

Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Amendment Regulations 2011 (No. 1)¹

Select Legislative Instrument 2011 No. 253

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Dated 7 December 2011

QUENTIN BRYCE Governor-General

By Her Excellency's Command

MARTIN FERGUSON
Minister for Resources and Energy

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1 Name of Regulations

These Regulations are the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Amendment Regulations 2011 (No. 1).

2 Commencement

These Regulations commence, or are taken to have commenced, as follows:

- (a) on 29 April 2011 regulations 1 to 3 and Schedule 1;
- (b) on the commencement of Part 1 of Schedule 2 to the Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011—regulation 4 and Schedule 2.

3 Amendment of Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011

Schedule 1 amends the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011.

4 Amendment of Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011

Schedule 2 amends the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011.

Schedule 1 Amendments taken to have commenced on 29 April 2011

(regulation 3)

[1] Regulation 4.16, heading

substitute

- 4.16 Events that occurred on or before the commencement of these Regulations
- [2] Subregulation 4.16 (1), including the subheading

substitute

If a field development plan has been accepted before commencement day

(1) If, on the commencement day, a petroleum production licensee has a field development plan for a field in the licence area that has been accepted by the Joint Authority, the field development plan is in force for the field.

Schedule 2

Amendments commencing on commencement of Part 1 of Schedule 2 to the Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011

(regulation 4)

[1] Regulation 1.05, definition of accepted well operations management plan

omit

the Safety Authority

insert

NOPSEMA

[2] Regulation 1.05, after definition of *titleholder*

insert

Titles Administrator means the National Offshore Petroleum Titles Administrator.

[3] Subregulation 1.06 (5)

omit

Designated Authority

insert

Titles Administrator

[4] Regulation 2.03, heading

substitute

2.03 Titles Administrator may request information to be included in discovery assessment report

[5] Subregulation 5.04 (3), note

substitute

Note A direction under section 574 of the Act from NOPSEMA, or under section 574A or section 580 of the Act from the responsible Commonwealth Minister, has effect and must be complied with despite anything in these Regulations. NOPSEMA also has the ability to give a remedial direction under section 586 of the Act, and the responsible Commonwealth Minister may give a remedial direction under section 586A of the Act, that may relate to the plugging or closing off of wells — see paragraphs 586 (2) (b) and 586A (2) (a) of the Act.

[6] Subregulation 5.05 (3), note

substitute

Note A direction under section 574 of the Act from NOPSEMA, or under section 574A or section 580 of the Act from the responsible Commonwealth Minister, has effect and must be complied with despite anything in these Regulations. NOPSEMA also has the ability to give a remedial direction under section 586 of the Act, and the responsible Commonwealth Minister may give a remedial direction under section 586A of the Act, that may relate to the plugging or closing off of wells — see paragraphs 586 (2) (b) and 586A (2) (a) of the Act.

[7] Regulation 5.12, note

substitute

Note Certain titleholders must also apply for a variation if NOPSEMA or the responsible Commonwealth Minister issues a direction that is inconsistent with the accepted plan — see regulations 5.30 to 5.31A.

[8] Paragraph 5.18 (a)

omit

section 574 or 580

insert

section 574, 574A, 580, 586 or 586A

[9] Subregulation 5.22 (3), note

substitute

Note A direction under section 574 of the Act from NOPSEMA, or under section 574A or section 580 of the Act from the responsible Commonwealth Minister, has effect and must be complied with despite anything in these Regulations. NOPSEMA also has the ability to give a remedial direction under section 586 of the Act, and the responsible Commonwealth Minister may give a remedial direction under section 586A of the Act, that may relate to the plugging or closing off of wells — see paragraphs 586 (2) (b) and 586A (2) (a) of the Act.

[10] Division 9, heading

substitute

Division 9 Role of Titles Administrator if NOPSEMA is Regulator

[11] Regulation 5.28, heading

substitute

5.28 Requirement for titleholder and NOPSEMA to give copies of documents to Titles Administrator

[12] Regulations 5.29 to 5.31

substitute

5.29 Requirement for titleholder to give copy of direction to NOPSEMA

If the responsible Commonwealth Minister gives a direction to a titleholder under section 574A or 586A of the Act, the titleholder must give a copy of the direction to NOPSEMA as soon as practicable.

5.30 Requirement to vary well operations management plan if inconsistent with NOPSEMA direction

- (1) If NOPSEMA gives a titleholder a direction under section 574 of the Act that is inconsistent with the accepted well operations management plan for a well activity, the titleholder must:
 - (a) vary the well operations management plan to be consistent with the direction; and
 - (b) apply under regulation 5.11 for acceptance of the variation by NOPSEMA.

Note Subsection 574 (6) of the Act provides that a direction has effect, and must be complied with, despite anything in the regulations.

- (2) If NOPSEMA gives a titleholder a direction under section 586 of the Act that is inconsistent with the accepted well operations management plan for the activity, the titleholder must:
 - (a) vary the well operations management plan to be consistent with the direction; and
 - (b) apply under regulation 5.11 for acceptance of the variation by NOPSEMA.

5.30A Requirement to vary well operations management plan if inconsistent with responsible Commonwealth Minister direction

- (1) If the responsible Commonwealth Minister gives a titleholder a direction under section 574A of the Act that is inconsistent with the accepted well operations management plan for the activity, the titleholder must:
 - (a) vary the well operations management plan to be consistent with the direction; and
 - (b) apply under regulation 5.11 for acceptance of the variation by NOPSEMA.

Note Subsection 574A (6) of the Act provides that a direction has effect, and must be complied with, despite anything in the regulations.

- (2) If the responsible Commonwealth Minister gives a titleholder a direction under section 586A of the Act that is inconsistent with the accepted well operations management plan for the activity, the titleholder must:
 - (a) vary the well operations management plan to be consistent with the direction; and
 - (b) apply under regulation 5.11 for acceptance of the variation by NOPSEMA.

5.31 Well activity approval ceases if inconsistent with NOPSEMA direction

- (1) If NOPSEMA gives a titleholder a direction under section 574 of the Act that is inconsistent with an approval of a well activity given under regulation 5.25, the approval ceases to be in force.
- (2) If NOPSEMA gives a titleholder a direction under section 586 of the Act that is inconsistent with an approval of a well activity given under regulation 5.25, the approval ceases to be in force.

5.31A Well activity approval ceases if inconsistent with responsible Commonwealth Minister direction

- (1) If the responsible Commonwealth Minister gives a titleholder a direction under section 574A of the Act that is inconsistent with an approval of a well activity given under regulation 5.25, the approval ceases to be in force.
- (2) If the responsible Commonwealth Minister gives a titleholder a direction under section 586A of the Act that is inconsistent with an approval of a well activity given under regulation 5.25, the approval ceases to be in force.

[13] Regulation 8.06, heading

substitute

8.06 Consideration of objection by Titles Administrator

[14] Subregulation 8.06 (4), including the note

substitute

(4) The notice of decision under subregulation (3) must state that the person may ask the responsible Commonwealth Minister to review the decision in accordance with regulation 8.07.

[15] Regulation 8.07, heading

substitute

8.07 Review of Title Administrator's decision by Minister

[16] Subregulation 8.07 (1)

substitute

(1) For subsection 718 (2) of the Act, a person may, in writing, ask the responsible Commonwealth Minister to review a decision

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by the Titles Administrator under regulation 8.06 to disallow an objection.

[17] Subregulation 8.07 (6), note

omit

[18] Subregulation 9.21 (3), note

substitute

Note The responsible Commonwealth Minister or the Titles Administrator must make the information in the report publicly known within 15 days after the Titles Administrator receives the report — see regulation 10.10.

[19] Subregulation 9.22 (3), note

substitute

Note The responsible Commonwealth Minister or the Titles Administrator must make the information in the report publicly known within 30 days after the Titles Administrator receives the report — see regulation 10.10.

[20] Regulations 10.02 to 10.07

substitute

10

10.02 Meaning of permanently confidential information

(1) This regulation sets out the 4 situations in which documentary information is *permanently confidential information*.

Excluded information is permanently confidential

(2) Despite anything else in this Division, excluded information is permanently confidential information.

Note Excluded information is defined in regulation 1.06.

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Titles Administrator classifies as permanently confidential

- (3) Documentary information given by a person to the Titles Administrator is permanently confidential information if the Titles Administrator considers the information to be:
 - (a) a trade secret; or
 - (b) information the disclosure of which would, or could reasonably be expected to, adversely affect the person's business, commercial or financial affairs.

Titles Administrator does not dispute classification

- (4) Documentary information given by a person to the Titles Administrator is permanently confidential information if:
 - (a) when the information was given, the person told the Titles Administrator, in writing, that the person classified the information as:
 - (i) a trade secret; or
 - (ii) information the disclosure of which would, or could reasonably be expected to, adversely affect the person's business, commercial or financial affairs; and
 - (b) the Titles Administrator did not give the person a written notice under subregulation 10.04 (1) disputing the classification.

Titles Administrator disputes classification and objection is in force

- (5) Documentary information given by a person to the Titles Administrator is permanently confidential information if:
 - (a) when the information was given, the person told the Titles Administrator, in writing, that the person classified the information as:
 - (i) a trade secret; or

- (ii) information the disclosure of which would, or could reasonably be expected to, adversely affect the person's business, commercial or financial affairs; and
- (b) the Titles Administrator gave the person a written notice under subregulation 10.04 (1) disputing the classification; and
- (c) either:
 - (i) the time for making an objection in response to the notice has not elapsed; or
 - (ii) the person has made an objection in response to the notice, and the objection remains in force.

10.03 Meaning of interpretative information

(1) This regulation sets out the 3 situations in which documentary information is *interpretative information*.

Titles Administrator classifies as interpretative

(2) Documentary information given by a person to the Titles Administrator is interpretative information if the Titles Administrator considers the information to be a conclusion drawn wholly or partly from, or an opinion based wholly or partly on, other documentary information.

Titles Administrator does not dispute classification

- (3) Documentary information given by a person to the Titles Administrator is interpretative information if:
 - (a) when the information was given, the person told the Titles Administrator, in writing, that the person classified the information as a conclusion drawn wholly or partly from, or an opinion based wholly or partly on, other documentary information; and
 - (b) the Titles Administrator did not give the person a written notice under subregulation 10.04 (2) disputing the classification.

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Titles Administrator disputes classification and objection to disclosure is in force

- (4) Documentary information given by a person to the Titles Administrator is interpretative information if:
 - (a) when the information was given, the person told the Titles Administrator, in writing, that the person classified the information as a conclusion drawn wholly or partly from, or an opinion based wholly or partly on, other documentary information; and
 - (b) the Titles Administrator gave the person a written notice under subregulation 10.04 (2) disputing the classification; and
 - (c) either:
 - (i) the time for making an objection in response to the notice has not elapsed; or
 - (ii) the person has made an objection in response to the notice, and the objection remains in force.

10.04 Classification dispute notice

Classification dispute notice for permanently confidential information

- (1) The Titles Administrator may give a person a written notice disputing the classification of documentary information as permanently confidential information if:
 - (a) the person gave the documentary information to the Titles Administrator; and
 - (b) when the information was given, the person told the Titles Administrator, in writing, that the person classified the information as:
 - (i) a trade secret; or
 - (ii) information the disclosure of which would, or could reasonably be expected to, adversely affect the person's business, commercial or financial affairs; and

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- (c) the Titles Administrator does not consider the information to be:
 - (i) a trade secret; or
 - (ii) information the disclosure of which would, or could reasonably be expected to, adversely affect the person's business, commercial or financial affairs.

Classification dispute notice for interpretative information

- (2) The Titles Administrator may give a person a written notice disputing the classification of documentary information as interpretative information if:
 - (a) the person gave the documentary information to the Titles Administrator; and
 - (b) when the information was given, the person told the Titles Administrator, in writing, that the person classified the information as a conclusion drawn wholly or partly from, or an opinion based wholly or partly on, other documentary information; and
 - (c) the Titles Administrator does not consider the information to be a conclusion drawn wholly or partly from, or an opinion based wholly or partly on, other documentary information.

Timing of notice

(3) A notice under subregulation (1) or (2) must be given within 30 days after the Titles Administrator receives the documentary information to which it relates.

Notices may be combined

(4) The Titles Administrator may combine 2 or more notices to the same person under subregulation (1) or (2), or both, into a single notice.

Contents of notice

- (5) A notice must include the following:
 - (a) if the notice is given under subregulation (1) a statement that the Titles Administrator considers the information to be disclosable information and proposes to treat it as disclosable information under this Part;
 - (b) if the notice is given under subregulation (2) a statement that the Titles Administrator considers the information to be basic information and proposes to treat it as basic information under this Part;
 - (c) a statement inviting the person to make a written objection to the Titles Administrator's proposal to treat the information as:
 - (i) if the notice is given under subregulation (1) disclosable information; and
 - (ii) if the notice is given under subregulation (2) basic information;
 - (d) the date by which a written objection must be given to the Titles Administrator:
 - (e) a statement that if the person does not make a written objection by the specified date, the information will be taken under this Part to be:
 - (i) if the notice is given under subregulation (1) disclosable information; and
 - (ii) if the notice is given under subregulation (2) basic information.
- (6) For paragraph (5) (d), the date must be at least 45 days after the date the notice is issued.

10.05 Making an objection

- (1) If a person has received a notice from the Titles Administrator under regulation 8.04, the person may make an objection to the classification of the information.
- (2) The objection may relate to all of the information described in the notice, or a specified part of the information.

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- (3) If the notice is given under both subregulations 10.04 (1) and (2), the objection must state whether the objection is:
 - (a) on the ground that the information should be treated as permanently confidential information; or
 - (b) on the ground that the information should be treated as interpretative information; or
 - (c) on both grounds.
- (4) The objection must be made, in writing, to the Titles Administrator on or before the date specified in the notice.
- (5) A valid objection remains in force until it ceases to be in force under regulation 10.07A.

10.06 Consideration of objection by Titles Administrator

- (1) If the Titles Administrator receives a valid objection from a person, the Titles Administrator must consider the objection and decide whether to allow or disallow the objection.
- (2) The Titles Administrator may allow the objection for part of the documentary information to which it relates, and disallow the objection for another part.
- (3) The Titles Administrator must notify the person, in writing, of the Titles Administrator's decision within 45 days after the Titles Administrator receives the objection.
- (4) In the case of a decision by the Titles Administrator to disallow an objection (in whole or in part), the notice of decision under subregulation (3) must state that the person may ask the responsible Commonwealth Minister to review the decision in accordance with regulation 10.07.

10.07 Review of Titles Administrator's decision by Minister

(1) A person may, in writing, ask the responsible Commonwealth Minister to review a decision by the Titles Administrator under regulation 10.06 to disallow an objection.

(2) The request:

- (a) must be given to the Minister within 30 days after the day that the person was given notice of the Titles Administrator's decision; and
- (b) must set out the grounds for making the request.
- (3) The person may withdraw the request by written notice given to the Minister.
- (4) The Minister must, within 45 days after receiving the request, review the Titles Administrator's decision and:
 - (a) confirm the Titles Administrator's decision to disallow the objection; or
 - (b) revoke the Titles Administrator's decision and substitute another decision for it.
- (5) A decision made by the Minister in substitution for the Titles Administrator's decision may allow the objection for part of the documentary information to which it relates, and disallow the objection for another part.
- (6) The Minister must notify the person, in writing, of the Minister's decision as soon as practicable after making the decision.

Note The person may seek further review of the Minister's decision — see Part 9.1 of the Act.

10.07A When objection ceases to be in force

An objection made by a person under regulation 8.05 ceases to be in force if:

- (a) the person withdraws the objection by notifying the Titles Administrator, in writing; or
- (b) the Titles Administrator disallows the objection, and the person does not seek review of the decision within the time allowed for an application for review; or

(c) the Titles Administrator disallows the objection, all reviews of the Titles Administrator's decision have been finalised, and the decision standing after all reviews have been finalised is that the objection is disallowed.

[21] Regulation 10.08

after
responsible Commonwealth Minister
insert
or the Titles Administrator

[22] Regulation 10.09

after
responsible Commonwealth Minister
insert
or the Titles Administrator

[23] Regulation 10.10

after
responsible Commonwealth Minister
insert
or the Titles Administrator

[24] Regulation 10.10, table

omit each mention of
 the Minister
insert
 the Titles Administrator

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[25] Regulation 10.11

after

responsible Commonwealth Minister

insert

or the Titles Administrator

[26] Subregulation 10.12 (1)

after

responsible Commonwealth Minister

insert

or the Titles Administrator

[27] Subregulation 10.13 (1)

after

responsible Commonwealth Minister

insert

or the Titles Administrator

[28] Regulation 10.14

after

responsible Commonwealth Minister

insert

or the Titles Administrator

[29] Subregulation 10.15 (1)

after

responsible Commonwealth Minister

insert

or the Titles Administrator

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[30] Subregulation 10.16 (1)

after

responsible Commonwealth Minister

insert

or the Titles Administrator

[31] Paragraph 12.02 (1) (i)

substitute

- (i) in respect of any related dealing for which an entry has been made in the Register or an application, in writing, for approval has been lodged:
 - (i) a description of the instrument evidencing the dealing and the date of execution; and
 - (ii) the date of approval; and
 - (iii) the registration number (if any).

[32] Subregulation 12.03 (5)

omit

[33] Subregulation 12.07 (3)

omit

[34] Regulation 12.08

omit each mention of
Designated Authority

insert

State Minister

[35] After subregulation 12.08 (2)

insert

State Minister has the meaning given by section 4 of the Offshore Petroleum (Royalty) Act 2006.

[36] Further amendments

Provision	omit each mention of	insert
Regulation 2.01	Designated Authority	Titles Administrator
Regulation 2.02	Designated Authority	Titles Administrator
Regulation 2.03	Designated Authority	Titles Administrator
Regulation 2.04	Designated Authority	Titles Administrator
Regulation 3.02	Designated Authority	Titles Administrator
Regulation 3.06	Designated Authority	Titles Administrator
Regulation 3.07	Designated Authority	Titles Administrator
Regulation 3.08	Designated Authority	Titles Administrator
Regulation 4.04	Designated Authority	Titles Administrator
Regulation 4.05	Designated Authority	Titles Administrator
Regulation 4.08	Designated Authority	Titles Administrator
Regulation 4.10	Designated Authority	Titles Administrator
Regulation 4.11	Designated Authority	Titles Administrator
Regulation 4.12	Designated Authority	Titles Administrator
Regulation 4.13	Designated Authority	Titles Administrator
Regulation 4.14	Designated Authority	Titles Administrator
Regulation 4.15	Designated Authority	Titles Administrator
Regulation 4.16	Designated Authority	Titles Administrator
Regulation 4.19	Designated Authority	Titles Administrator
Regulation 5.02	the Safety Authority	NOPSEMA
Regulation 5.27, note	the Safety Authority	NOPSEMA
Regulation 5.28	Designated Authority	Titles Administrator

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Description		
Provision Resolution 5.29	omit each mention of	insert
Regulation 5.28	the Safety Authority	NOPSEMA
Regulation 7.06	Designated Authority	Titles Administrator
Regulation 7.07	Designated Authority	Titles Administrator
Regulation 7.08	Designated Authority	Titles Administrator
Regulation 7.11	Designated Authority	Titles Administrator
Regulation 7.12	Designated Authority	Titles Administrator
Regulation 7.13	Designated Authority	Titles Administrator
Regulation 7.14	Designated Authority	Titles Administrator
Regulation 7.15	Designated Authority	Titles Administrator
Regulation 7.16	Designated Authority	Titles Administrator
Regulation 7.17	Designated Authority	Titles Administrator
Regulation 7.18	Designated Authority	Titles Administrator
Regulation 7.19	Designated Authority	Titles Administrator
Regulation 7.20	Designated Authority	Titles Administrator
Regulation 8.02	Designated Authority	Titles Administrator
Regulation 8.03	Designated Authority	Titles Administrator
Regulation 8.04	Designated Authority	Titles Administrator
Regulation 8.05	Designated Authority	Titles Administrator
Regulation 8.06	Designated Authority	Titles Administrator
Subregulations 8.07 (2), (4) and (5)	Designated Authority	Titles Administrator
Regulation 8.08	Designated Authority	Titles Administrator
Regulation 8.09	Designated Authority	Titles Administrator
Regulation 8.10	Designated Authority	Titles Administrator
Regulation 8.11	Designated Authority	Titles Administrator
Regulation 8.12	Designated Authority	Titles Administrator
Regulation 8.13	Designated Authority	Titles Administrator
Regulation 8.14	Designated Authority	Titles Administrator

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Provision	omit each mention of	insert
Regulation 8.15	Designated Authority	Titles Administrator
Regulation 8.16	Designated Authority	Titles Administrator
Regulation 9.06	responsible Commonwealth Minister	Titles Administrator
Regulation 9.07	responsible Commonwealth Minister	Titles Administrator
Regulation 9.07	the Minister	the Titles Administrator
Regulation 9.08	responsible Commonwealth Minister	Titles Administrator
Regulation 9.08	the Minister	the Titles Administrator
Regulation 9.11	responsible Commonwealth Minister	Titles Administrator
Regulation 9.12	responsible Commonwealth Minister	Titles Administrator
Regulation 9.13	responsible Commonwealth Minister	Titles Administrator
Regulation 9.13	the Minister	the Titles Administrator
Regulation 9.14	responsible Commonwealth Minister	Titles Administrator
Regulation 9.14	the Minister	the Titles Administrator
Regulation 9.15	responsible Commonwealth Minister	Titles Administrator
Regulation 9.16	responsible Commonwealth Minister	Titles Administrator
Regulation 9.16	the Minister	the Titles Administrator
Regulation 9.17	responsible Commonwealth Minister	Titles Administrator

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Provision	omit each mention of	insert
Regulation 9.17	the Minister	the Titles Administrator
Regulation 9.18	responsible Commonwealth Minister	Titles Administrator
Regulation 9.18	the Minister	the Titles Administrator
Regulation 9.19	responsible Commonwealth Minister	Titles Administrator
Regulation 9.20	responsible Commonwealth Minister	Titles Administrator
Regulation 9.21, other than the note	responsible Commonwealth Minister	Titles Administrator
Regulation 9.22, other than the note	responsible Commonwealth Minister	Titles Administrator
Regulation 9.23	responsible Commonwealth Minister	Titles Administrator
Regulation 9.23	the Minister	the Titles Administrator
Regulation 10.13	the Minister	the Titles Administrator
Regulation 10.16	the Minister	the Titles Administrator
Subregulations 12.03 (1) and (2)	Regulator	Titles Administrator
Regulation 12.04	office	offence
Regulation 12.04	Designated Authority	Titles Administrator
Paragraph 12.05 (1) (b)	the Designated Authority	the Titles Administrator
Paragraph 12.06 (1) (b)	give the Designated Authority	give the Titles Administrator
Subparagraph 12.06 (1) (b) (ii)	Designated Authority	Titles Administrator

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Provision	omit each mention of	insert
Paragraph 12.06 (2) (b)	Designated Authority	Titles Administrator
Subregulation 12.07 (1)	Regulator	Titles Administrator

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See http://www.frli.gov.au.