

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Resources, Energy and Northern Australia

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Amendment (Fees) Regulation 2016

The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act) provides the legal framework for the exploration for and recovery of petroleum, and for the injection and storage of greenhouse gas substances in offshore areas. Section 781 of the OPGGS Act provides that the Governor-General may make regulations prescribing matters required or permitted by the OPGGS Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the OPGGS Act.

Part 1 of Schedule 6 to the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (Principal Regulations) prescribes the fees payable under section 256, 516A and 695L of the OPGGS Act. Part 2 of Schedule 6 to the Principal Regulations prescribes fees for greenhouse gas applications under section 427 of the OPGGS Act.

The title-related fees imposed under the OPGGS Act are collected by the National Offshore Petroleum Titles Administrator (NOPTA) to fund NOPTA's operations on a cost-recovery basis, and are subject to periodical review.

NOPTA is fully cost-recovered through fees and levies imposed on the offshore petroleum and greenhouse gas storage industries. NOPTA has recently undertaken a review of its cost recovery arrangements, to ensure full cost-recovery on an ongoing basis, with a view to commencing implementation of a revised cost recovery implementation statement (CRIS) on 1 July 2016. As an outcome of the review, existing title-related fee amounts are to be amended, and some new fee amounts are to be introduced.

The purpose of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Amendment (Fees) Regulation 2016* (the Regulation) is to amend existing fee amounts payable in relation to applications under sections 256 and 516A, fees for processing an application or nomination under section 695L, and fees for greenhouse gas applications under section 427 of the OPGGS Act. The Regulation also prescribes new fee amounts payable to NOPTA under sections 256, 695L and 427 of the OPGGS Act.

The fee amounts are not such as to amount to taxation. Following a comprehensive review of activities and rates, a flat fee structure of \$7,500 per application was established, on the basis that similar effort was required to assess the different types of applications. This represents the average cost of assessing each application type submitted to NOPTA. Fees have been determined on the estimated cost, based on management estimates of the level of effort required. The fee rates were calculated by dividing the estimated cost to be recovered for each type of application, by the estimated number of applications.

Details of the Regulation are set out in Attachment 1. The Regulation is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulation commences on 1 July 2016, at the same time as the commencement of NOPTA's revised CRIS.

The Regulation is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full Statement of Compatibility is set out in Attachment 2.

Consultation

NOPTA consulted with titleholders and key stakeholders on the proposed changes to cost recovery arrangements, including release of a consultation document setting out the proposed changes and the rationale for them, between 22 December 2015 and 29 February 2016. NOPTA received six submissions, ranging from support, to comments relating to proposed fee increases in the context of the current economic climate. NOPTA also undertook further consultation with the Australian Petroleum Production and Exploration Association, to provide additional information about the rationale for the changes and to clarify NOPTA's role in resource management.

Overall, it was acknowledged that the estimated cost increase to titleholders is not significant.

NOPTA also consulted with the Department of Finance in relation to its revised CRIS. The Department of Finance has confirmed that the CRIS is consistent with the Australian Government Cost Recovery Guidelines.

Details of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Amendment (Fees) Regulation 2016*

Section 1 – Name

This section provides that the title of the Regulation is the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Amendment (Fees) Regulation 2016*.

Section 2 – Commencement

This section provides for the Regulation to commence on 1 July 2016, at the same time as the commencement of NOPTA’s revised CRIS.

Section 3 – Authority

This section provides that the Regulation is made under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

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

Item [1] – Regulation 11.01 (heading)

This item repeals the heading which refers to ‘Fees in relation to applications’, and substitutes it with ‘Fees in relation to applications etc.’ This reflects the inclusion of fees other than those in relation to applications. See also item 2.

Item [2] – Subregulation 11.01(1B)

Subregulation 11.01(1B) of the Principal Regulations, as amended by the Regulation, includes a reference to a fee for processing a ‘request’, in addition to an ‘application’ or ‘nomination’. This is a consequence of the new fee for processing a request for a variation of a declaration of location under subsection 133(1) of the OPGGS Act – see item 11.

Item [3] – Part 13 (heading)

This item repeals the current heading (‘Transitional arrangements’), and inserts a new heading (‘Application and transitional provisions’). This heading takes into account the application provision inserted at the end of Part 13 – see item 4.

Item [4] – At the end of Part 13

This item inserts a new Division 2 under Part 13. This new division includes an application provision in a new regulation 13.04. The provision ensures that the revised and new fee amounts apply in relation to an application, nomination or request submitted on or after the commencement of the amendments (i.e. the revised and new fees do not apply retrospectively).

Item [5] – Schedule 6 (heading)

This item substitutes the current heading (‘Application fees’) with ‘Application fees etc’. This reflects the inclusion of fees other than those in relation to applications. See also items 1 and 2.

Item [6] – Division 1 of Part 1 of Schedule 6 (after the heading)

This item inserts a description of the function of the table in Division 1 of Part 1 of Schedule 6. The table sets out the application fees payable under section 256 of the OPGGS Act.

Item [7] – Division 1 of Part 1 of Schedule 6 (after table item 111)

This item prescribes a fee for an application for the variation of an infrastructure licence under section 204 of the OPGGS Act.

Item [8] – Division 2 of Part 1 of Schedule 6 (after the heading)

This item inserts a description of the function of the table in Division 2 of Part 1 of Schedule 6. The table sets out the application fees payable under section 516A of the OPGGS Act.

Item [9] – Division 3 of Part 1 of Schedule 6 (after the heading)

This item inserts a description of the function of the table in Division 3 of Part 1 of Schedule 6. The table sets out the fees payable under section 695L of the OPGGS Act for processing an application, request or nomination.

Item [10] – Division 3 of Part 1 of Schedule 6 (table, heading to column headed “Type of application or nomination”)

This item substitutes the current heading (‘Type of application or nomination’) with ‘Type of application, request or nomination’. This amendment is a consequence of the inclusion of a fee for processing a request for variation of a declaration – see item 11.

Item [11] – Division 3 of Part 1 of Schedule 6 (before table item 117)

This item inserts a fee for processing a request for variation of a declaration of location under subsection 133(1) of the OPGGS Act. The fee amount is consistent with NOPTA’s revised CRIS.

Item [12] – Division 3 of Part 1 of Schedule 6 (at the end of the table)

This item inserts new fees payable under section 695L of the OPGGS Act, so as to enable NOPTA to adequately recover its costs. The fee amounts are consistent with NOPTA's revised CRIS.

Item [13] – Part 2 of Schedule 6 (after the heading)

This item inserts a description of the function of the table in Part 2 of Schedule 6. The table sets out the application fees payable under section 427 of the OPGGS Act.

Item [14] – Amendments of listed provisions—Division 1 of Part 1 of Schedule 6

This item amends amounts of fees payable under section 256 of the OPGGS Act, as set out in the table in Division 1 of Part 1 of Schedule 6. The fee of \$7500 for all items in this table ensures consistency and certainty in relation to fees payable under section 256 of the OPGGS Act, and is consistent with NOPTA's revised CRIS.

Item [15] – Amendments of listed provisions—Division 2 of Part 1 of Schedule 6

This item amends amounts of fees payable under section 516A of the OPGGS Act, as set out in the table in Division 2 of Part 1 of Schedule 6. The fee of \$7500 for all items in this table ensures consistency and certainty in relation to fees payable under section 516A of the OPGGS Act, and is consistent with NOPTA's revised CRIS.

Item [16] – Amendments of listed provisions—Division 3 of Part 1 of Schedule 6

This item amends amounts of fees payable under section 695L of the OPGGS Act, as set out in the table in Division 3 of Part 1 of Schedule 6. The fee of \$7500 for all items in this table ensures consistency and certainty in relation to fees payable under section 695L of the OPGGS Act, and is consistent with NOPTA's revised CRIS.

Item [17] – Amendments of listed provisions—Part 2 of Schedule 6

This item amends amounts of fees payable under section 427 of the OPGGS Act, as set out in the table in Part 2 of Schedule 6. The fee of \$7500 for all items in this table ensures consistency and certainty in relation to fees payable for greenhouse gas applications, and is consistent with NOPTA's revised CRIS.

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 (Resource Management and Administration) Amendment (Fees) Regulation 2016

This Regulation 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 Regulation

The operations of the National Offshore Petroleum Titles Administrator (NOPTA) are fully cost-recovered through fees and levies imposed on the offshore petroleum and greenhouse gas storage industries. The *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Amendment (Fees) Regulation 2016* (the Regulation) amends the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (the Principal Regulations) to implement the outcomes of a recent review of NOPTA's Cost Recovery Implementation Statement, to ensure full cost-recovery on an ongoing basis. The Regulation amends fee amounts payable in relation to applications under sections 256 and 516A, fees for processing an application or nomination under section 695L, and fees for greenhouse gas applications under section 427 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act), as prescribed in Schedule 6 to the Principal Regulations. Additionally, amendments prescribe new fee amounts payable to NOPTA under sections 256, 695L and 427 of the OPGGS Act.

Human rights implications

The Regulation does not engage any of the applicable rights or freedoms.

Conclusion

The Regulation is compatible with human rights as it does not raise any human rights issues.