

## **EXPLANATORY STATEMENT**

Issued by the Minister for Citizenship and Multicultural Affairs

### *Migration Act 1958*

#### *Migration Amendment (Offshore Resources Activity) Regulations 2018*

The *Migration Act 1958* (the Act) is an Act relating to the entry into, and presence in, Australia of aliens, and the departure or deportation from Australia of aliens and certain other persons.

Subsection 504(1) of the Act relevantly provides that the Governor-General may make regulations prescribing matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

In addition, regulations may be made pursuant to the provisions of the Act listed in Attachment A.

The *Migration Amendment (Offshore Resources Activity) Regulations 2018* (the Regulations) amend the *Migrations Regulations 1994* to allow a Subclass 988 (Maritime Crew) visa ('MCV') holder to enter an area to participate in, or support, an offshore resources activity if the person is a petroleum export tanker crew member. The Regulations provide that a person is a 'petroleum export tanker crew member' if:

- the person is a member of the crew of a non-military ship; and
- the person enters one or more areas while on board the ship to participate in, or support, an offshore resources activity in relation to that area or those areas involving the recovery of petroleum; and
- under subsection 9A(1) of the Act, the person is taken, for the purposes of the Act, to be in the migration zone while the person is in the area or those areas to participate in, or support, such an activity; and
- before the person so enters the area, or the first of the areas, the ship's last port of departure was a port outside Australia; and
- the recovered petroleum will be received by the ship for export; and
- the person will depart from the area, or the last of the areas, on board the ship for a port outside Australia.

In addition, the Regulations amend the Migration Regulations to provide that an MCV holder who is a petroleum export tanker crew member:

- has permission to enter Australia other than at a proclaimed port; and
- is exempt from immigration clearance requirements, if their entry to Australia has been reported in writing to the Department of Home Affairs (Home Affairs).

A Statement of Compatibility with Human Rights (the Statement) has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Regulations are compatible with human rights. A copy of the Statement is at Attachment B.

Details of the Regulations are set out in Attachment C.

The Office of Best Practice Regulation (the OBPR) has been consulted in relation to the amendments made by the Regulations. A Regulation Impact Statement is provided at Attachment D. The OBPR consultation reference is 23319.

Consultation was undertaken with the Department of Industry, Innovation and Science, and with industry stakeholders. The majority of consulted stakeholders were supportive of the amendments.

The Migration Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the Legislation Act.

The Regulations commence on 12 August 2018, and apply to all existing and future MCV holders. The Regulations will have a beneficial application to the cohort of MCV holders who are petroleum export tanker crew members by allowing them to participate in, or support, an offshore resources activity involving the recovery of petroleum.

**AUTHORISING PROVISIONS**

Subsection 504(1) of the Act relevantly provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

In addition, the following provisions of the Act may apply:

- paragraph 41(2)(b) provides that the regulations may provide that a visa, or visas of a specified class, are subject to a condition imposing restrictions about work that may be done in Australia by the holder on doing (i) any work, or (ii) work other than specified work, or (iii) work of a specified kind;
- paragraph 41(2B)(b) provides that in addition to any restrictions applying because of regulations made for the purposes of paragraph 41(2)(b), a condition of a visa that allows the holder of the visa to work is not taken to allow the holder to participate in, or support, an offshore resources activity in relation to any area unless the visa is a visa prescribed by the regulations for the purposes of subsection 41(2B);
- subsection 43(1A) provides that subject to the regulations, a maritime crew visa that is in effect is permission for the holder to enter Australia at a proclaimed port; or if the health or safety of a person, or a prescribed reason, make it necessary to enter Australia in another way, that way; or in a way authorised by an authorised officer;
- subsection 168(3) provides that a person in a prescribed class is not required to comply with section 166.

**Statement of Compatibility with Human Rights**

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

***Migration Amendment (Offshore Resources Activity) Regulations 2018***

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 Legislative Instrument is to amend the Migration Regulations to:

- i. provide, for the purposes of paragraph 43(1A)(b), that a reason for allowing an MCV holder to enter Australia other than at a proclaimed port, is that the MCV holder is a petroleum export tanker crew member. The Legislative Instrument inserts a new definition, which provides that a person is a ‘petroleum export tanker crew member’ if:
  - the person is a member of the crew of a non-military ship;
  - the person enters one or more areas while on board the ship to participate in, or support, an offshore resources activity in relation to that area or those areas involving the recovery of petroleum;
  - under subsection 9A(1) of the Act, the person is taken, for the purposes of the Act, to be in the migration zone while the person is in the area or those areas to participate in, or support, such an activity;
  - before the person so enters the area, or the first of the areas, the ship’s last port of departure was a port outside Australia;
  - the recovered petroleum will be received by the ship for export; and
  - the person will depart from the area, or the last of the areas, on board the ship for a port outside Australia;
- ii. prescribe MCVs held by petroleum export tanker crew members for the purposes of paragraph 41(2B)(b) of the Act, so that this cohort of MCV holders is not impacted by the restriction in subsection 41(2B) on participating in, or supporting, an offshore resources activity; and
- iii. make consequential amendments to exempt the relevant cohort of MCV holders (as described above at (i)) from immigration clearance requirements, if they are taken to enter

Australia because paragraph 9A(3)(c) of the Act is taken to be satisfied (because the person is in the migration zone to participate in, or to support, an offshore resources activity), and their entry to Australia has been reported in writing to Immigration.

These amendments allow certain MCV holders to participate in, or support, an offshore resources activity.

### *Background*

The *Migration Amendment (Offshore Resources Activity) Act 2013* amended the Act to provide that persons who participate in, or support, an offshore resources activity are taken to be in the migration zone for the purposes of the Act.

The purpose of this change was to regulate the employment of overseas workers in the industry by requiring these workers to hold either a permanent visa or a visa prescribed by the Regulations.

Affected industry bodies have indicated that the visa application process for certain visas has created unnecessary business and administrative costs for liquefied natural gas (LNG) tankers taking product off offshore resources activity platforms. LNG platforms operating off the Australian coastline produce condensate as part of the extraction process. The condensate requires initial storage on floating production, storage and offloading facilities. Due to the large amounts of condensate produced, these storage facilities quickly reach their capacity, and the condensate must be transferred into offtake tankers for export.

In the event that offtake tankers are not available to transfer the condensate once the storage facilities reach capacity, the extraction of gas and production of LNG must cease, leading to a costly shutdown of the central processing facility. Ceasing production due to the unavailability of offtake tankers can cost operators millions of dollars through delayed extraction, lost production and the need to continue paying wages while their workforce is idle. To avoid this possibility, platform operators must make an order for an offtake tanker to collect product within ten days of production ceasing.

The amendments introduced by these Regulations provide a simpler and more flexible approach in order to balance both the regulation of non-citizen workers and the legitimate requirements of the offshore resources industry.

Adding the MCV as a prescribed visa where the MCV holder is a member of crew on board an offtake tanker on an international voyage and entering an offshore resources activity area for the purpose of taking on petroleum for export, permits this limited cohort of MCV holders to lawfully participate in, or support an offshore resources activity.

Allowing this specific cohort of MCV holders to participate in, or support, an offshore resources activity in limited circumstances negates the risk of operations on offshore platforms being shut down or curtailed, due to reaching or approaching full storage capacity.

More specifically, the amendments ensure that MCV holders on offtake tankers participating

in, or supporting an offshore resources activity remain compliant with the migration legislative framework by:

- permitting them to enter Australia at an offshore resources activity area rather than at a proclaimed port; and
- exempting this cohort from immigration clearance requirements, if their entry to Australia (that is, an offshore resources activity area) has been reported in writing to Immigration.

### **Human rights implications**

This Legislative Instrument been assessed against the seven core international human rights treaties.

#### *Right to work and just and favourable conditions of work*

The proposed amendments engage the right to work in Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 6 provides:

The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

The proposed amendments engage Article 7 of ICESCR, which provides that:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

The United Nations Committee on Economic, Social and Cultural Rights (UNCESCR), in its General Comment on Article 6 (E/C.12/GC/18) has stated:

[4] The right to work, as guaranteed in the ICESCR, affirms the obligation of States parties to assure individuals their right to freely chosen or accepted work, including the right not to be deprived of work unfairly. This definition underlines the fact that respect for the individual and his dignity is expressed through the freedom of the individual regarding the choice to work, while emphasizing the importance of work for personal development as well as for social and economic inclusion.

[6] The right to work is an individual right that belongs to each person and is at the same time a collective right. It encompasses all forms of work, whether independent work or dependent wage-paid work. The right to work should not be understood as an absolute and unconditional right to obtain employment.

It is a basic element of sovereignty that a nation state can govern who is allowed to work in its territory and the minimum conditions which must apply to that work. While Article 6 recognises the right to work, it does not guarantee a right to work in a country of which a person is not a national – every country restricts the right of non-nationals to work.

The amendments do not operate to deprive people of the right to work in that they do not seek to preclude non-citizens working in the offshore resources industry, but rather place conditions on that ability.

Nor do the amendments operate to deprive people of the right to just and favourable conditions of work in the offshore resources industry, as they are subject to Australian workplace laws and agreements or where appropriate, by the Maritime Labour Convention 2006.

The amendments are legitimate, reasonable and proportionate within the framework established by the ICESCR to give effect to Article 6 and Article 7 in relation to non-citizens.

#### *Non-discrimination*

The proposed amendments engage Article 2.1 of the ICCPR and Article 2.2 of the ICESCR which guarantee the rights enshrined in the Covenants to all people without discrimination.

Article 2.1 of the ICCPR states:

Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 2.2 of the ICESCR states:

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any

kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The General Comment on ICESCR (E/C.12/GC/18) relevantly provides:

[18] The principle of non-discrimination as set out in article 2.2 of the Covenant [...] should apply in relation to employment opportunities for migrant workers and their families. In this regard the Committee underlines the need for national plans of action to be devised to respect and promote such principles by all appropriate measures, legislative or otherwise”.

Article 4 of ICESCR provides that the State may subject the rights enunciated in the ICESCR:

...only to such limitations as are determined by law only insofar as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in democratic society.

The object of the Act is to “regulate, in the national interest, the coming into, and presence in, Australia of non-citizens”. In that sense the purpose of the Act and Migration Regulations is to differentiate on the basis of nationality between non-citizens and citizens. Most nation-states differentiate on the basis of nationality in some form to regulate the right to work. The UN Human Rights Committee has recognised in the ICCPR context that:

“The Covenant does not recognize the right of aliens to enter or reside in the territory of a State party. It is in principle a matter for the State to decide who it will admit to its territory [...] Consent for entry may be given subject to conditions relating, for example, to movement, residence and employment” (CCPR General Comment 15, 11 April 1986).

Beyond this basic level of differentiation, Australia’s non-discriminatory immigration policy applies equally to all non-citizens. Any person who satisfies the criteria for the grant of an MCV and is a petroleum export tanker crew member will be able to participate in, or support, an offshore resources activity regardless of race, gender, national origin or any other prohibited grounds of discrimination. The proposed amendments are consistent with Article 2.1 of the ICCPR and Article 2.2 of the ICESCR.

### *The right to freedom from arbitrary detention*

Article 9.1 of the ICCPR provides that:

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Under the Act, a non-citizen who is in the migration zone, but does not hold a valid visa, is deemed to be an unlawful non-citizen and liable to mandatory immigration detention.

As it is impractical for a person on a vessel which is not a resources installation and who is participating in, or supporting, an offshore resources activity to present to a clearance authority to be immigration cleared, the amendments exempt MCV holders from the Act's immigration clearance provisions if:

- they are a petroleum export tanker crew member;
- they are taken to enter Australia because paragraph 9A(3)(c) of the Act is satisfied in respect of the person; and
- their entry has been reported in writing to Immigration.

Immigration clearance requirements will still apply if an MCV holder seeks to enter Australia at a port or airport.

Although the amendments engage the right to freedom from arbitrary detention, it is consistent with this right as, , they will ensure that non-citizens who are in the migration zone by virtue of their participation in, or support of, an offshore resources activity, will not become unlawful and liable to mandatory immigration detention because they have not complied with section 166 of the Act (which relates to immigration clearance).

### **Conclusion**

The amendments engage the right to work and just and favourable conditions of work, to non-discriminatory access to human rights and to freedom from arbitrary detention. To the extent that they engage these human rights obligations, it is reasonable, necessary and proportionate in achieving its objectives.

**The Hon Alan Tudge MP**

**Minister for Citizenship and Multicultural Affairs**

**Details of the *Migration Amendment (Offshore Resources Activity) Regulations 2018***

Section 1 – Name

This section provides that the title of the Regulations is the *Migration Amendment (Offshore Resources Activity) Regulations 2018* (the Regulations).

Section 2 – Commencement

This section is the formal enabling provision for the instrument (that is, for the whole of the Regulations), providing that the instrument commences on 12 August 2018.

Section 3 – Authority

This section provides that the Regulations are made under the *Migration Act 1958* (the Migration Act).

Section 4 – Schedule

The purpose of this section is to provide for how the amendments in these Regulations operate.

## Schedule 1 - Amendments

### *Migration Regulations 1994*

#### **Background**

The *Migration Amendment (Offshore Resources Activity) Act 2013* amended the *Migration Act 1958* (the Act) to provide that persons who participate in, or support, an offshore resources activity are taken to be in the migration zone for the purposes of the Act (see subsection 9A(1) of the Act). The meaning of ‘offshore resources activity’ is set out in subsection 9A(5) of the Act, and includes activities conducted by resources installations and vessels involved in regulated operations under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the Offshore Petroleum Act) or activities performed under a license within the meaning provided in the *Offshore Minerals Act 1994*.

In effect, persons entering an offshore resources activity area to participate in or support an activity are taken to be entering the migration zone, and all non-citizens participating in or supporting an offshore resources activity in an area require a visa to lawfully enter that area.

The purpose of the Act amendments was to regulate the employment of non-citizens working in the offshore resources industry. This includes all non-citizens on ships or unmoored vessels who are in an area to participate in, or support, an offshore resources activity. The regulatory framework provides, in effect, that all non-citizens seeking to participate in, or support, an offshore resources activity must hold a permanent visa or a visa prescribed by the Migration Regulations for this purpose.

Prior to the commencement of this Schedule, the visas prescribed under the Migration Regulations for the purposes of participating in, or supporting, an offshore resources activity were:

- the Subclass 400 (Temporary Work (Short Stay Specialist)) visa (“Subclass 400”);
- the Subclass 482 (Temporary Skill Shortage) visa (“Subclass 482”); and
- the Subclass 457 (Temporary Work (Skilled)) visa (“Subclass 457”).
  - Subclass 457 was repealed on 18 March 2018, but remains as a prescribed visa to accommodate current visa holders.

The Subclass 988 (Maritime Crew) visa (‘MCV’) was not previously prescribed for this purpose.

This was an issue for those resources installations at sea which were dependent on offtake tankers (that is, ships designed to take on and carry petroleum, oil, or liquid natural gas (LNG) in bulk) to receive and transport the recovered resources because:

- offtake tankers require highly trained crew members to carry out ships’ operations, and to ensure compliance with safety protocols;

- there are over 9,000 registered offtake tankers worldwide and only 11 registered Australian offtake tankers. Therefore, the vast majority of offtake tankers are international vessels crewed by non-citizens to carry out work around the world, and not just in Australian waters;
- resources installations are remote facilities with limited storage capacity and require frequent emptying. If offtake tankers are not available, production must cease, leading to a costly shutdown of the facility. Ceasing production due to the unavailability of offtake tankers can cost millions of dollars through delayed operations, and lost production.

To comply with visa requirements, maritime operators had to ensure that all non-citizens working in the offshore resources industry held either a permanent visa, or one of the prescribed subclasses (that is, a Subclass 400, 482, or 457 visa). Ensuring that non-citizens held one of these prescribed visas had become problematic in relation to crew members on offtake tankers participating in, or supporting offshore activities.

Subclass 457 was repealed on 18 March 2018 and is no longer available for new applicants. To be eligible for the grant of a Subclass 482 visa, the applicant typically must be sponsored to work in a skilled occupation that has been specified in a legislative instrument made by the Minister. However, Subclass 482 was not designed to cater for crew members on ships, and the occupations of ships personnel, ships officer, and ships engineer are not specified skilled occupations in the legislative instrument made for the subclass. As a result, Subclass 482 is not a viable visa option for maritime crew.

In light of the above, maritime crew have been restricted to applying for a Subclass 400 visa. Following the repeal of Subclass 457, this visa subclass has been used as an interim solution that has allowed limited numbers of maritime crew on offtake tankers to participate in, or support, an offshore resources activity. However, the use of a Subclass 400 visa is not a sustainable long-term solution. A Subclass 400 visa is only available to people undertaking short-term, non-ongoing work, and only provides a limited number of entries to Australia over a period of six months. Generally, entry to Australia is not granted more than once in a 12-month period. Participating in or supporting an offshore resources activity necessitates the maritime crew on offtake tankers undertaking frequent, intermittent and brief entries into offshore resources activity areas to collect and transport products of petroleum for international destinations.

For these reasons, the amendments introduced by these Regulations provide a simpler and more flexible approach in order to balance both the regulation of non-citizen workers and the legitimate requirements of the offshore resources industry.

Adding the MCV as a prescribed visa where the MCV holder is a member of crew on board an offtake tanker on an international voyage and entering an offshore resources activity area for the purpose of taking on petroleum for export, permits this limited cohort of MCV holders to lawfully participate in, or support, an offshore resources activity.

Allowing this specific cohort of MCV holders to participate in, or support, an offshore resources activity in limited circumstances negates the risk of operations on offshore platforms being shut down or curtailed, due to reaching or approaching full storage capacity.

More specifically, the amendments ensure that MCV holders on offtake tankers participating in, or supporting an offshore resources activity remain compliant with the migration legislative framework by:

- permitting them to enter Australia at an offshore resources activity area rather than at a proclaimed port; and
- exempting this cohort from immigration clearance requirements, if their entry to Australia (that is, an offshore resources activity area) has been reported in writing to Immigration.

All other cohorts of MCV holders on non-military ships are not permitted to work in an offshore resources activity area, and are not exempt from immigration clearance requirements.

#### Item 1 – Regulation 1.03

This item inserts definitions of *petroleum* and *petroleum export tanker crew member* into regulation 1.03 of the Migration Regulations.

#### *Petroleum*

The new definition provides that the meaning of ‘petroleum’ is the same as in the Offshore Petroleum Act. ‘Petroleum’ is defined in section 7 of the Offshore Petroleum Act and applies in relation to the operations or activities regulated or licensed under that Act.

Defining ‘petroleum’ is consistent with paragraph 9A(5)(a) of the Act, which provides that an offshore resources activity is, among other things, a regulated operation within the meaning of section 7 of the Offshore Petroleum Act that is being carried out, or is to be carried out, within the area, except an operation determined by the Minister under subsection (6).

In general terms, petroleum is defined in section 7 of the Offshore Petroleum Act to include any naturally occurring hydrocarbon, or mixture of hydrocarbons and certain other chemical elements, whether in a gas, liquid or solid state.

Petroleum, as a defined term, is utilised in the definition of ‘petroleum export tanker crew member’ to ensure that only a specific cohort of MCV holders is allowed to participate in, or support, an offshore resources activity involving the recovery of petroleum that will be exported to a port outside Australia.

### Petroleum export tanker crew member

‘Petroleum export tanker crew member’ is a defined term, the purpose of which is to describe the cohort of MCV holders who will be permitted to participate in, and support, offshore resources activities. The definition is not expressed to apply only to MCV holders, but that is the combined effect of the amendments made by the Regulations.

The precise cohort to whom the definition applies is described in paragraphs (a) to (f), namely each person who:

- is a member of a crew of a non-military ship, where the ship’s last port of departure was a port outside Australia; and
- enters one or more areas while on board the ship to participate in, or support, an offshore resources activity in relation to that area (or areas), involving the recovery of petroleum, and is therefore taken under subsection 9A(1) of the Act to be in the migration zone while the person is in the area (or areas).

In addition, the ship that the person is on must:

- recover petroleum that will be received by the ship for export; and
- depart from the offshore resources area for a port outside Australia.

Paragraph (a) of the definition of ‘petroleum export tanker crew member’ requires the person to be a member of the crew of a non-military ship. The terms ‘member of the crew’ and ‘non-military ship’ are defined by regulation 1.03 of the Migration Regulations. A ‘member of the crew’ in relation to a non-military ship means a person involved in the usual day to day routine maintenance or business of the ship while it is at sea, including a supernumerary member of the crew, or a person engaged in scientific research conducted on or from the ship.

Paragraph (b) of the definition requires that the person enters one or more “areas” while on board the ship mentioned in paragraph (a) to participate in, or support, an offshore resources activity in relation to that area, or those areas, involving the recovery of petroleum. As noted above, the meaning of ‘offshore resources activity’ is set out in subsection 9A(5) of the Act.

Paragraph (b) refers to the person entering “one or more areas”, as the policy intention is that an MCV holder who is a petroleum export tanker crew member should be permitted to move from one offshore resources activity area to another in order to continue to participate in, or support, an offshore resources activity involving the recovery of petroleum, without being required to travel to a port outside Australia each time they leave an area. This is on the proviso that:

- if the MCV holder only enters one offshore resources activity area, they subsequently depart the area on board the ship they arrived on for a port outside Australia; or
- in cases where the MCV holder enters another area after the first area, or several more areas – they subsequently depart the last of these areas on board the ship they arrived on for a port outside Australia.

Paragraph (c) of the definition requires that the person is taken to be in the migration zone under subsection 9A(1) of the Act while the person is in the relevant area, or areas, to participate in, or support, an activity mentioned in paragraph (b) of the definition, which (as mentioned above) relates expressly to the recovery of petroleum. Subsection 9A(1) of the Act provides that a person is taken to be in the migration zone while he or she is in an area to participate in, or to support, an offshore resources activity in relation to that area. As discussed above, the meaning of ‘offshore resources activity’ in relation to an area is set out in subsection 9A(5) of the Act.

Paragraph (d) of the definition ensures that a person can only be a petroleum export tanker crew member if they travel on a ship from a port outside Australia (that is, a port belonging to another country), to the offshore resources activity area.

Paragraph (e) of the definition requires that the recovered petroleum will be received by the ship mentioned in paragraph (a) for export. The phrase “recovered petroleum” is consistent with the Offshore Petroleum Act, and describes the regulated and licensed operation for an offshore resources activity that recovers petroleum from out of the seabed. The reference to recovered petroleum in paragraph (e) is to the petroleum that has been recovered by the offshore resources activity in paragraph (b).

Generally, the petroleum recovered in offshore resources activity areas is stored on an offshore installation. The stored petroleum is then transferred from the installation to a ship participating in or supporting the offshore resources activity. In the context of this definition, the ship is to receive the recovered petroleum from the offshore installation for the purpose of exporting the recovered petroleum.

Finally, paragraph (f) of the definition provides that the person must depart from the area, or the last of the areas, on board the ship mentioned in paragraph (a) for a port outside Australia (that is, a port belonging to another country).

#### Item 2 – At the end of subregulation 2.05(4AC)

This item amends subregulation 2.05(4AC) to add a new paragraph which prescribes a Subclass 988 (Maritime Crew) visa “held by a petroleum export tanker crew member” for subsection 41(2B)(b) of the Act.

Subsection 41(2B) was inserted into the Migration Act by the ORA Act. It provides that, in addition to any restrictions applying because of regulations made for the purposes of paragraph 41(2B)(b), a condition of a visa that allows the holder of the visa to work is not taken to allow the holder to participate in, or to support, an offshore resources activity in relation to an area unless the visa is a permanent visa or a visa prescribed by the Migration Regulations for the purposes of paragraph 41(2B)(b).

Subregulation 2.05(4AC) prescribes visas for paragraph 41(2B)(b) of the Act.

This item adds paragraph (d) to subregulation 2.05(4AC) to prescribe MCVs held by a petroleum export tanker crew member (as defined by these amendments).

“Maritime crew visa” is defined in subsection 5(1) of the Act, and further in section 38B of the Act. The Maritime Crew (Temporary) (Class ZM) visa class is contained in item 1227 of Schedule 1 to the Migration Regulations. Part 988 of Schedule 2 to the Migration Regulations contains Subclass 988.

The effect and purpose of this amendment is to enable these visa holders to participate in, or support an offshore resources activity in relation to an area, and remain compliant with the Act in relation to an offshore resources activity area. Any MCV holder who is not a petroleum export tanker crew member will continue to be prohibited from participating in, or supporting, an offshore resources activity in relation to an area.

All MCV holders who satisfied the primary criteria for the grant of the visa are subject to condition 8113, which provides that the holder must not work in Australia otherwise than as a member of the crew of a non-military ship.

#### Item 3 – Regulation 2.06AAC

This item contains a technical amendment, consequential to the insertion of item 4.

#### Item 4 – At the end of subregulation 2.06AAC (after note 2)

This item adds subregulation (2) to regulation 2.06AAC.

Regulation 2.06AAC of the Migration Regulations prescribes visas for the purposes of paragraph 43(1)(c) of the Act, which relates to the lawful entry of visa holders, other than MCV holders.

Subsection 43(1A) provides that an MCV that is in effect is permission for the holder to enter Australia at a proclaimed port, if the health or safety of a person, or a prescribed reason, make it necessary to enter Australia in another way, that way, or in a way authorised in writing by an authorised officer. Paragraph 43(1A)(b) is the paragraph referring to a prescribed reason.

New subregulation 2.06AAC(2) prescribes a reason for the purposes of paragraph 43(1A)(b) of the Act. This reason is that the holder of the MCV is a petroleum export tanker crew member.

This amendment is necessary, as paragraph 9A(3)(c) of the Act provides that a person is taken to enter Australia when the person enters an area in which the person is taken to be in the

migration zone because of subsection 9A(1) of the Act. Therefore, an MCV holder who is a petroleum export tanker crew member needs to be able to lawfully “enter Australia” when they travel to an area to participate in, or support, an offshore resources activity.

Section 173 of the Act provides that if the holder of a visa enters Australia in a way that contravenes section 43 of the Act, or regulations to which that section is subject, then the visa will cease to be in effect.

#### Item 5 – At the end of subregulation 3.03AA(1)

Section 166 of the Act provides that a person, whether a citizen or non-citizen, who enters Australia must, without unreasonable delay, identify themselves to a clearance authority and provide evidence required by the Act or the regulations. Regulation 3.03AA of the Migration Regulations sets out the information that must be provided to a clearance authority (for immigration clearance requirements) by MCV holders, pursuant to paragraph 166(1)(b) of the Act.

There are exceptions to the requirements made under section 166 of the Act. Subsection 168(3) of the Act provides that a person in a prescribed class is not required to comply with section 166. The amendments made by this item merely point the reader to the fact that, despite the above, the regulation does not apply to MCV holders who are petroleum export tanker crew members. The note highlights item 12 of Part 2 of Schedule 9 to the Migration Regulations, which is inserted by item 6 of Schedule 1 to these Regulations. Part 2 of Schedule 9 provides for persons who are not required to comply with section 166 of the Act.

#### Item 6 – At the end of Part 2 of Schedule 9

This item adds new item 12 to Part 2 of Schedule 9 to the Migration Regulations.

Subsection 168(3) of the Act provides that a person in a prescribed class is not required to comply with section 166. Regulation 3.06 of the Migration Regulations provides that for the purposes of subsection 168(3) of the Act, each class of person set out in Part 2 of Schedule 9 is prescribed.

Prior to the commencement of these Regulations, certain non-citizens entering Australia to participate in, or support, an offshore resources activity under paragraph 9A(3)(c) of the Act were exempted from immigration clearance requirements when their entry to Australia had been reported in writing to Immigration. This exemption applied to holders of permanent visas, and holders of Subclass 400, 457, and 482 visas under item 11 of Part 2 of Schedule 9 to the Migration Regulations.

As mentioned previously, paragraph 9A(3)(c) of the Act provides that a person is taken to enter Australia when the person enters an area in which the person is taken to be in the migration zone because of subsection 9A(1) of the Act. This item extends the exemption

under Part 2 of Schedule 9 to MCV holders who are petroleum export tanker crew members taken to enter Australia because of paragraph 9A(3)(c) of the Act, and whose entry has been reported in writing to Immigration.

The rationale for extending this exemption is that this cohort will travel from a port outside Australia to a resources installation in an offshore resources activity area, and therefore will not enter an Australian port. Consequently, it is impractical for this cohort of visa holders to comply with the immigration clearance requirements under section 166 of the Act.

MCV holders who are not in the prescribed class of persons will continue to be subject to the requirements of section 166. If the MCV holder does not comply with section 166 of the Act, and is required to comply then, as provided by section 174 of the Act, the visa will cease to be in effect.

#### Item 7 – In the appropriate position in Schedule 13

This item inserts Part 69 into the Migration Regulations. It provides for the operation of these Regulations.

#### *Clause 6901 – Operation of Schedule 1*

This clause provides for how the amendments made by Schedule 1 to the Regulations are to apply. The amendments apply to MCVs granted before, on or after commencement of the Regulations.

Where the amendments apply in respect of MCVs already granted, this will result in the holder being a petroleum export tanker crew member, meaning they are permitted (provided all requirements are met) to participate in, or support, an offshore resources activity. Prior to these amendments, an MCV holder was not permitted to do this.

**ATTACHMENT D**

**Migration Amendment (Offshore Resources Activity) Regulations  
2018**

**Regulation Impact Statement  
(OBPR ID: 23319)**

**Department of Home Affairs  
March 2018**

## 1. The Policy Problem

### 1.1 Background to the problem

The *Migration Amendment (Offshore Resources Activity) Act 2013* (the ORA Act) received the Royal Assent on 29 June 2013 and came into effect on 30 June 2014. A Regulation Impact Statement (RIS) for this legislation was undertaken in March 2013. This RIS can be found at: <http://ris.pmc.gov.au/2013/06/26/migration-amendment-offshore-work-and-other-measures-bill-regulation-impact>.

The ORA Act supplements the existing provisions in section 5 of the *Migration Act 1958* by providing that a person will be taken to be in the migration zone while he or she is in an area to participate in, or support, an offshore resources activity in relation to that area. It also provides that a person who is in the migration zone to participate in, or support, an offshore resources activity must hold either a permanent visa, or a visa prescribed by the regulations for this purpose. The visas currently prescribed under the *Migration Regulations 1994* (the Migration Regulations) for this purpose are:

- the subclass 400 (Temporary Work (Short Stay Specialist)) visa;
- the subclass 482 (Temporary Skill Shortage) visa; and
- the subclass 457 (Temporary Work (Skilled)) visa.
  - The subclass 457 (Temporary Work (Skilled)) visa program was repealed on 18 March 2018 however the subclass 457 will remain as a prescribed visa to accommodate current visa holders.

### 1.2 Intention of the Legislation

The intention of the ORA Act was to regulate the employment of overseas workers in the offshore resources industry. It does this by expanding the scope of the migration zone and by extension the requirement to hold and comply with a valid visa, to all offshore resources activities, not just to persons working on a resource installation.

The ORA Act requires that all non-citizens who are on vessels or unmoored structures that are in an area to participate in or support an offshore resources activity hold a prescribed visa. This includes those working on support and cargo vessels servicing an Australian resources installation

### 1.3 Impact of the Legislation upon Offshore Resource Operators

The ORA Act has cost impacts across all phases of production including in the supporting maritime sector, as it requires crew to have either a permanent, a Subclass 400, 482 or 457 visa. For crews undertaking equivalent maritime work at mainland Australian ports they typically use the Maritime Crew visa (MCV).

Crew of vessels supporting offshore resource activities that are in the ORA area are required to be on one of the prescribed visas as the MCV is not a prescribed visa. However, the prescribed visas do not reflect industry practice, and the nature of the labour market, especially for LNG operators. The subclass 457 and 482 visas are not an option as the positions of Ship's Officer (ANZCSO 231214), Ship's Master (231213) and Ship's Engineer

(231212) are not included on the skilled occupation lists. These are key occupations on any vessel and precluding these occupations from being used for vessels in the ORA area means they are not a viable visa option.

As a result of the change to the skilled occupation lists, and because the MCV is not currently prescribed as a visa allowing non-citizens to participate in, or support, offshore resources activities, crew members are typically restricted to applying for the subclass 400 visa. This visa is only available to people undertaking short-term, non-ongoing work. Subclass 400 visas are generally not granted more than once in a 12-month period.

The subclass 400 is designed primarily for limited entries to Australia and is not suited to the purpose of maritime crews undertaking numerous, intermittent and brief international entries solely to collect and transport petroleum products at sea.

The collection of product by contracted offtake carriers is arranged through the ‘spot market’ which has unpredictable patterns with short lead times. The application process and scope of the subclass 400 visa design does not reflect the work patterns of maritime crew or the activities involved in the offtake of petroleum products. This in turn creates scheduling risks around the removal and transport of petroleum products resulting from an offshore resource activity, which can lead to the vessel being delayed by the uncertainty and delays in the visa application process. An offshore installation has limited storage capacity for product. According to industry, the risk that the offloading of product will be delayed may lead to the shut down or curtailment of the offshore resource activity potentially costing the company millions of dollars per day.

The majority of offtake carriers are foreign flagged vessels. As such, the crew on these vessels are foreign workers that carry out this work around the world and not just in Australian waters. There are only 11 Australian registered offtake carriers compared to over 9,000 worldwide. Due to the highly combustible nature of their cargo, offtake carrier crews are specially trained for this work to ensure that they can comply with safety regulations. The limited number of Australians trained to carry out this work means it is not feasible to employ more local crews.

These constraints and costs do not exist onshore as vessels interacting with mainland Australia use the MCV.

In addition to the uncertainty, costs associated with the prescribed visas (subclass 400, 482, or 457) can include:

- visa application charges;
- sponsorship and nomination fees;
- migration agent fees;
- financial contributions to training funds;
- costs linked to sponsorship obligations (such as record keeping and return travel costs);
- English language tests and medical examinations for visa applicants;

- paid health insurance for visa applicants; and
- costs associated with complying with immigration clearance and reporting requirements for maritime crews.

For these reasons, the ORA Act imposes costly, unnecessary and disproportionate regulation on the industry. A simpler, less expensive and more flexible approach would balance both the regulation of foreign workers and the legitimate requirements of the offshore resources industry.

## **2. Why is Government Action Needed?**

### **Unnecessary and disproportionate regulation**

The development of Australia's offshore resource activities contributes significantly to the Australian economy, and employs thousands of Australians. Australia is the world's ninth largest energy producer, and the oil and gas industry account for 2<sup>1</sup>/<sub>2</sub> per cent of GDP, generating \$28 billion in revenue, and contributing \$9 billion in direct tax payments. It is also critical for Australia's future energy security, accounting for 58 per cent of Australia's primary energy needs.

Employment growth in the maritime sector is projected to outpace growth in other industry sectors with employment levels for maritime crews increasing from 475 000 to 766 000 between 2013 and 2018. The sector is likely to experience an acute undersupply of appropriately skilled workers across all occupational groups with professionals and trade occupations being the worst affected.

The offshore resources industry has a strong international focus, and relies on a highly mobile workforce that can be transferred from project to project, and from country to country.

Migration arrangements therefore need to be relatively flexible, and not create excessive barriers for overseas labour, if skill shortages in the maritime industry are not to be exacerbated.

Since its introduction in 2013, industry groups have consistently opposed the ORA Act and have predicted there will be serious economic consequences. For example, Shipping Australia Limited has said that the ORA Act would 'have unintended consequences, be unwieldy to implement, substantially increase costs (in administration, ship time costs and wage bills for resource development projects) and be difficult to monitor to ensure compliance'. This would result in 'the suspension or cancellation of potential development projects' and 'negative impact on Australia's future export earnings and taxation revenue'.<sup>1</sup>

To comply with the existing visa requirements of the ORA Act, operators must ensure that all foreign workers in the offshore resources industry hold either a permanent visa, subclass 400, subclass 482, or subclass 457 visa.

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<sup>1</sup> Shipping Australia Limited submission to the 2013 Senate Committee Hearings on the Migration Amendment (Offshore Resources Activity) Act 2013 (the ORA Act).

Industry has expressed concern that the professions of Ships Officer (ANZCSO 231214), Ship's Master (231213) and Ship's Engineer (231212) were removed from the skilled occupation lists from 1 July 2017 meaning that a Subclass 482 or 457 visa cannot be used in most circumstances.

As a result of this change, most maritime crew members are restricted to applying for the subclass 400 visa. This visa is only available to people undertaking short-term, non-ongoing work and individuals are not generally granted more than one such visa in a twelve-month period.

Industry could apply for visas earlier but the subclass 400 visa application process does not reflect how the collecting and transporting of product is carried out on the 'spot market'. The unpredictable patterns and short lead times created by use of the 'spot market' means that the subclass 400 is not suitable for crew members on offtake carriers, who often need to travel to Australia on multiple occasions within a twelve-month period at short notice.

Cost impacts would occur if an offshore resource platform shuts down production due to visa grant delays for the offtake carrier crew. Typically, an offtake carrier will be notified within 10 days that they need to come and pick up the product. If the product is not picked up in time, there is a risk that the offshore resource activity will need to be shut down until the product can be removed. Currently, a quarter of all subclass 400 visa grants take longer than 13 days to grant. The MCV offers a suitable alternative for this cohort, as it is a visa that allows a number of short trips over a three-year period.

Subclass 400 visas have been used as an interim solution to this problem and this has prevented a shut down occurring. However, this is not a sustainable long-term solution as the Subclass 400 visa can only be used for non-ongoing work and cannot be granted consecutively.

Industry has indicated that adding the MCV to regulation 2.06 AAC of the Migration Regulations in circumstances where the MCV would be for crews on an international voyage where product for export is taken directly from the offshore production and/or storage facility, would significantly relieve the administrative and financial burdens created by the ORA Act. Ensuring that crew on the offtake carriers are provided with the flexibility to come to a platform when required, without the risk of a delay because of visa applications would negate the dangers of production ceasing on offshore platforms. By restricting this change to the small number of crews on offtake carriers, the proposed approach would be consistent with the intent of the ORA legislation.

### **3. The Policy Options**

#### **3.1 Implement a visa with an obligations framework for the sponsoring employer**

This option has previously been requested by union representatives and it would involve the development of regulations to create a temporary work visa specifically for non-citizens employed in the offshore resources industry. This would have a number of features common

to the subclass 482 or 457 visa, such as a sponsorship framework, nomination of the position to be filled, labour market and/or salary criteria, and sponsorship obligations. The proposed change would affect all shipping and platforms in the ORA area.

### **3.2 Implement a limited regulatory amendment option**

This option, which is the recommended approach, would involve the development of regulations that prescribe an existing visa option for non-citizens employed in the offshore resources industry. The preference would be to implement an option which has the least possible regulatory impact on the industry, but which gives effect to the requirements in the ORA Act. This will be possible through adding an existing visa product to the prescribed visas under the ORA Act.

This option would be given effect by amending the Migration Regulations to permit MCV visa holders to participate in, or support, an offshore resources activity where they are a member of the crew of a vessel undertaking an international voyage for export of product directly from an offshore production and/or storage facility. By restricting this change to the small number of crews on offtake carriers, the proposed approach would be consistent with the intent of the ORA legislation.

Potential delays caused by the longer period of time taken to grant either the subclass 400, 482, or 457 visas, which are longer than the MCV (the MCV can be auto granted) will be removed for this group. The MCV also has no visa application charge, unlike the subclass 400, 482, or 457 visas. Therefore, this change will reduce the cost burden placed on industry by this requirement, and prevent delays, which may cause an offshore resource activity to shut down.

There would also need to be changes in the amendments to allow vessels to be immigration cleared without the arrival at a prescribed port. This cannot occur under current regulations for MCV holders, as they are not on a list of visas exempt from immigration clearance. If clearance were to be physically required, this would cause major delays to offtake carriers being able to export product from an offshore resource platform.

### **3.3. Continue with the ‘status-quo’ option**

The Government could continue with the status quo and all foreign workers operating in the offshore resources industry would require either a permanent visa, a subclass 400, 482, or subclass 457 visa.

## **4. Analysis of the Options**

### **4.1 A visa with an obligations framework for the sponsoring employer**

Creating a temporary work visa specifically for foreign employees of the offshore resources activity may regulate the employment of non-citizens in the sector, as the ORA Act intended. However, this will also place an unnecessary administrative and financial burden on business and will lead to delays in visa grants. It would regulate the employment of overseas workers in the same way as the Subclass 457 and 482 visas without solving the underlying issues

concerning offtake carriers. This may have a flow-on effect of not allowing product to be off-loaded onto ships with a resultant delay or shutting down of production.

The creation of a new visa with the similar administrative requirements to the subclass 400, 457 or 482 visas would not solve the issues for the offshore platforms. This option would also contradict current Government efforts to streamline work visas.

#### 4.2 A ‘limited regulatory amendment’ option

A limited regulatory amendment option, involving use of the existing MCV product, reduces barriers to the recruitment of overseas labour in certain circumstances. This option offers the flexibility needed for the offshore resource industry to expand by facilitating easier access to overseas labour when it is required.

The proposed limited regulatory amendment option will remove both the administrative burden and uncertainty, and help ensure that this important sector of the national economy continues to flourish and expand.

This option does not impact on the entitlements of Australian workers as none are employed on these tankers. It only effects the visa which these workers enter the ORA area.

The Regulatory Burden and Cost Offset Estimate of \$8 000 takes into account a small time saving made by all shipping agents applying for visas. The MCV has a shorter application process than either a Subclass 400, 457 or 482 visa. These subclass types need more detailed documentation to enable visa decision makers to be satisfied that the ‘no adverse impact’ regulation is met for offtake tanker applicants. This is not required for MCV applications. As the crews for offtake carriers are limited in numbers the Department of Home Affairs has calculated that there will be 360 visa applicants for the MCV for these purposes over a three year period.

#### Regulatory Burden and Cost Offset Estimate Table

Average Annual Compliance Costs (from Business as usual)				
Costs (\$m)	Business	Community Organisations	Individuals	Total Cost
<b>Total by Sector</b>	-\$0.008	\$	\$	-\$0.008
<b>Proposal is cost neutral?</b> <input type="checkbox"/> yes <input checked="" type="checkbox"/> no				
<b>Proposal is deregulatory</b> <input checked="" type="checkbox"/> yes <input type="checkbox"/> no				
<b>Balance of cost offsets</b> <b>\$(0.008)</b>				

#### 4.3 Continue with the ‘status-quo’ option

If the current visa regime were to continue, all foreign workers operating in the offshore resources industry will require either a permanent visa, a subclass 400, 482 or subclass 457

visa. Industry will continue to bear the direct costs involved with visa application charges. There will also be indirect costs associated with potential shut downs of offshore resource production caused by delays in the granting of visas. These would impose an undue impost and cost on industry.

It may also cause platforms to shut down production due to visa grant delays, which go beyond the 10 days needed by companies to ensure no stoppages in taking off product. Currently, a quarter of all subclass 400 visa grants take longer than 10 days to grant. This may affect the integrity and delivery of the option and significantly impact on industry. There is also a risk of serious, lasting damage to Australia's reputation as an attractive destination for investment.

## 5. Consultation

### 5.1 History of Consultations

On 27 February 2018, a letter was sent to 17 key stakeholders in the offshore resources industry and relevant unions, advising them of proposed amendments to the Migration Regulations to allow MCV holders to enter the migration zone to participate in, and support, offshore resources activity if they are undertaking an international voyage where product for export is taken directly from the offshore production and/or storage facility. A full list of recipients is contained in the table below.

<b>LIST OF STAKEHOLDERS INVOLVED IN CONSULTATIONS FOR THIS ASSESSMENT</b>	
<b>NAME</b>	<b>POSITION AND ORGANISATION</b>
Peter Metcalfe	General Manager Government Relations, Woodside Energy Ltd
Mark Robertson	General Manager, Jadestone Energy (Australia) Pty Ltd
Bill Townsend	General Manager, External Affairs and Joint Venture, INPEX Operations Australia Pty Ltd
John Williams	External Affairs Manager, INPEX Operations Australia Pty Ltd
Tom Baddeley	Manager Government Relations, Santos
Gavin Ryan	General Counsel, PTTEP Australasia (Ashmore Cartier) Pty Ltd
David Parker	Director Government and Public Affairs, Quadrant Energy Australia Limited
Chris Dunlop	General Manager, Northern Oil and Gas Australia Pty Ltd
Emmet Fay	Manager Government Relations, BHP Billiton Pty Ltd
Nilofar Morgan	Government Relations Manager, Shell Australia Pty Ltd
Scott Henderson	Chairman, Shipping Australia Limited
Paddy Crumlin	National Secretary, Maritime Union of Australia
Steve Knott	Chief Executive, AMMA Resource Industry Employer Group
Kieran Murphy	Director - External Affairs, Australian

	Petroleum Production and Exploration Association (APPEA)
Martin Byrne	Federal Treasurer, Australian Institute of Marine and Power Engineers (AIMPE)
Tim Higgs	President, Australian Maritime Officers Union
Noel Hart	Chairman, Maritime Industry Australia LTD

Recipients were invited to comment by 23 March 2018 on the likely impact of these changes to their respective organisations, including costs, savings and efficiencies.

## 5.2 Stakeholder views

Nine out of the 17 stakeholders who were sent correspondence have made submissions or consulted directly with the Department of Home Affairs. Formal responses have only been received by industry stakeholders. Responses have been positive about the suggested changes with a few suggestions on the limit and scope of the proposed changes.

These suggestions include:

1. the need for clearly defined parameters on the types of vessels, exactly what activities, and from what locations voyages can originate and terminate to be on an MCV; and
2. that voyages should allow for potential onshore visits to provide greater flexibility.

Direct consultation was undertaken from union representatives. In these discussions, it was indicated that while they are not opposed to the proposed amendment, they are cautious that the scope of changes does not have unintended consequences that allow other vessels to have their crews on the MCV.

This feedback has been taken into account during the drafting of the proposed legislation and the Department of Home Affairs is confident that the legislation is limited to the correct cohorts. The second suggestion is considered out of scope for this regulation change as the amendments are limited to international voyages that do not come to an onshore port.

## 6. What is the Best Option

### 6.1 Best Option

The limited regulatory amendment option is preferred as it offers a significant resolution through relatively minor changes to the Migration Regulations. Amending the Migration Regulations in the proposed manner will allow the use of an existing visa product, the MCV, which carries no application charge, can be auto-granted and allows multiple entry voyages over a period of three years.

This option will give industry certainty that once their application is approved, the holder of an MCV will have a valid visa for up to three year while tightly restricting the nature of the activity for which the MCV can be applied. This visa better reflects the requirements of the shipping industry by allowing multiple entry for the ship's crew. This will prevent delays to production and potential shut downs due to immigration issues.

## **7. Implementation and Evaluation**

It is expected that the proposed amendments will be made in the second quarter of 2018. Implementation risks are low as this change is applied to a limited cohort. All risks revolve around appropriate information being communicated to stakeholders so that they understand the limit and scope of changes.

Following Parliamentary consideration of the *Migration Amendment (Offshore Resources Activity Activity) Regulations 2018*, the Department will update webpages and engage in direct consultation with stakeholders to inform them of the changes including dates of implementation.

The Department will closely monitor the impact of the changes in the short term, and if it has the right balance, the regulations will be formally reviewed before the instrument sunsets, in accordance with the provisions of the *Legislation*.