

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Resources

Offshore Petroleum and Greenhouse Gas Storage Act 2006

*Offshore Petroleum and Greenhouse Gas Storage Legislation
(Repeal and Consequential Amendments (No. 2)) Regulations 2023*

Purpose and Operation

The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act) provides the legal framework for the exploration for and recovery of petroleum, and the injection and storage of greenhouse gas (GHG) substances, in offshore areas.

The *Offshore Petroleum and Greenhouse Gas Storage Legislation (Repeal and Consequential Amendments (No. 2)) Regulations 2023* (the Principal Regulations) repeal the *Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Injection and Storage) Regulations 2011* (the 2011 GHG Regulations) and make a consequential amendment to the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (the RMA Regulations) to ensure that the *Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Injection and Storage) Regulations 2023* (the 2023 GHG Regulations) are able to be fully implemented.

The 2011 GHG Regulations, which were due to sunset on 1 April 2024, provided for a number of matters to facilitate and regulate GHG injection and storage operations in offshore areas.

The 2023 GHG Regulations remake the 2011 GHG Regulations in substantially the same form, with minor amendments to provide consistency with current drafting practices, simplify language, restructure provisions for ease of navigation and remove duplicative processes.

The Principal Regulations commence at the same time as the 2023 GHG Regulations commence. This ensures that the 2011 GHG Regulations are repealed, and the consequential amendment to the RMA Regulations commences, at the same time as the 2023 GHG Regulations commence.

Details of the Principal Regulations are set out in Attachment A.

Background

The 2023 GHG Regulations replace the 2011 GHG Regulations. The Principal Regulations ensure that the 2011 GHG Regulations are repealed, and the consequential amendment required in the RMA Regulations to reflect this is made.

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.

Subsection 782(1) of the OPGGS Act provides that, without limiting section 781, the regulations may make provision for securing, regulating, controlling or restricting specific matters. This includes injection and storage of GHG substances, and the carrying on of operations and the execution of works for those purposes (item 2B of the table in subsection 782(1)).

The RMA Regulations provide for regulation of matters relating to resource management, data collection and management, maintenance of the integrity of offshore petroleum and GHG wells, and other administrative matters. Part 11B of the RMA Regulations provides that, for the purposes of a provision of the OPGGS Act, a regulation is, or provisions of regulations are, prescribed.

Consultation

The Department of Industry, Science and Resources (the department) consulted with the National Offshore Petroleum Titles Administrator (NOPTA) and the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) during its review of the 2011 GHG Regulations, and in the development of the draft 2023 GHG Regulations. The department also conducted targeted stakeholder consultation, including with industry, through release of a limited circulation exposure draft of the 2023 GHG Regulations and an associated information session in August/September 2023. The department received five submissions which were considered in finalising the 2023 GHG Regulations.

The department has not consulted specifically on the Principal Regulations as they make technical and consequential amendments only which are required to fully implement the 2023 GHG Regulations.

Regulatory Impact

The department consulted the Office of Impact Analysis on the proposal to remake the 2011 GHG Regulations and was advised that a Regulatory Impact Statement was not required (reference OBPR22-02091).

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at Attachment B.

Details of the *Offshore Petroleum and Greenhouse Gas Storage Legislation (Repeal and Consequential Amendments (No. 2)) Regulations 2023*

Section 1 – Name

This section provides that the name of this instrument is the *Offshore Petroleum and Greenhouse Gas Storage Legislation (Repeal and Consequential Amendments (No. 2)) Regulations 2023* (the Principal Regulations).

Section 2 – Commencement

This section provides for the Principal Regulations to commence at the same time as the 2023 GHG Regulations commence.

Schedule 1 to the Principal Regulations repeals the 2011 GHG Regulations. Schedule 2 to the Principal Regulations makes a consequential amendment to the RMA Regulations as a result of the repeal of the 2011 GHG Regulations and commencement of the 2023 GHG Regulations. This commencement provision ensures that the 2011 GHG Regulations are repealed, and the consequential amendment commences, at the same time as the 2023 GHG Regulations commence.

The Principal Regulations do not commence if the 2023 GHG Regulations do not commence.

Section 3 – Authority

This section provides that this instrument is made under the OPGGS Act.

Section 4 – Schedules

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

Schedule 1 – Repeals

Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Injection and Storage) Regulations 2011

Item 1 – The whole of the instrument

This item repeals the 2011 GHG Regulations. These regulations were scheduled to sunset on 1 April 2024 and are replaced by the 2023 GHG Regulations, which remake the 2011 GHG Regulations without substantive change.

Schedule 2 – Amendments

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

Item 1 – Regulation 11B.01 (table item 12, column 2)

This item omits the reference to the year “2011” in the title of the 2011 GHG Regulations at item 12 of the table in regulation 11B.01 of the RMA Regulations and substitutes it with the year “2023”. This amendment updates the title to reflect that the 2011 GHG Regulations have been repealed and replaced by the 2023 GHG Regulations. The amendment ensures that the 2023 GHG Regulations are prescribed for the purposes of item 16A of the table in subsection 601(1) of the OPGGS Act following the repeal of the 2011 GHG Regulations.

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
(Repeal and Consequential Amendments (No. 2)) Regulations 2023*

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 Legislation (Repeal and Consequential Amendments (No. 2)) Regulations 2023* (the Regulations) are a legislative instrument for the purposes of the *Legislation Act 2003*.

The *Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Injection and Storage) Regulations 2011* (the 2011 GHG Regulations), which were due to sunset on 1 April 2024, provided for a number of matters to facilitate and regulate GHG injection and storage operations in offshore areas. The *Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Injection and Storage) Regulations 2023* (the 2023 GHG Regulations) remake the 2011 GHG Regulations in substantially the same form, with minor amendments to provide consistency with current drafting practices, simplify language, restructure provisions for ease of navigation and remove duplicative processes.

The Regulations repeal the 2011 GHG Regulations and make a consequential amendment to the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* to ensure that the 2023 GHG Regulations are able to be fully implemented.

Human rights implications

The Regulations are technical in nature only and do not engage any of the applicable rights or freedoms.

Conclusion

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

The Hon Madeleine King MP

Minister for Resources