

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Resources and Water, the Hon Keith Pitt MP

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Amendment (Fees) Regulations 2021

Purpose and Operation

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. This includes the imposition of fees in relation to petroleum and greenhouse gas titles.

Part 1 of Schedule 6 to the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (the RMA Regulations) prescribes the amount of fees payable under sections 256, 516A and 695L of the OPGGS Act. Part 2 of Schedule 6 to the RMA Regulations prescribes the amount of 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 (the Titles Administrator) to fund its operations on a cost-recovery basis, and are subject to periodic review. The Titles Administrator is fully cost-recovered through fees (along with annual titles administration levies) imposed on applicants for, and registered holders of, petroleum and greenhouse gas titles.

The mechanism for setting fee amounts is through the preparation of a cost recovery implementation statement (CRIS) that meets the requirements of the Australian Government Cost Recovery Guidelines. The Titles Administrator conducts regular reviews of its CRIS to ensure that its cost recovery arrangements are adequate to enable it to continue to effectively discharge its regulatory functions.

The purpose of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Amendment (Fees) Regulations 2021* (the Amendment Regulations) is to implement the outcomes of the recent review of the Titles Administrator's CRIS, which proposed increasing the amounts of fees payable to the Titles Administrator under the OPGGS Act. These fees include application fees under sections 256 and 516A, application and other fees under section 695L, and fees for greenhouse gas applications under section 427. The Amendment Regulations also prescribe new fees in relation to application and other fees under sections 565A and 695L.

The fee amounts are not such as to amount to taxation. Following a comprehensive review of activities and rates, a flat fee structure was established on the basis that similar effort was required to assess the different types of applications. The fee rates represent the average cost of assessing each application type submitted to the Titles Administrator. 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.

The Amendment Regulations commence on 1 January 2022.

Authority

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.

Consultation

The Titles Administrator undertook a review of its cost recovery arrangements in 2021, followed by consultation with titleholders (fee payers) and the industry peak body, the Australian Petroleum Production and Exploration Association (APPEA). Neither the industry representatives nor APPEA raised any concerns with the proposed increases to fee amounts. The Titles Administrator also consulted the Department of Finance in relation to its review of its CRIS.

Regulatory Impact

The department has received a standing Regulatory Impact Statement exemption from the Office of Best Practice Regulation (OBPR) for legislative amendments to revise levy and fee amounts. The OBPR reference is ID 20801.

Details of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Amendment (Fees) Regulations 2021*

Section 1 – Name

This section provides that the title of this instrument is the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Amendment (Fees) Regulation 2021* (the Amendment Regulations).

Section 2 – Commencement

This section provides that the Amendment Regulations commence on 1 January 2022.

Section 3 – Authority

This section provides that the Amendment Regulations are made under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act).

Section 4 – Schedules

This section is a machinery provision that provides that the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (the RMA Regulations) are amended or repealed as set out in the Schedule, and any other item in the Schedules has effect according to its terms.

Schedule 1 – Amendments to fee amounts

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

Items 1 to 15 – Clause 1 of Schedule 6 (table items 101 to 114, column headed “Fee (\$)”)

Section 256 of the OPGGS Act requires applications for the grant, renewal or variation of a petroleum title under Chapter 2 to be accompanied by the prescribed fee (if any), and provides that different fees may be prescribed for different types of applications. Clause 1 of Schedule 6 of the RMA Regulations prescribes the application fees payable under section 256.

Items 1 to 15 of the Amendment Regulations amend items 101 to 114 of the table in clause 1 of Schedule 6 of the RMA Regulations to increase the fee amount for each type of application from \$7,500 to \$8,250.

Items 16 and 17 – Clause 2 of Schedule 6 (table items 115 and 116, column headed “Fee (\$)”)

Section 516A of the OPGGS Act requires applications for the approval of a transfer of, or dealing relating to, a petroleum title under Chapter 4 to be accompanied by the prescribed fee

(if any), and provides that different fees may be prescribed for different types of applications. Clause 2 of Schedule 6 of the RMA Regulations prescribes the application fees payable under section 516A.

Items 16 and 17 of the Amendment Regulations amend items 115 and 116 of the table in clause 2 of Schedule 6 of the RMA Regulations to increase the fee amount for each type of application from \$7,500 to \$8,250.

Items 18 to 31 – Clause 3 of Schedule 6 (table items 116A to 128, column headed “Fee (\$)”)

Section 695L of the OPGGS Act enables the Titles Administrator, on behalf of the Commonwealth, to charge such fees as specified in the regulations for specified services provided by the Titles Administrator in performing a function, or exercising a power, under the OPGGS Act or the regulations. Clause 3 of Schedule 6 prescribes the fees payable under section 695L for processing applications, requests or nominations.

Items 18 to 31 of the Amendment Regulations amend items 116A to 128 of the table in clause 3 of Schedule 6 of the RMA Regulations to increase the fee amount for each type of application, request or nomination from \$7,500 to \$8,250.

Items 32 to 40 – Clause 4 of Schedule 6 (table items 201 to 208, column headed “Fee (\$)”)

Section 427 of the OPGGS Act requires applications for the grant, renewal or variation of a greenhouse gas title, or the issue of a site closing certificate, under Chapter 3 to be accompanied by the prescribed fee (if any), and provides that different fees may be prescribed for different types of applications. Clause 4 of Schedule 6 of the RMA Regulations prescribes the application fees payable under section 427.

Items 32 to 40 of the Amendment Regulations amend items 201 to 208 of the table in clause 4 of Schedule 6 of the RMA Regulations to increase the fee amount for each type of application from \$7,500 to \$8,250.

Schedule 2 – New fees

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

Item 1 – At the end of regulation 11.01

This item inserts new subsection (3) into regulation 11.01 of the RMA Regulations, which provides that, for the purposes of subsection 565A(1) of the OPGGS Act, the prescribed fee for an application for the approval of a transfer of, or dealing relating to, a greenhouse gas title under Chapter 5 is the fee specified in new Division 2 of Part 2 of Schedule 6 for that application.

Item 2 – Clause 3 of Schedule 6 (after table item 124A)

This item prescribes a new fee for applications for a consent to surrender a greenhouse gas title under section 441 of the OPGGS Act. This fee is inserted as new item 124B of the table in clause 3 of Schedule 6 of the RMA Regulations, and the amount of this fee is \$8,250.

Item 3 – Before clause 4 of Schedule 6

Part 2 of Schedule 6 of the RMA Regulations sets out fees in relation to greenhouse gas titles. This item inserts the heading of new Division 1 of this Part to reflect the inclusion of new Divisions 1 and 2 into this Part (see also item 4 of the Amendment Regulations). This new Division sets out applications fees payable under section 427 of the OPGGS Act, which are prescribed in clause 4.

Item 4 – At the end of Part 3 of Schedule 6

This item inserts new Division 2 into Part 2 of Schedule 6 of the RMA Regulations. This new Division sets out new applications fees payable under section 565A of the OPGGS Act, which are prescribed by new clause 5.

Section 565A of the OPGGS Act requires applications for the approval of a transfer of, or dealing relating to, a greenhouse gas title under Chapter 5 to be accompanied by the prescribed fee (if any), and provides that different fees may be prescribed for different types of applications.

The fee amount of \$8,250 applies to the following types of applications:

- applications for the approval of a transfer of a greenhouse gas title under section 525 of the OPGGS Act;
- applications for the approval of a dealing relating to a greenhouse gas title under section 539 of the OPGGS Act; and

- provisional applications for the approval of a dealing in a future interest relating to a greenhouse gas title under section 548 of the OPGGS Act.

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) Regulations 2021

These Regulations are 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 *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* prescribe the amounts of fees payable to the National Offshore Petroleum Titles Administrator (the Titles Administrator) under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act). The operations of the Titles Administrator are fully cost-recovered through fees (along with annual titles administration levies) imposed on applicants for, and registered holders of, petroleum and greenhouse gas titles.

The Amendment Regulations increase the amounts of fees payable to the Titles Administrator under the OPGGS Act. These fees include application fees under sections 256 and 516A, application and other fees under section 695L, and fees for greenhouse gas applications under section 427. The Amendment Regulations also prescribe new fees in relation to application and other fees under sections 565A and 695L. The fee amount increases and provision of new fees implement the outcomes of a recent review of the Titles Administrator's cost recovery implementation statement, and ensure that its cost recovery arrangements are adequate to enable it to continue to effectively discharge its regulatory functions.

Human rights implications

The Amendment Regulations do not engage any of the applicable rights or freedoms.

Conclusion

The Amendment Regulations are compatible with human rights as they do not raise any human rights issues.

The Hon Keith Pitt MP
Minister for Resources and Water