Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009

No.  , 2009

(Resources and Energy)

A Bill for an Act to amend the Offshore Petroleum and Greenhouse Gas Storage Act 2006, and for other purposes
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### Schedule 1—Amendments

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Offshore Petroleum (Royalty) Act 2006
Petroleum Resource Rent Tax Assessment Act 1987
A Bill for an Act to amend the Offshore Petroleum and Greenhouse Gas Storage Act 2006, and for other purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Act 2009.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.
## Commencement information

<table>
<thead>
<tr>
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<th>Column 2</th>
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<tbody>
<tr>
<td>Provision(s)</td>
<td>Commencement</td>
<td>Date/Details</td>
</tr>
<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day on which this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Schedule 1, Parts 1 to 6</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>3. Schedule 1, Parts 7 and 8</td>
<td>1 January 2010.</td>
<td>1 January 2010</td>
</tr>
<tr>
<td>4. Schedule 1, Parts 9 to 14</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
</tr>
</tbody>
</table>

**Note:** This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

### 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Amendments

Part 1—Access authorities


1 At the end of subsection 245(1)

Add:

; and (d) the registered holder of the petroleum exploration permit,

petroleum retention lease, petroleum production licence or

petroleum special prospecting authority has not given written

consent to the grant of the petroleum access authority.

2 Application of amendment

The amendment made by this Part applies in relation to an application

for a petroleum access authority if the application was made after the

commencement of this item.
Part 2—Locations


3 Section 95

Omit:

• If a petroleum pool is identified in a petroleum exploration permit area, the Designated Authority may declare a location over the blocks to which the petroleum pool extends.

substitute:

• If a petroleum pool is identified in a petroleum exploration permit area, the Joint Authority may declare a location over the blocks to which the petroleum pool extends.

4 Section 96

Omit:

• If a petroleum pool is identified in a petroleum exploration permit area, the Designated Authority may declare a location over the blocks to which the petroleum pool extends.

substitute:

• If a petroleum pool is identified in a petroleum exploration permit area, the Joint Authority may declare a location over the blocks to which the petroleum pool extends.

5 Section 128

Omit:

• If a petroleum pool is identified in a petroleum exploration permit area, the Designated Authority may declare a location over the blocks to which the petroleum pool extends.

substitute:
• If a petroleum pool is identified in a petroleum exploration permit area, the Joint Authority may declare a location over the blocks to which the petroleum pool extends.

6 Section 128

Omit:

• The Designated Authority may require the permittee to nominate the blocks.

substitute:

• The Joint Authority may require the permittee to nominate the blocks.

7 Paragraph 129(5)(b)

Omit “Designated Authority”, substitute “Joint Authority”.

8 Subsections 130(1), (2) and (3)

Omit “Designated Authority” (wherever occurring), substitute “Joint Authority”.

9 Subsections 131(1), (3) and (4)

Omit “Designated Authority” (wherever occurring), substitute “Joint Authority”.

Note: The heading to subsection 131(4) is altered by omitting “Designated Authority” and substituting “Joint Authority”.

10 Subsections 132(1), (3), (6), (7) and (8)

Omit “Designated Authority” (wherever occurring), substitute “Joint Authority”.

11 Subsections 133(1), (3) and (5)

Omit “Designated Authority” (wherever occurring), substitute “Joint Authority”.

12 Transitional—decisions of Designated Authority etc.
Schedule 1 Amendments

Part 2 Locations

(1) This item applies to an act or thing that was done before the commencement of this item:

   (a) by, or in relation to, the Designated Authority for an offshore area; and

   (b) under, or for the purposes of, a provision of Division 6 of Part 2.2 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Note: See also clauses 4 and 5 of Schedule 6 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

(2) The act or thing has effect, after the commencement of this item, as if it had been done:

   (a) by, or in relation to, the Joint Authority for the offshore area; and

   (b) under, or for the purposes of, the corresponding provision of that Act as amended by this Part.
Part 3—Petroleum scientific investigation consents


13 Subsection 253(1)
Omit “Designated Authority” (wherever occurring), substitute “Joint Authority”.

14 Subsection 254(1)
Omit “Designated Authority”, substitute “Joint Authority”.

15 Transitional—decisions of Designated Authority

(1) This item applies to an act or thing that was done before the commencement of this item:
   (a) by the Designated Authority for an offshore area; and
   (b) under subsection 253(1) or 254(1) of the Offshore Petroleum and Greenhouse Gas Storage Act 2006.

(2) The act or thing has effect, after the commencement of this item, as if it had been done:
   (a) by the Joint Authority for the offshore area; and
   (b) under the corresponding provision of that Act as amended by this Part.
Part 4—Occupational health and safety prosecutions


16 At the end of clause 41 of Schedule 6

Add:

; and (c) regulations set out in or prescribed for the purposes of subsection 140H(2) of the repealed Petroleum (Submerged Lands) Act 1967, to the extent that those regulations were in force before the commencement of this clause.
Part 5—Notification of discovery of petroleum


17 Subsection 284(1)
Omit “or a petroleum retention lease area”, substitute “, a petroleum retention lease area or a petroleum production licence area”.

Note: The heading to section 284 is altered by omitting “or petroleum retention lease area” and substituting “, petroleum retention lease area or petroleum production licence area”.

18 Subsections 284(2) and (3)
Repeal the subsections, substitute:

Notification
(2) The permittee, lessee or licensee must inform the Designated Authority of the discovery before the end of the 30-day period that began on the day of completion of the well that resulted in the discovery.

19 Subsection 284(4)
Omit “Subsections (2) and (3) do”, substitute “Subsection (2) does”.

20 Paragraph 284(5)(a)
Omit “or (3)”.

21 Subsections 452(2) and (3)
Repeal the subsections, substitute:

Notification
(2) The permittee, lessee or licensee must inform the responsible Commonwealth Minister of the discovery before the end of the 30-day period that began on the day of completion of the well that resulted in the discovery.

22 Subsection 452(4)
Omit “Subsections (2) and (3) do”, substitute “Subsection (2) does”.
Schedule 1 Amendments

Part 5 Notification of discovery of petroleum

23 Paragraph 452(5)(a)

Omit “or (3)”.

10 Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009
No.      , 2009
Part 6—Datum


24 Section 42 (table item 8)

Repeal the item, substitute:

8 a greenhouse gas assessment permit the permit area of a greenhouse gas assessment permit granted after the changeover time

9 a greenhouse gas holding lease the lease area of a greenhouse gas holding lease granted after the changeover time

10 a greenhouse gas injection licence the licence area of a greenhouse gas injection licence granted after the changeover time

11 a greenhouse gas search authority the authority area of a greenhouse gas search authority granted after the changeover time

12 a greenhouse gas special authority the authority area of a greenhouse gas special authority granted after the changeover time

13 any other instrument under this Act a point, line or area set out in any other instrument made under this Act made after the changeover time

25 Section 42 (note)

After “Note”, insert “1”.

26 At the end of section 42 (after the note)

Add:

Note 2: A grant of a greenhouse gas holding lease may be a grant by way of renewal—see section 11.

27 Subsection 43(1) (table item 8)

Repeal the item, substitute:

8 a greenhouse gas assessment permit the permit area of a greenhouse gas assessment permit that was in force
### Schedule 1 Amendments

**Part 6 Datum**

<table>
<thead>
<tr>
<th>Item</th>
<th>The Designated Authority may issue an instrument varying...</th>
<th>for the sole purpose of...</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>a petroleum exploration permit that was in force immediately before the changeover time</td>
<td>relabelling the permit area using geographic coordinates based on the current datum.</td>
</tr>
<tr>
<td>2</td>
<td>a petroleum retention lease that was in force immediately before the changeover time</td>
<td>relabelling the lease area using geographic coordinates based on the current datum.</td>
</tr>
</tbody>
</table>

28 **Sections 44 and 45**

Repeal the sections, substitute:

**44 Variation of titles and instruments**

*Petroleum titles and instruments*

(1) The table has effect:

<table>
<thead>
<tr>
<th>Item</th>
<th>The Designated Authority may issue an instrument varying...</th>
<th>for the sole purpose of...</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>a greenhouse gas holding lease the lease area of a greenhouse gas holding lease that was in force immediately before the changeover time</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>a greenhouse gas injection licence the licence area of a greenhouse gas injection licence that was in force immediately before the changeover time</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>a greenhouse gas search authority the authority area of a greenhouse gas search authority that was in force immediately before the changeover time</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>a greenhouse gas special authority the authority area of a greenhouse gas special authority that was in force immediately before the changeover time</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>any other instrument under this Act a point, line or area set out in any other instrument under this Act that was in force immediately before the changeover time</td>
<td></td>
</tr>
</tbody>
</table>
## Variation of titles and instruments

<table>
<thead>
<tr>
<th>Item</th>
<th>The Designated Authority may issue an instrument varying...</th>
<th>for the sole purpose of...</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>a petroleum production licence that was in force immediately before the changeover time</td>
<td>relabelling the licence area using geographic coordinates based on the current datum.</td>
</tr>
<tr>
<td>4</td>
<td>an infrastructure licence that was in force immediately before the changeover time</td>
<td>relabelling the licence area using geographic coordinates based on the current datum.</td>
</tr>
<tr>
<td>5</td>
<td>a petroleum special prospecting authority or a petroleum access authority that was in force immediately before the changeover time</td>
<td>relabelling the authority area using geographic coordinates based on the current datum.</td>
</tr>
<tr>
<td>6</td>
<td>a pipeline licence that was in force immediately before the changeover time</td>
<td>relabelling the route of the pipeline using geographic coordinates based on the current datum.</td>
</tr>
<tr>
<td>7</td>
<td>any other instrument under this Act that: (a) sets out a point, line or area; and (b) was in force immediately before the changeover time</td>
<td>relabelling the point, line or area using geographic coordinates based on the current datum.</td>
</tr>
<tr>
<td>8</td>
<td>a petroleum title or other instrument under this Act</td>
<td>inserting an annotation about the applicable datum.</td>
</tr>
</tbody>
</table>

Note: For publication in the Gazette of notice of the variation, see section 708.

### Greenhouse gas titles and instruments

(2) The table has effect:

## Variation of titles and instruments

<table>
<thead>
<tr>
<th>Item</th>
<th>The responsible Commonwealth Minister may issue an instrument varying...</th>
<th>for the sole purpose of...</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>a greenhouse gas assessment permit that was in force immediately before the changeover time</td>
<td>relabelling the permit area using geographic coordinates based on the current datum.</td>
</tr>
<tr>
<td>2</td>
<td>a greenhouse gas holding lease that was in force immediately before the changeover time</td>
<td>relabelling the lease area using geographic coordinates based on the current datum.</td>
</tr>
</tbody>
</table>
Variation of titles and instruments

<table>
<thead>
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<th>The responsible Commonwealth Minister may issue an instrument varying...</th>
<th>for the sole purpose of...</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>changeover time</td>
<td>current datum.</td>
</tr>
<tr>
<td>3</td>
<td>a greenhouse gas injection licence that was in force immediately before the changeover time</td>
<td>relabelling the licence area using geographic coordinates based on the current datum.</td>
</tr>
<tr>
<td>4</td>
<td>a greenhouse gas search authority that was in force immediately before the changeover time</td>
<td>relabelling the authority area using geographic coordinates based on the current datum.</td>
</tr>
<tr>
<td>5</td>
<td>a greenhouse gas special authority that was in force immediately before the changeover time</td>
<td>relabelling the authority area using geographic coordinates based on the current datum.</td>
</tr>
<tr>
<td>6</td>
<td>any other instrument under this Act that: (a) sets out a point, line or area; and (b) was in force immediately before the changeover time</td>
<td>relabelling the point, line or area using geographic coordinates based on the current datum.</td>
</tr>
<tr>
<td>7</td>
<td>a greenhouse gas title or other instrument under this Act</td>
<td>inserting an annotation about the applicable datum.</td>
</tr>
</tbody>
</table>

Note: For publication in the Gazette of notice of the variation, see section 708.

45 Variation of applications for titles

Petroleum titles

(1) The Designated Authority may issue an instrument varying an application for a petroleum title for the sole purpose of relabelling a point, line or area by reference to geographic coordinates based on the current datum.

Greenhouse gas titles

(2) The responsible Commonwealth Minister may issue an instrument varying an application for a greenhouse gas title for the sole purpose of relabelling a point, line or area by reference to geographic coordinates based on the current datum.

29 At the end of Part 4.2
Add:

471A Notation in Register—applicable datum
The Designated Authority may make a notation in the Register about the applicable datum for a title, petroleum special prospecting authority, notice or instrument.

30 At the end of Part 5.2
Add:

523A Notation in Register—applicable datum
The responsible Commonwealth Minister may make a notation in the Register about the applicable datum for a title, greenhouse gas search authority, notice or instrument.

31 Transitional—pre-commencement variations
The amendments made by this Part do not affect the validity of a variation made before the commencement of this item.
Part 7—Pipeline safety management plan levy


32 Paragraph 683(d)

Repeal the paragraph.

33 Section 688

Repeal the section.

34 Application of amendments

Despite the amendments made by this Part, paragraph 683(d) and section 688 of the Offshore Petroleum and Greenhouse Gas Storage Act 2006 continue to apply, after the commencement of this item, in relation to:

(a) pipeline safety management plan levy imposed by repealed Part 4 of the Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Act 2003; and

(b) late payment penalty in relation to pipeline safety management plan levy covered by paragraph (a);

as if those amendments has not been made.
Part 8—Consent to operate a pipeline


35 Subsections 210(3), (4), (5) and (6)
   Repeal the subsections.

36 Subsections 210(7) and (8)
   Omit “Subsections (1), (3) and (5) do not apply”, substitute “Subsection (1) does not apply”.

37 Subsection 210(9)
   Repeal the subsection.
Part 9—Data management plans


38 Subsections 698(2), (3) and (4)

Repeal the subsections.

39 Subsections 724(2), (3) and (4)

Repeal the subsections.

40 Transitional—data management plans

(1) This item applies to a data management plan if, immediately before the commencement of this item, the plan was in force under regulations made for the purposes of subsection 698(2) of the Offshore Petroleum and Greenhouse Gas Storage Act 2006.

(2) Despite the repeal of subsection 698(2) of the Offshore Petroleum and Greenhouse Gas Storage Act 2006 by this Act:

(a) the plan continues to have effect; and

(b) the regulations, to the extent that they relate to:

(i) the contents of the plan; or

(ii) the variation of the plan; or

(iii) the duration of the plan; or

(iv) compliance with the plan;

continue to apply in relation to the plan;

as if the repeal had not happened.
Part 10—Occupational health and safety duties


41 After subclause 9(4) of Schedule 3

Insert:

(4A) Absolute liability applies to paragraph (4)(a).

Note: For absolute liability, see section 6.2 of the Criminal Code.

(4B) The fault element for paragraphs (4)(b) and (c) is negligence.

42 Subclause 10(4) of Schedule 3 (penalty)

Omit “for contravention of this subclause”.

43 At the end of clause 10 of Schedule 3

Add:

(5) Absolute liability applies to paragraph (4)(a).

Note: For absolute liability, see section 6.2 of the Criminal Code.

(6) The fault element for paragraphs (4)(b) and (c) is negligence.

44 After subclause 11(5) of Schedule 3

Insert:

(5A) Absolute liability applies to paragraph (5)(a).

Note: For absolute liability, see section 6.2 of the Criminal Code.

(5B) The fault element for paragraphs (5)(b) and (c) is negligence.

45 After subclause 12(3) of Schedule 3

Insert:

(3A) Absolute liability applies to paragraph (3)(a).

Note: For absolute liability, see section 6.2 of the Criminal Code.

(3B) The fault element for paragraphs (3)(b) and (c) is negligence.

46 After subclause 13(2) of Schedule 3

Insert:
Schedule 1 Amendments
Part 10 Occupational health and safety duties

(2A) Absolute liability applies to paragraph (2)(a).

Note: For absolute liability, see section 6.2 of the Criminal Code.

(2B) The fault element for paragraphs (2)(b) and (c) is negligence.

47 After clause 13 of Schedule 3

Insert:

13A Duties of titleholders in relation to the design of facilities

Duties of petroleum titleholder

(1) If a proposed facility is for use in connection with operations authorised by:
    (a) a petroleum exploration permit; or
    (b) a petroleum retention lease; or
    (c) a petroleum production licence; or
    (d) an infrastructure licence; or
    (e) a pipeline licence;
the permittee, lessee or licensee must take all reasonably practicable steps to ensure that the facility is so designed as to be, when properly used, safe and without risk to health.

Greenhouse gas titleholder

(2) If a proposed facility is for use in connection with operations authorised by:
    (a) a greenhouse gas assessment permit; or
    (b) a greenhouse gas holding lease; or
    (c) a greenhouse gas injection licence;
the permittee, lessee or licensee must take all reasonably practicable steps to ensure that the facility is so designed as to be, when properly used, safe and without risk to health.

Offence

(3) A person commits an offence if:
    (a) the person is subject to a requirement under subclause (1) or (2); and
    (b) the person omits to do an act; and
(c) the omission breaches the requirement.

Penalty: 200 penalty units.

(4) Absolute liability applies to paragraph (3)(a).

Note: For absolute liability, see section 6.2 of the Criminal Code.

(5) The fault element for paragraphs (3)(b) and (c) is negligence.

48 After subclause 14(2) of Schedule 3

Insert:

(2A) Absolute liability applies to paragraph (2)(a).

Note: For absolute liability, see section 6.2 of the Criminal Code.

(2B) The fault element for paragraphs (2)(b) and (c) is negligence.

49 After subclause 15(2) of Schedule 3

Insert:

(2A) Absolute liability applies to paragraph (2)(a).

Note: For absolute liability, see section 6.2 of the Criminal Code.

(2B) The fault element for paragraphs (2)(b) and (c) is negligence.
Part 11—Maps


50 Subsection 6(3) (map)

Repeal the map, substitute:

Map 1. Offshore areas and scheduled areas

51 Subsection 6(4) (map)

Repeal the map, substitute:
Part 12—Judicial review of administrative decisions

Administrative Decisions (Judicial Review) Act 1977

52 After paragraph 2(h) of Schedule 3

Insert:

(ha) the Petroleum (Submerged Lands) Act 1982 of Western Australia;
Part 13—Greenhouse gas storage


53 After subsection 21(7)

   Insert:

   (7A) In making an estimate under paragraph (6)(e) or (7)(f), disregard subsection 388(8).

54 Paragraph 297(1)(b)

   Omit “greenhouse gas holding lease over the block”, substitute “greenhouse gas holding lease, or a greenhouse gas injection licence, over the block”.

55 Paragraph 297(3)(b)

   Omit “day”, substitute “day before the day”.

56 Paragraph 297(3)(d)

   After “lessee”, insert “or licensee”.

57 Paragraph 304(1)(b)

   Omit “greenhouse gas holding lease or a greenhouse gas injection licence over the block”, substitute “greenhouse gas holding lease, or a greenhouse gas injection licence, over the block”.

58 Paragraph 304(3)(b)

   Omit “day”, substitute “day before the day”.

59 Paragraph 304(3)(d)

   After “lessee”, insert “or licensee”.

60 Subsection 358(8)

   After “a petroleum production licence”, insert “on the basis that the responsible Commonwealth Minister is satisfied of the matter set out in subparagraph 370(c)(i)”.

61 After subsection 358(8)

   Insert:
(8A) If a greenhouse gas injection licence is granted under section 372 to the registered holder of a petroleum production licence on the basis that the responsible Commonwealth Minister is satisfied of the matter set out in subparagraph 370(c)(ii), the specified origin or origins of some or all of the greenhouse gas substance must be situated in:

(a) the licence area of a petroleum production licence; or

(b) the licence areas of petroleum production licences.

62 After subsection 374(4)

Insert:

(4A) If:

(a) the licence was granted under section 372 to the registered holder of a petroleum production licence on the basis that the responsible Commonwealth Minister was satisfied of the matter set out in subparagraph 370(c)(i); and

(b) the responsible Commonwealth Minister is satisfied that it is in the public interest to do so;

the responsible Commonwealth Minister may exercise the power of variation conferred by subsection (3) as if the licence had been granted on the basis that the responsible Commonwealth Minister had been satisfied of the matter set out in subparagraph 370(c)(i).
Part 14—Technical corrections

*Offshore Petroleum and Greenhouse Gas Storage Act 2006*

63 Subsections 222(2) and (5)

Omit “gave”, substitute “give”.

Note 1: The heading to subsection 132(1) is altered by omitting “an exploration permittee” and substituting “a petroleum exploration permittee”.

Note 2: The heading to section 297 is altered by omitting “Retention lessee or production licensee” and substituting “Petroleum retention lessee or petroleum production licensee”.

Note 3: The heading to section 304 is altered by omitting “Retention lessee or production licensee” and substituting “Petroleum retention lessee or petroleum production licensee”.

Note 4: The heading to section 346 is altered by omitting “Retention lease” and substituting “Petroleum retention lease”.

64 Subclauses 36(2) and (4) of Schedule 6

Omit “Subsection”, substitute “Subclause”.

*Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act 2006*

65 Section 3 (note)

Omit “section 6”, substitute “section 7”.

*Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006*

66 Section 3 (note)

Omit “section 6”, substitute “section 7”.

*Offshore Petroleum (Royalty) Act 2006*

67 Section 3 (note)

Omit “section 6”, substitute “section 7”.
Petroleum Resource Rent Tax Assessment Act 1987

68 Section 2 (definition of infrastructure licence)

Omit “section 6”, substitute “section 7”.

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