease or production licence to be made effective by a notice published in the Government Gazette. Where a partial surrender is made effective in a year of a title term, a pro-rata refund of the annual fee paid for the remainder of that year in respect of the surrendered blocks may be considered appropriate on a case-by-case basis on application in writing.

The Minister may consent to a surrender of a petroleum or geothermal exploration permit, drilling reservation, retention lease or production licence to be made effective by a notice published in the Government Gazette. The Executive Director, Petroleum may consider a pro-rata refund of the annual fee paid for the remainder of a title year following the gazettal of a surrender on a case-by-case basis on application in writing.

Where the Minister has consented to the surrender of a title prior to the anniversary date and the gazettal of the notice giving effect is published after that anniversary date but before the due date for the annual fee, the Executive Director, Petroleum may consider withdrawing the annual fee on application in writing on a case-by-case basis.

3. Title Renewals and Determinations

Where the title remains in force past its expiry date by way of an application for renewal that has yet to be approved or refused, the title annual fee is raised on the anniversary date and payable within one month of the anniversary date. Where the Minister grants the renewal, an annual fee will be raised for the new title term and a new anniversary date will apply to the new title term.

A pro-rata refund may be made in respect of the annual fee paid in the prior title term for the remaining period of the calendar year the prior term was not in force in respect to the blocks that continue in force in the new title term. The Executive Director, Petroleum will consider an application, in writing, for a pro-rata refund of the annual fee paid in respect to the blocks compulsorily dropped as a requirement of the renewal provisions on application in writing on a case-by-case basis.

Where an exploration permit or production licence under the PGERA67 (section 37A and section 61) or production licence under the PSLA82 (section 51(2)(e)) is determined by way of dividing, a new annual title fee is incurred and payable within one month when the newly granted titles come into force and new anniversary dates will apply. Therefore, a pro-rata refund may be made upon approval of a written application to be considered by the Executive Director, Petroleum for the remaining period of the calendar year the original title is no longer in force on application in writing on a case-by-case basis.

4. Cancellation and Termination

Where a title has been cancelled or terminated, an application for a pro-rata refund of an annual fee will be refused.

5. Calculations

The annual fee pro-rata refund calculation applicable is:

For partial year:

Annual fee / days in a calendar year = daily rate

Daily rate x remaining calendar days following cessation of the title or the new title term commenced = amount of pro-rata refund

For partial surrender:

Daily rate x remaining calendar days following partial surrender x (number of surrendered blocks / original number of blocks) = amount of pro-rata refund

Reference links

Links to legislation:-

- [*Petroleum and Geothermal Energy Resources Act 1967*](#) (sections 137, 137A, 138(1), 139 and 140).
- [*Petroleum \(Submerged Lands\) Act 1982*](#) (sections 139, 139A, 140, 142 and 150)
- [*Interpretation Act 1984*](#) (s61, computation of time)

Definitions

For the purposes of this document:-

“anniversary date” means the day that is 12 months after the date on which the title came into force or was renewed.

“block” as defined in section 27 of the PGERA67 and section 17 of the PSLA82.

“gazettal” means the publication of a notice in the Western Australian Government Gazette.

“geothermal energy title” means a geothermal exploration permit, geothermal drilling reservation, geothermal retention lease, geothermal production licence, as considered under the PGERA67.

“Minister” means the Minister for Mines and Petroleum or his Delegate.

“petroleum title” means a petroleum exploration permit, petroleum drilling reservation, petroleum retention lease and petroleum production licence, as considered under the PGERA67 and a permit, retention lease and production licence under the PSLA82.

A **“year”** is defined in the *Interpretation Act 1984* as ‘a period of 12 months’.