

EXPLANATORY STATEMENT

Select Legislative Instrument No. 238, 2013

Subject *Offshore Petroleum and Greenhouse Gas Storage Act 2006*
Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment
(2013 Measures No.2) Regulation 2013

Section 781 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act) provides that the Governor-General may make regulations prescribing matters that are required or permitted by the OPGGS Act, or necessary or convenient to be prescribed for carrying out or giving effect to the OPGGS Act.

The OPGGS Act provides the legal framework for the exploration and recovery of petroleum and for the injection and storage of greenhouse gas substances in offshore areas. This Act is administered jointly by the Commonwealth Government and the state and Northern Territory governments and provides for a range of administrative decisions to be made in relation to offshore petroleum and greenhouse gas titles.

One of the primary objects of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (the Principal Regulations) is to provide a framework for requiring the collection, retention and timely submission of petroleum and greenhouse gas data to the National Offshore Petroleum Titles Administrator (NOPTA), and to allow efficient management of data confidentiality and disclosure. The Principal Regulations also prescribe application fees in relation to offshore petroleum and greenhouse gas titles collectable by NOPTA.

Part 1 of Schedule 4 to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures No. 2) Act 2013* is scheduled for commencement on 29 November 2013. It provides that a regulation may provide for the way in which documents are required or permitted to be given for the purposes of the OPGGS Act and legislative instruments.

The purpose of the Regulation is to amend the Principal Regulations to:

- streamline and simplify confidentiality and data submission requirements for some data acquired exclusively by a titleholder;
- enable matters relating to the giving of documents under the OPGGS Act and legislative instruments made under this Act, to be provided for in the Principal Regulations – including electronic service of documents; and
- adjust some existing and introduce new application fees collected by NOPTA.

The data related amendments ensure that inconsistencies between the same sets of exclusive data collected under different offshore petroleum titles are removed. The amendments also streamline submission and confidentiality timeframes to ease the overall compliance burden on industry and improve management of disclosure of various reports and offshore petroleum data.

Upon commencement of Part 1 of Schedule 4 to the *Offshore Petroleum and Greenhouse Gas Storage Amendments (Compliance Measures No.2) Act 2013*, the existing provisions in relation to service of documents in the OPGGS Act will be repealed, and a regulation-making power to enable matters relating to service of documents which are required or permitted to be given under the OPGGS Act and legislative instruments to be provided for in regulations

under the OPGGS Act will be inserted. The commencement of Part 1 of Schedule 4 is triggered by Proclamation or, should Proclamation not occur within 6 months of Royal Assent by default they automatically commence on the day after the end of that period. The *Offshore Petroleum and Greenhouse Gas Storage Amendments (Compliance Measures No.2) Act 2013* received Royal Assent on 28 May 2013. The giving of documents amendments ensure that the arrangements are in place in the Principal Regulations, with the addition of electronic service methods, and aligned with the commencement of legislative amendments to the OPGGS Act.

The adjustments of some existing as well as introduction of new application fees allow for full cost recovery of NOPTA's functions and services it provides under the OPGGS Act. The amendments also reduce or remove cross-subsidies of any given service by the fees imposed in relation to other activities.

Details of the Regulation are at [the Attachment](#).

Consultation with data managers as well as the petroleum industry during the 2010-11 consolidation of a number of regulations to result in the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* highlighted the desire to conduct a more thorough but targeted review of some specific data confidentiality and data submission requirements. A taskforce, which included both Australian and State/Northern Territory government and industry participants, was formed in 2011 to investigate the possibility of simplifying and streamlining data confidentiality periods and submission timeframes for some exclusive data. The taskforce recommended that confidentiality provisions of basic data for production licence wells and seismic surveys should be extended and made equal to other petroleum titles' confidentiality provisions, and that, as a consequence of the confidentiality period changes, various submission timeframes should be also simplified and extended.

With respect to the adjustment of existing application fees and introduction of new application fees, NOPTA consulted with the offshore petroleum industry through a draft Cost Recovery Impact Statement (CRIS). No objections in relation to the amendments were raised during consultation. The Regulation reflects the results of those consultations. The CRIS was consequently finalised and approved.

The Department of Industry consulted with the Office of Best Practice Regulation on all measures to confirm that their requirements had been satisfied. The OPGGS Act specifies no conditions that need to be satisfied before the power to make the Regulation may be exercised.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The amendments relating to streamlining of data confidentiality and submission timeframes and application fees commence on the day after this Regulation is registered, while amendments relating to the giving of documents commence immediately after the commencement of Schedule 4 to the *Offshore Petroleum and Greenhouse Gas Storage Amendments (Compliance Measures No.2) Act 2013*.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (2013 Measures No.2) Regulation 2013

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the Regulation is to amend the Principal Regulations to:

- streamline and simplify confidentiality and data submission requirements for some exclusive data;
- enable matters relating to the service of documents under the OPGGS Act and legislative instruments, to be provided for in the Principal Regulations; and
- adjust some existing and introduce new application fees collected by the National Offshore Petroleum Titles Administrator.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Details of the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (2013 Measures No.2) Regulation 2013*

Section 1 – Name of regulation provides for the full title of the Amendment Regulation to be the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (2013 Measures No.2) Regulation 2013*.

Section 2 – Commencement provides for the following different commencement dates:

- Sections 1 to 4 and Schedule 1 to the Regulation to commence on the day after this Regulation is registered; and
- Schedule 2 to the Regulation to commence immediately after the commencement of Part 1 of Schedule 4 to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures No.2) Act 2013*. Schedule 4 to that Act will commence on 29 November 2013.

Section 3 – Authority provides that this Regulation is made under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Section 4 – Schedules provides that existing named instruments are amended or repealed as per the terms in the Schedules contained in this Regulation.

Schedule 1 – Amendments commencing day after registration

Offshore Petroleum and Greenhouse Gas Storage (Resources Management and Administration) Regulations 2011

Item 1, subparagraph 7.14(1)(b)(i) extends the submission timeframe for a final well completion report and all final well completion data from 12 months to 18 months after the rig release date.

Item 2 repeals the note under **regulation 7.15**.

Item 3 repeals **subparagraphs 7.16(1)(b)(i) to (iv)** and inserts new subparagraphs 7.16(1)(b)(i) and (ii). New subparagraph 7.16(1)(b)(i) aligns the submission timeframes for a survey acquisition report and all survey acquisition data from 2-dimensional, 3-dimensional and from any other type of geological and geophysical surveys, requiring that they are submitted within 18 months after the day that the acquisition of the data is completed. This is to replace the existing 3 different submission timeframes for different types of surveys.

Item 4 repeals **subparagraphs 7.17(1)(b)(i) to (iv)** and inserts new subparagraphs 7.17(1)(b)(i) and (ii). New subparagraph 7.17(1)(b)(i) aligns the submission timeframe for a survey processing report and all processed data from 2-dimensional, 3-dimensional and from any other type of geological and geophysical surveys, requiring that they are submitted within 24 months after the day that the acquisition of the data is completed. This is to replace the existing 3 different submission timeframes for different types of surveys.

Item 5 repeals **subparagraphs 7.18(1)(b)(i) to (iv)** and inserts new subparagraphs 7.18(1)(b)(i) and (ii). New subparagraph 7.18(1)(b)(i) aligns the submission timeframe for a survey interpretation report and all interpretative data from 2-dimensional, 3-dimensional and from any other type of geological and geophysical surveys, requiring that they are submitted

within 36 months after the day that the acquisition of the data is completed. This is to replace the existing 3 different submission timeframes for different types of surveys.

Item 6, subregulation 7.20(4) (table items 6 and 7) extends the submission time from 12 months to 18 months by which sidewall core material, and paleontological slides and residues, paleontological material and paleontological slices must be given after the rig release date.

Item 7 repeals **subregulation 8.11(2) (table items 1 and 2)** and inserts a new table item 1 to extend the confidentiality period for exclusive seismic data acquired under a petroleum production licence from 2 years to 3 years after the acquisition of the data was completed. The new item also aligns the confidentiality period for exclusive seismic data for all petroleum titles.

Item 8 repeals **subregulation 8.11(4) (table items 1 and 2)** and inserts a new table item 1 to extend the confidentiality period for exclusive data other than seismic data acquired within a petroleum production licence from 2 years to 3 years after the acquisition of the data was completed. The item also aligns the confidentiality period for exclusive data other than seismic data for all petroleum titles.

Item 9 repeals **subregulation 8.11(5) (table items 1 and 2)** and inserts a new table item 1 to extend the confidentiality period for documentary information relating to wells drilled under a petroleum production licence that is still in force from 1 year to 2 years after the end of the operation. The item also aligns the confidentiality period for well data for all petroleum titles.

Item 10, subregulation 8.12(1) omits “(1)”. This remove the number “(1)” not the text of the regulation itself, which allows the Titles Administrator or responsible Commonwealth Minister to release interpretative disclosable petroleum-related information subject to specific requirements.

Item 11 repeals **subregulations 8.12(2), 8.13(3) and 8.16(3)**. These existing regulations require a fee payable to access petroleum-related information. The National Offshore Petroleum Titles Administrator’s (NOPTA) review of its cost recovery arrangements concluded that fees charged under these regulations represent small and rarely used fees which are considered superfluous to requirements. In addition, the use of the National Electronic Approvals and Tracing System (NEATS) provides access to publicly available information concerning offshore petroleum titles and applications.

Item 12 omits “(1)” under **subregulation 10.12(1)**. This remove the number “(1)” not the text of the regulation itself, which allows the Titles Administrator or responsible Commonwealth Minister to release interpretative disclosable greenhouse gas-related information subject to specific requirements.

Item 13 repeals **subregulations 10.12(2), 10.13(3) and 10.16(3)**. These existing regulations require a fee payable to access greenhouse gas-related information. NOPTA’s review of its cost recovery arrangements concluded that fees charged under these regulations represent small and rarely used fees which are considered superfluous to requirements. In addition, the use of NEATS provides access to publicly available information concerning offshore petroleum titles and applications.

Item 14, regulation 11.01 (heading) repeals the existing heading and substitutes with **Fees in relation to applications**

Item 15 repeals **subregulation 11.01(1)** and inserts new subregulations **11.01(1), (1A) and (1B)** with each new subregulation referencing corresponding sections 256(2), 516A(1) and 695L(1) of the OPGGS Act which provide the authority for NOPTA to impose fees for assessment of applications and services it provides under the OPGGS Act and linking fees imposed to amounts as prescribed in relevant corresponding Schedules in the Regulations.

Item 16 repeals **regulations 11.02 to 11.06**. These existing regulations require a fee payable in relation to requested changes to information in the titles register. NOPTA's review of its cost recovery arrangements concluded that fees charged under these regulations represent small and rarely used fees which are considered superfluous to requirements. In addition, the use of NEATS provides access to publicly available information concerning offshore petroleum titles and applications.

Item 17 repeals **paragraphs 12.02(1)(f) to (h)**. These paragraphs relate to the operation of the *Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006* which is being repealed on 1 November 2013 therefore the information requirements in these paragraphs are redundant.

Item 18 inserts after **Part 12** a new **Part 13 – Transitional arrangements** with content as follows:

Division 1 - Transitional arrangements - *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendments (2013 Measures No.2) Regulation 2013*

Regulation 13.01 specifies that items 1 and 3 to 6 of Schedule 1 of this Regulation apply in relation to a report or data that relates to an activity that commenced before, on or after the day the Schedule 1 of this Regulation commenced.

Regulation 13.02 provides that items 7 to 9 of Schedule 1 of this Regulation apply to all documentary information acquired before, on or after the day that Schedule 1 of this Regulation commenced, but not to data made publicly available before that day.

These transitional regulations ensure that all existing and future relevant data or information is subject to the same, as outlined in the new regulations, submission and confidentiality timeframes to minimise inconsistencies or confusion.

Item 19 repeals the existing and inserts a new heading **Part 1 of Schedule 6 - Fees in relation to applications**. Item 19 also inserts before the table **Division 1 – Fees payable under section 256 of the OPGGS Act**.

Items 20 and 22 to 33 reference, for clarity in each existing table item, the relevant section of the OPGGS Act under which the application may be made and therefore the fee payable as specified in the existing table items.

Item 21 Schedule 6 (table item 101) increases a work-bid petroleum exploration permit application fee from \$5 220 to \$8 183.

Item 34 Schedule 6 (table item 114) increases a petroleum special prospecting authority application fee from \$1 050 to \$5 580.

Item 35 inserts at the end of **Part 1 of Schedule 6** a new heading **Division 2 – Fees Payable under section 516A of the OPGGS Act** with tabulated content as follows:

Table item 1 prescribing a new fee of \$7 180 for an application for approval of a transfer of a title made under section 473 of the OPGGS Act.

Table item 2 prescribing a new fee of \$2 950 for an application for approval of a dealing relating to title made under section 488 of the OPGGS Act.

Item 35 also inserts a further new heading **Division 3 – Fees payable under Section 695 L of the OPGGS Act** with tabulated content as follows:

Table item 1 prescribing a new fee of \$5 580 for the application for a petroleum access authority as submitted under section 242 of the OPGGS Act.

Table item 2 prescribing a new fee of \$5 340 payable per application per title for an application made under sections 264(1) of the OPGGS Act. The application fee is to be paid to NOPTA upon submission of the application for:

- variation of any of the conditions to which a permit, lease or licence is subject to;
- suspension of conditions and extension of the term of the permit or lease;
- exemption of any of the conditions to which a permit, lease or licence is subject to; and
- suspension of conditions of a permit, lease or licence.

Table item 3 prescribing a new fee of \$7 596 for a nomination for declaration of a location in relation to a petroleum title made under section 129 of the OPGGS Act.

Schedule 2 – Amendments commencing immediately after commencement of Part 1 of Schedule 4 to the Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures No.2) Act 2013

Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009

Item 1 adds at the end of **regulation 26** a new subregulation (5) to exempt application of a specified.

Item 2 repeals **Division 4.3 of Part 4** which is the existing regulation outlining service, delivery and lodgement of documents under these Regulations.

Offshore Petroleum and Greenhouse Gas Storage (Resources Management and Administration) Regulations 2011

Item 3 after Part 11 inserts a new **Part 11A – Giving of documents**.

On commencement of Part 1 of Schedule 4 to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures No.2) Act 2013*, the provisions in relation to service of documents in the OPGGS Act will be repealed and a regulation-making power inserted into the OPGGS Act instead to enable matters relating to giving of documents, required or permitted to be given for the purposes of the OPGGS Act or legislative instruments under the OPGGS Act to be provided for in regulations.

Matters relating to the giving of documents that are required or permitted to be given under the OPGGS Act are currently regulated in Part 9.6 of the OPGGSA. Generally speaking, Part 9.6 requires documents to be given to the Minister, NOPTA, NOPSEMA, individuals or corporations by personal delivery of the document or by post.

The new Part 11A enables matters relating to giving of documents which are required or permitted to be given under the OPGGSA or any legislative instruments made under the this Act to be provided for in the Principal Regulations, providing for electronic giving of documents in addition to the ‘traditional’ means of delivery.

The new Part 11A refers to “giving of documents” rather than to “service of documents” as “service of documents” is a term usually reserved for reference to specific methods of delivery of court documents.

Item 3 inserts new content as follows:

Regulation 11A.01 contains a table outlining the arrangements for the valid giving of documents to the responsible Commonwealth Minister, the Titles Administrator, NOPSEMA, a titleholder, a corporation, or a person.

Regulation 11A.01 also provides that documents are given validly by any of the means outlined in the table under regulation 11A.01, unless one or more mandated means are specified otherwise in a notice published on the website of the responsible Commonwealth Minister, NOPTA or NOPSEMA.

Regulation 11A.02 - Giving documents to Joint Authority contains requirements for giving of documents currently provided for under section 772 of the OPGGS Act. Regulation 11A.02 is identical to section 772 of the OPGGS Act.

Regulation 11A.03 - Giving documents to responsible Commonwealth Minister contains requirements for giving of documents previously provided for under section 773 of the OPGGS Act. Regulation 11A.03 is identical to section 773 of the OPGGS Act.

Regulation 11A.04 - Giving documents to 2 or more registered holders of a petroleum title contains requirements for giving of documents previously provided for under section 774 of the OPGGS Act. Regulation 11A.04 is identical to section 774 of the OPGGS Act.

Regulation 11A.05 - Giving documents to 2 or more registered holders of a greenhouse gas title contains requirements for giving of documents previously provided for under section 775 of the OPGGS Act. Regulation 11A.05 is identical to section 775 of the OPGGS Act.

Item 4 inserts **at the end of Division 1 of Part 13** transitional provisions in relation to nomination of registered titleholders. This regulation provides that nominations of registered petroleum or greenhouse gas titleholders that were made under sections 774 and 775 respectively of the OPGGS Act that were in force immediately before the commencement of Schedule 1 of this Regulation remain in force as if made under the new subregulations 11A.04(2) and 11A.05(2).

Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009

Item 5 repeals **Part 6 of Chapter 3** which is the existing Part outlining service, delivery and lodgement of documents under these Regulations.