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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

PETROLEUM RESOURCE CHARGE BILL 2026
EXPLANATORY MEMORANDUM

(Circulated by the authority of the Treasurer)

No. , 2026 (Treasury)

Act citation on assent: Petroleum Resource Charge Act 2026

Outline

The Bill imposes a charge of 30 per cent on the statutory value of petroleum recovered in the offshore area on or after 1 July 2027. Statutory value is the quantity recovered multiplied by the Japan Korea Marker. The charge does not depend on profit.

The Bill also imposes a recoupment debt, on 1 July 2027, equal to 30 per cent of the statutory value of petroleum recovered on or after 1 July 2012 and before 1 July 2027 under an offshore title on which no royalty was paid, less royalty, petroleum resource rent tax and Australian company tax actually paid and attributable to that petroleum.

Export clearance is refused until the charge on the cargo is paid or secured, and until any recoupment instalment due is paid or secured.

Context

Petroleum in Commonwealth waters is a public resource recovered under a title granted by the Commonwealth. Apart from the North West Shelf royalty, the Commonwealth has not charged a royalty on that petroleum. The Petroleum Resource Rent Tax Assessment Act 1987 taxes profit after deductible expenditure and after uplift of undeducted expenditure. For integrated liquefied natural gas projects the upstream receipt is a gas transfer price, not an arm’s-length sale.

Projects that have paid no royalty on this petroleum include Gorgon and Wheatstone, operated by Chevron; Pluto, operated by Woodside, to the extent the gas is outside the North West Shelf royalty area; Prelude, operated by Shell; and Ichthys, operated by Inpex. Participants include ExxonMobil. These projects have been in production for years. The profit test has not produced a return to the public on the petroleum taken.

The Treasury Laws Amendment (Tax Accountability and Fairness) Act 2024 capped deductions for certain liquefied natural gas projects at 90 per cent of assessable receipts, so that 10 per cent of receipts is taxable profit, taxed at 40 per cent. The cap applies from 1 July 2023 or seven years after first production, whichever is later, and denied deductions carry forward. That amendment does not charge the petroleum taken, and it does not recover the years in which no royalty was paid.

Financial impact

This exposure draft is not accompanied by an official revenue estimate. A costing by the Treasury and the Australian Taxation Office, using titleholder production reports and export manifests, is required before introduction.

External work by the Australia Institute is a scale marker only, not a costing of this Bill. That work estimates that a 25 per cent tax on gas exports would raise about $17 billion a year, and that 56 per cent of exported Australian gas, and about 73 per cent of exported Western Australian gas, pays no royalty. This Bill uses a 30 per cent rate on petroleum recovered, with no deductions, and adds a recoupment debt. Receipts will differ from that estimate.

Human rights

The Bill imposes a tax and a civil penalty, and makes a director liable for an unpaid company debt after 90 days. It does not confer a criminal conviction for non-payment of the charge itself. Export clearance is an existing customs control. The measures are directed at titleholders and operators recovering a public resource, not at natural persons in their private capacity, other than directors who have failed to cause the operator to pay.

Notes on clauses

Clause 1 — Short title

Provides that the Act is the Petroleum Resource Charge Act 2026.

Clause 2 — Commencement

The ongoing charge applies to petroleum recovered on or after 1 July 2027. The recoupment debt is imposed on 1 July 2027 in respect of petroleum recovered from 1 July 2012. The debt is a tax imposed on that day, calculated by reference to past recovery. It is not a contractual damages claim.

Clause 3 — Objects

States the four objects: a 30 per cent charge on petroleum taken, recovery of petroleum taken without a royalty, denial of the structures used to report no profit, and refusal of export clearance until payment.

Clause 4 — Crown bound

Binds the Crown. A State agreement Act, a stabilisation clause or a government agreement cannot displace the charge. Those instruments bind the State that made them. They do not bind the Commonwealth in the exercise of the taxation power.

Clause 5 — Definitions

Associate takes the income-tax meaning and adds common control, so that a marketing company in another jurisdiction is an associate if it is under common control. Benchmark price is the monthly Japan Korea Marker in Australian dollars, with a published Platts or Argus substitute if the Marker is unavailable. Petroleum recovered includes gas delivered to a floating facility, a tolling plant or an onshore liquefaction plant, so that a split between the title and the plant does not take the gas outside the charge. Statutory value allows no subtraction.

Clause 6 — Charge imposed

Imposes the 30 per cent charge on statutory value. The charge does not depend on profit, taxable income, economic rent, or a statement that petroleum resource rent tax is not yet payable.

Clause 7 — No deductions

Lists the amounts that cannot be deducted, credited, offset or uplifted against the charge. The list covers the expenditure classes that have kept liquefied natural gas projects outside petroleum resource rent tax: exploration and construction, interest, carried-forward augmented expenditure, liquefaction and marketing, other taxes, and decommissioning. The list is inclusive of those classes. It is not a leave to deduct an unlisted cost.

Clause 8 — Price is the benchmark

A contract price below the Marker is ignored, including a sale to an associate or a marketing hub. An advance pricing arrangement and a gas transfer price cannot set statutory value below the Marker. Petroleum used, flared or transferred without a sale is charged as if sold at the Marker. Reinjection to produce further petroleum is charged once, on final recovery, so that the same molecule is not charged twice.

Clause 9 — Who pays

Liability sits with each titleholder in proportion to its interest, and with the operator for the whole, joint and several. An associate that takes, tolls, liquefies or sells the petroleum is jointly liable. A buyer of the interest is jointly liable for unpaid charge accrued before the sale, unless the Commissioner has given a clearance. The seller is not released. This stops a pre-commencement or mid-stream sale being used to leave the debt in an empty company.

Clause 10 — When it is due

The debt arises on recovery. Payment is due on loading for export, or on the last day of the following month if the petroleum is not exported.

Clause 11 — Recoupment debt

Imposes the debt on titleholders and operators of Schedule projects, and of any other offshore project that paid no royalty, for petroleum recovered from 1 July 2012 to 30 June 2027. The rate is 30 per cent of statutory value, using the Marker for the month of loading. The only subtractions are royalty, petroleum resource rent tax and Australian company tax actually paid and attributable to that petroleum. A carried-forward loss, an uplifted expenditure balance and a tax assessed but not paid are not subtracted.

Payment is in eight quarterly instalments from 30 September 2027. The general interest charge applies to the unpaid balance. The balance becomes immediately payable if the interest is sold, or if production falls below half the average of the previous three years without a reservoir reason accepted by the Commissioner. The second limb stops a titleholder shutting in a field to avoid the debt while the petroleum remains in the ground under a Commonwealth title.

Clause 12 — Petroleum resource rent tax

Petroleum resource rent tax is not repealed. The charge is creditable against petroleum resource rent tax of the same project interest in the same year, and is not creditable against company tax. From 1 July 2027, for a project producing sales gas for liquefied natural gas, uplift is nil, exploration expenditure cannot be transferred in, deductible expenditure is capped at 50 per cent of

assessable receipts and the excess is extinguished, and assessable receipts cannot be less than statutory value. These amendments stop the rent tax being used to shelter other income. They do not reduce the charge.

Clause 13 — Related-party payments

Denies a company-tax and petroleum resource rent tax deduction for a payment to an associate above the Commissioner's benchmark for that class of cost. Caps deductible project debt at 30 per cent of the project's accounting asset value. These rules do not affect the charge, which allows no deduction. They stop the profit reported for company tax being shifted after the charge has been paid.

Clause 14 — Anti-avoidance

Requires the Act to be applied to substance. A toll, an agency sale, a marketing hub, a change of title, a change of residence and a split of the plant from the title are schemes. If the sole or dominant purpose is to reduce the charge or the debt, the Commissioner may assess as if the scheme had not been carried out and as if the titleholder had sold at the Marker. Part IVA of the Income Tax Assessment Act 1936 does not narrow this clause.

Clause 15 — Treaties

Provides that a double tax agreement does not reduce the charge or the debt. Both are taxes on petroleum recovered in Australia. Any credit is a matter for the country of residence. The clause is expressed generally. It does not single out a treaty partner.

Clause 16 — Clearance

Prohibits a certificate of clearance unless the return for the cargo is lodged and the charge paid, and any recoupment debt due is paid or secured. Title does not pass for export until the charge is paid or bonded at 100 per cent. An instalment 30 days overdue allows the Commissioner to stop further cargoes from that project until the arrears and the next two instalments are paid. Collection does not depend on a later audit of profit.

Clause 17 — Penalty

Failure to lodge carries a civil penalty of twice the unpaid charge. Directors of the operator are liable for the unpaid amount if the company has not paid within 90 days.

Clause 18 — Public register

Requires annual publication of volume, statutory value, charge, debt, petroleum resource rent tax, company tax and beneficial owners, for each production licence. Tax secrecy does not prevent publication. Publication is the check on a return that reports no profit.

Schedule

Names Gorgon, Wheatstone, Pluto, Prelude and Ichthys, and includes any other offshore production licence under which petroleum has been recovered since 1 July 2012 on which no Commonwealth or State royalty was paid. The North West Shelf is outside the Schedule to the extent a royalty was paid. Feed gas to the Karratha Gas Plant from a non-royalty field is inside item 6.