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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Offshore Petroleum and Greenhouse Gas
Storage Legislation Amendment Bill
2009**

No. , 2009

(Resources and Energy)

**A Bill for an Act to amend the *Offshore Petroleum
and Greenhouse Gas Storage Act 2006*, and for other
purposes**

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1 **A Bill for an Act to amend the *Offshore Petroleum***
2 ***and Greenhouse Gas Storage Act 2006*, and for other**
3 **purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Offshore Petroleum and Greenhouse*
7 *Gas Storage Legislation Amendment Act 2009*.

8 **2 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with
11 column 2 of the table. Any other statement in column 2 has effect
12 according to its terms.

13

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1, Parts 1 to 6	The day after this Act receives the Royal Assent.	
3. Schedule 1, Parts 7 and 8	1 January 2010.	1 January 2010
4. Schedule 1, Parts 9 to 14	The day after this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally
2 passed by both Houses of the Parliament and assented to. It will not be
3 expanded to deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table contains additional information that is not
5 part of this Act. Information in this column may be added to or
6 edited in any published version of this Act.

7 **3 Schedule(s)**

8 Each Act that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.

1
2 **Schedule 1—Amendments**

3 **Part 1—Access authorities**

4 *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

5 **1 At the end of subsection 245(1)**

6 Add:
7 ; and (d) the registered holder of the petroleum exploration permit,
8 petroleum retention lease, petroleum production licence or
9 petroleum special prospecting authority has not given written
10 consent to the grant of the petroleum access authority.

11 **2 Application of amendment**

12 The amendment made by this Part applies in relation to an application
13 for a petroleum access authority if the application was made after the
14 commencement of this item.

1

2 **Part 2—Locations**

3 *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

4 **3 Section 95**

5 Omit:

- 6
 - If a petroleum pool is identified in a petroleum exploration
 - 7 permit area, the Designated Authority may declare a location
 - 8 over the blocks to which the petroleum pool extends.

9 substitute:

- 10
 - If a petroleum pool is identified in a petroleum exploration
 - 11 permit area, the Joint Authority may declare a location over
 - 12 the blocks to which the petroleum pool extends.

13 **4 Section 96**

14 Omit:

- 15
 - If a petroleum pool is identified in a petroleum exploration
 - 16 permit area, the Designated Authority may declare a location
 - 17 over the blocks to which the petroleum pool extends.

18 substitute:

- 19
 - If a petroleum pool is identified in a petroleum exploration
 - 20 permit area, the Joint Authority may declare a location over
 - 21 the blocks to which the petroleum pool extends.

22 **5 Section 128**

23 Omit:

- 24
 - If a petroleum pool is identified in a petroleum exploration
 - 25 permit area, the Designated Authority may declare a location
 - 26 over the blocks to which the petroleum pool extends.
-

1 substitute:

- 2
- 3
- 4
- If a petroleum pool is identified in a petroleum exploration permit area, the Joint Authority may declare a location over the blocks to which the petroleum pool extends.

5 **6 Section 128**

6 Omit:

- 7
- 8
- The Designated Authority may require the permittee to nominate the blocks.

9 substitute:

- 10
- 11
- The Joint Authority may require the permittee to nominate the blocks.

12 **7 Paragraph 129(5)(b)**

13 Omit “Designated Authority”, substitute “Joint Authority”.

14 **8 Subsections 130(1), (2) and (3)**

15 Omit “Designated Authority” (wherever occurring), substitute “Joint
16 Authority”.

17 **9 Subsections 131(1), (3) and (4)**

18 Omit “Designated Authority” (wherever occurring), substitute “Joint
19 Authority”.

20 Note: The heading to subsection 131(4) is altered by omitting “*Designated Authority*” and
21 substituting “*Joint Authority*”.

22 **10 Subsections 132(1), (3), (6), (7) and (8)**

23 Omit “Designated Authority” (wherever occurring), substitute “Joint
24 Authority”.

25 **11 Subsections 133(1), (3) and (5)**

26 Omit “Designated Authority” (wherever occurring), substitute “Joint
27 Authority”.

1 **12 Transitional—decisions of Designated Authority etc.**

- 2 (1) This item applies to an act or thing that was done before the
3 commencement of this item:
4 (a) by, or in relation to, the Designated Authority for an offshore
5 area; and
6 (b) under, or for the purposes of, a provision of Division 6 of
7 Part 2.2 of the *Offshore Petroleum and Greenhouse Gas*
8 *Storage Act 2006*.

9 Note: See also clauses 4 and 5 of Schedule 6 to the *Offshore Petroleum and*
10 *Greenhouse Gas Storage Act 2006*.

- 11 (2) The act or thing has effect, after the commencement of this item, as if it
12 had been done:
13 (a) by, or in relation to, the Joint Authority for the offshore area;
14 and
15 (b) under, or for the purposes of, the corresponding provision of
16 that Act as amended by this Part.

1

2 **Part 3—Petroleum scientific investigation consents**

3 *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

4 **13 Subsection 253(1)**

5 Omit “Designated Authority” (wherever occurring), substitute “Joint
6 Authority”.

7 **14 Subsection 254(1)**

8 Omit “Designated Authority”, substitute “Joint Authority”.

9 **15 Transitional—decisions of Designated Authority**

- 10 (1) This item applies to an act or thing that was done before the
11 commencement of this item:
- 12 (a) by the Designated Authority for an offshore area; and
 - 13 (b) under subsection 253(1) or 254(1) of the *Offshore Petroleum*
14 *and Greenhouse Gas Storage Act 2006*.
- 15 (2) The act or thing has effect, after the commencement of this item, as if it
16 had been done:
- 17 (a) by the Joint Authority for the offshore area; and
 - 18 (b) under the corresponding provision of that Act as amended by
19 this Part.

1

2 **Part 4—Occupational health and safety prosecutions**

3 *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

4 **16 At the end of clause 41 of Schedule 6**

5 Add:

6 ; and (c) regulations set out in or prescribed for the purposes of
7 subsection 140H(2) of the repealed *Petroleum (Submerged*
8 *Lands) Act 1967*, to the extent that those regulations were in
9 force before the commencement of this clause.

1

2 **Part 5—Notification of discovery of petroleum**

3 *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

4 **17 Subsection 284(1)**

5 Omit “or a petroleum retention lease area”, substitute “, a petroleum
6 retention lease area or a petroleum production licence area”.

7 Note: The heading to section 284 is altered by omitting “**or petroleum retention lease area**”
8 and substituting “, **petroleum retention lease area or petroleum production licence**
9 **area**”.

10 **18 Subsections 284(2) and (3)**

11 Repeal the subsections, substitute:

12 *Notification*

13 (2) The permittee, lessee or licensee must inform the Designated
14 Authority of the discovery before the end of the 30-day period that
15 began on the day of completion of the well that resulted in the
16 discovery.

17 **19 Subsection 284(4)**

18 Omit “Subsections (2) and (3) do”, substitute “Subsection (2) does”.

19 **20 Paragraph 284(5)(a)**

20 Omit “or (3)”.

21 **21 Subsections 452(2) and (3)**

22 Repeal the subsections, substitute:

23 *Notification*

24 (2) The permittee, lessee or licensee must inform the responsible
25 Commonwealth Minister of the discovery before the end of the
26 30-day period that began on the day of completion of the well that
27 resulted in the discovery.

28 **22 Subsection 452(4)**

29 Omit “Subsections (2) and (3) do”, substitute “Subsection (2) does”.

Schedule 1 Amendments

Part 5 Notification of discovery of petroleum

1 **23 Paragraph 452(5)(a)**

2 Omit “or (3)”.

1

2 **Part 6—Datum**

3 ***Offshore Petroleum and Greenhouse Gas Storage Act 2006***

4 **24 Section 42 (table item 8)**

5 Repeal the item, substitute:

6

8	a greenhouse gas assessment permit	the permit area of a greenhouse gas assessment permit granted after the changeover time
9	a greenhouse gas holding lease	the lease area of a greenhouse gas holding lease granted after the changeover time
10	a greenhouse gas injection licence	the licence area of a greenhouse gas injection licence granted after the changeover time
11	a greenhouse gas search authority	the authority area of a greenhouse gas search authority granted after the changeover time
12	a greenhouse gas special authority	the authority area of a greenhouse gas special authority granted after the changeover time
13	any other instrument under this Act	a point, line or area set out in any other instrument made under this Act made after the changeover time

7 **25 Section 42 (note)**

8 After “Note”, insert “1”.

9 **26 At the end of section 42 (after the note)**

10 Add:

11 Note 2: A grant of a greenhouse gas holding lease may be a grant by way of
12 renewal—see section 11.

13 **27 Subsection 43(1) (table item 8)**

14 Repeal the item, substitute:

15

Schedule 1 Amendments
Part 6 Datum

8	a greenhouse gas assessment permit	the permit area of a greenhouse gas assessment permit that was in force immediately before the changeover time
9	a greenhouse gas holding lease	the lease area of a greenhouse gas holding lease that was in force immediately before the changeover time
10	a greenhouse gas injection licence	the licence area of a greenhouse gas injection licence that was in force immediately before the changeover time
11	a greenhouse gas search authority	the authority area of a greenhouse gas search authority that was in force immediately before the changeover time
12	a greenhouse gas special authority	the authority area of a greenhouse gas special authority that was in force immediately before the changeover time
13	any other instrument under this Act	a point, line or area set out in any other instrument under this Act that was in force immediately before the changeover time

1 **28 Sections 44 and 45**

2 Repeal the sections, substitute:

3 **44 Variation of titles and instruments**

4 *Petroleum titles and instruments*

5 (1) The table has effect:

6

Variation of titles and instruments		
Item	The Designated Authority may issue an instrument varying...	for the sole purpose of...
1	a petroleum exploration permit that was in force immediately before the changeover time	relabelling the permit area using geographic coordinates based on the current datum.

Variation of titles and instruments

Item	The responsible Commonwealth Minister may issue an instrument varying...	for the sole purpose of...
	the changeover time	current datum.
2	a greenhouse gas holding lease that was in force immediately before the changeover time	relabelling the lease area using geographic coordinates based on the current datum.
3	a greenhouse gas injection licence that was in force immediately before the changeover time	relabelling the licence area using geographic coordinates based on the current datum.
4	a greenhouse gas search authority that was in force immediately before the changeover time	relabelling the authority area using geographic coordinates based on the current datum.
5	a greenhouse gas special authority that was in force immediately before the changeover time	relabelling the authority area using geographic coordinates based on the current datum.
6	any other instrument under this Act that: (a) sets out a point, line or area; and (b) was in force immediately before the changeover time	relabelling the point, line or area using geographic coordinates based on the current datum.
7	a greenhouse gas title or other instrument under this Act	inserting an annotation about the applicable datum.

1 Note: For publication in the *Gazette* of notice of the variation, see
2 section 708.

3 **45 Variation of applications for titles**

4 *Petroleum titles*

- 5 (1) The Designated Authority may issue an instrument varying an
6 application for a petroleum title for the sole purpose of relabelling
7 a point, line or area by reference to geographic coordinates based
8 on the current datum.

9 *Greenhouse gas titles*

- 10 (2) The responsible Commonwealth Minister may issue an instrument
11 varying an application for a greenhouse gas title for the sole

1 purpose of relabelling a point, line or area by reference to
2 geographic coordinates based on the current datum.

3 **29 At the end of Part 4.2**

4 Add:

5 **471A Notation in Register—applicable datum**

6 The Designated Authority may make a notation in the Register
7 about the applicable datum for a title, petroleum special
8 prospecting authority, notice or instrument.

9 **30 At the end of Part 5.2**

10 Add:

11 **523A Notation in Register—applicable datum**

12 The responsible Commonwealth Minister may make a notation in
13 the Register about the applicable datum for a title, greenhouse gas
14 search authority, notice or instrument.

15 **31 Transitional—pre-commencement variations**

16 The amendments made by this Part do not affect the validity of a
17 variation made before the commencement of this item.

1

2 **Part 7—Pipeline safety management plan levy**

3 *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

4 **32 Paragraph 683(d)**

5 Repeal the paragraph.

6 **33 Section 688**

7 Repeal the section.

8 **34 Application of amendments**

9 Despite the amendments made by this Part, paragraph 683(d) and
10 section 688 of the *Offshore Petroleum and Greenhouse Gas Storage Act*
11 *2006* continue to apply, after the commencement of this item, in relation
12 to:

13 (a) pipeline safety management plan levy imposed by repealed
14 Part 4 of the *Offshore Petroleum and Greenhouse Gas*
15 *Storage (Safety Levies) Act 2003*; and

16 (b) late payment penalty in relation to pipeline safety
17 management plan levy covered by paragraph (a);

18 as if those amendments has not been made.

1

2 **Part 8—Consent to operate a pipeline**

3 *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

4 **35 Subsections 210(3), (4), (5) and (6)**

5 Repeal the subsections.

6 **36 Subsections 210(7) and (8)**

7 Omit “Subsections (1), (3) and (5) do not apply”, substitute
8 “Subsection (1) does not apply”.

9 **37 Subsection 210(9)**

10 Repeal the subsection.

1

2 **Part 9—Data management plans**

3 *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

4 **38 Subsections 698(2), (3) and (4)**

5 Repeal the subsections.

6 **39 Subsections 724(2), (3) and (4)**

7 Repeal the subsections.

8 **40 Transitional—data management plans**

9 (1) This item applies to a data management plan if, immediately before the
10 commencement of this item, the plan was in force under regulations
11 made for the purposes of subsection 698(2) of the *Offshore Petroleum*
12 *and Greenhouse Gas Storage Act 2006*.

13 (2) Despite the repeal of subsection 698(2) of the *Offshore Petroleum and*
14 *Greenhouse Gas Storage Act 2006* by this Act:

15 (a) the plan continues to have effect; and

16 (b) the regulations, to the extent that they relate to:

17 (i) the contents of the plan; or

18 (ii) the variation of the plan; or

19 (iii) the duration of the plan; or

20 (iv) compliance with the plan;

21 continue to apply in relation to the plan;

22 as if the repeal had not happened.

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Part 10—Occupational health and safety duties

Offshore Petroleum and Greenhouse Gas Storage Act 2006

41 After subclause 9(4) of Schedule 3

Insert:

(4A) Absolute liability applies to paragraph (4)(a).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

(4B) The fault element for paragraphs (4)(b) and (c) is negligence.

42 Subclause 10(4) of Schedule 3 (penalty)

Omit “for contravention of this subclause”.

43 At the end of clause 10 of Schedule 3

Add:

(5) Absolute liability applies to paragraph (4)(a).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

(6) The fault element for paragraphs (4)(b) and (c) is negligence.

44 After subclause 11(5) of Schedule 3

Insert:

(5A) Absolute liability applies to paragraph (5)(a).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

(5B) The fault element for paragraphs (5)(b) and (c) is negligence.

45 After subclause 12(3) of Schedule 3

Insert:

(3A) Absolute liability applies to paragraph (3)(a).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

(3B) The fault element for paragraphs (3)(b) and (c) is negligence.

46 After subclause 13(2) of Schedule 3

1 Insert:

2 (2A) Absolute liability applies to paragraph (2)(a).

3 Note: For absolute liability, see section 6.2 of the *Criminal Code*.

4 (2B) The fault element for paragraphs (2)(b) and (c) is negligence.

5 **47 After clause 13 of Schedule 3**

6 Insert:

7 **13A Duties of titleholders in relation to the design of facilities**

8 *Duties of petroleum titleholder*

9 (1) If a proposed facility is for use in connection with operations
10 authorised by:

11 (a) a petroleum exploration permit; or

12 (b) a petroleum retention lease; or

13 (c) a petroleum production licence; or

14 (d) an infrastructure licence; or

15 (e) a pipeline licence;

16 the permittee, lessee or licensee must take all reasonably
17 practicable steps to ensure that the facility is so designed as to be,
18 when properly used, safe and without risk to health.

19 *Greenhouse gas titleholder*

20 (2) If a proposed facility is for use in connection with operations
21 authorised by:

22 (a) a greenhouse gas assessment permit; or

23 (b) a greenhouse gas holding lease; or

24 (c) a greenhouse gas injection licence;

25 the permittee, lessee or licensee must take all reasonably
26 practicable steps to ensure that the facility is so designed as to be,
27 when properly used, safe and without risk to health.

28 *Offence*

29 (3) A person commits an offence if:

30 (a) the person is subject to a requirement under subclause (1) or
31 (2); and

- 1 (b) the person omits to do an act; and
2 (c) the omission breaches the requirement.

3 Penalty: 200 penalty units.

4 (4) Absolute liability applies to paragraph (3)(a).

5 Note: For absolute liability, see section 6.2 of the *Criminal Code*.

6 (5) The fault element for paragraphs (3)(b) and (c) is negligence.

7 **48 After subclause 14(2) of Schedule 3**

8 Insert:

9 (2A) Absolute liability applies to paragraph (2)(a).

10 Note: For absolute liability, see section 6.2 of the *Criminal Code*.

11 (2B) The fault element for paragraphs (2)(b) and (c) is negligence.

12 **49 After subclause 15(2) of Schedule 3**

13 Insert:

14 (2A) Absolute liability applies to paragraph (2)(a).

15 Note: For absolute liability, see section 6.2 of the *Criminal Code*.

16 (2B) The fault element for paragraphs (2)(b) and (c) is negligence.

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Part 11—Maps

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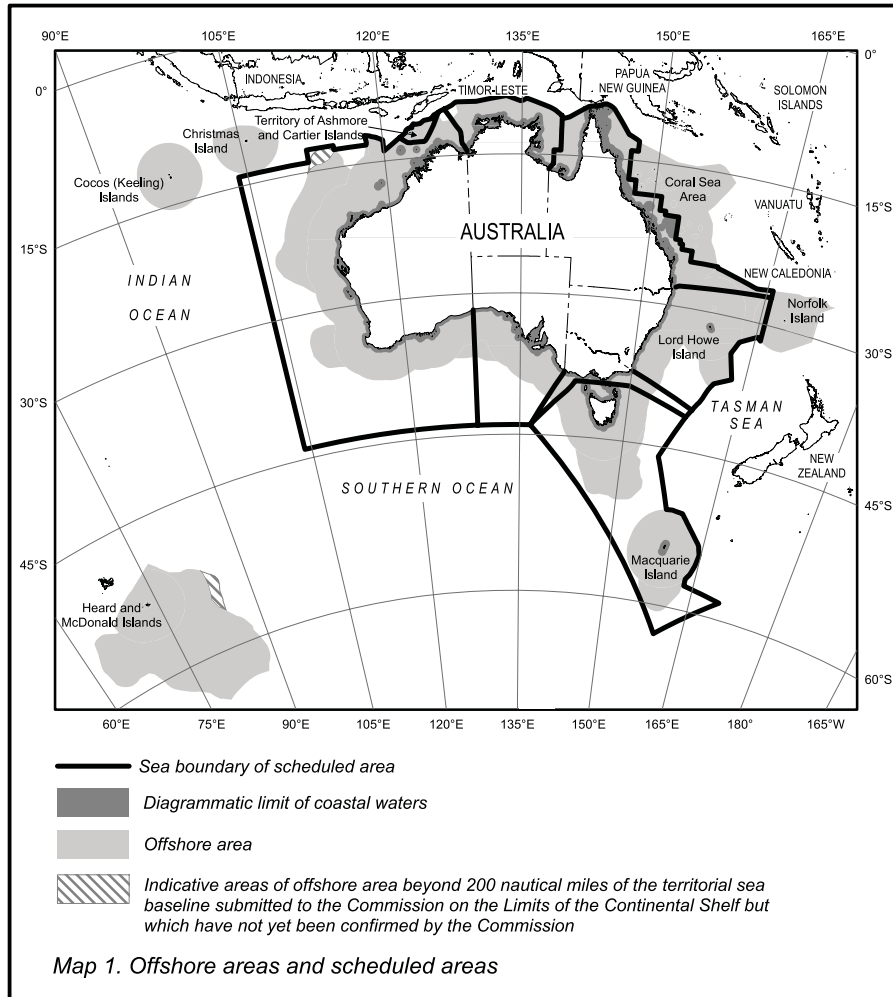
Offshore Petroleum and Greenhouse Gas Storage Act 2006

4

50 Subsection 6(3) (map)

5

Repeal the map, substitute:



6

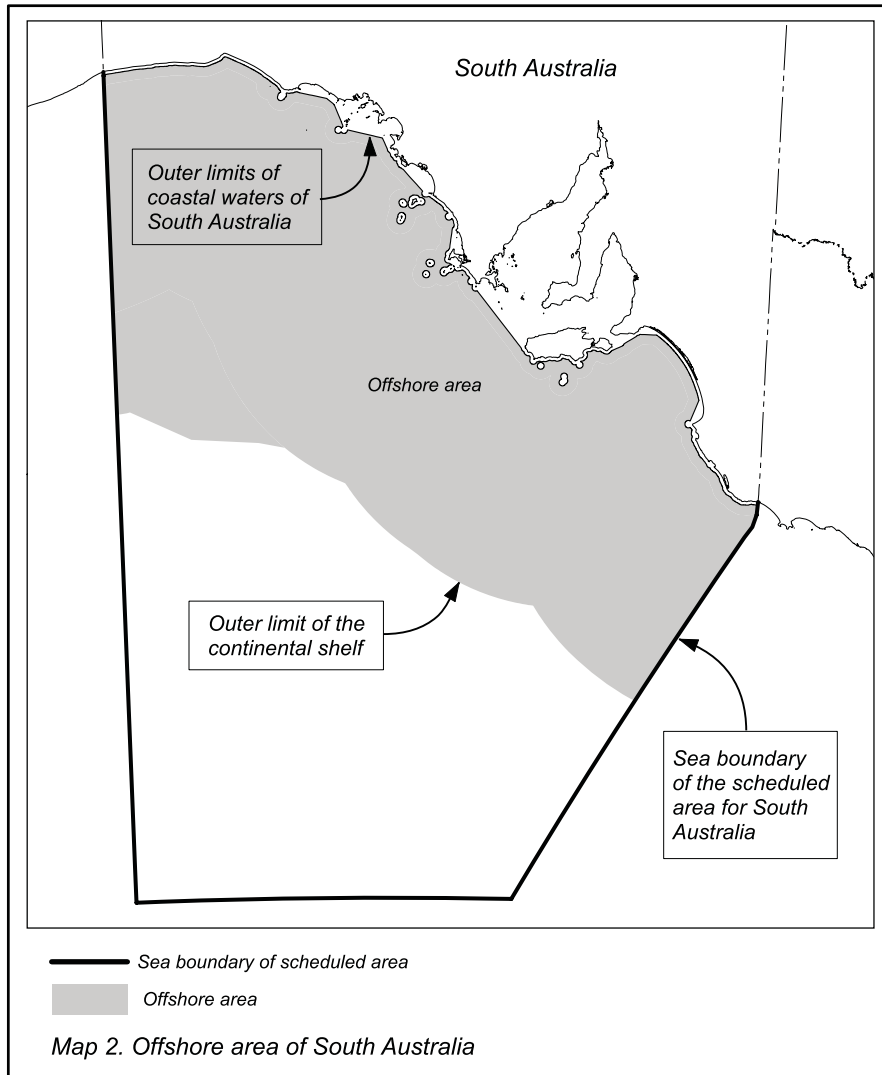
7

8

51 Subsection 6(4) (map)

1

Repeal the map, substitute:



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2 **Part 12—Judicial review of administrative decisions**

3 *Administrative Decisions (Judicial Review) Act 1977*

4 **52 After paragraph 2(h) of Schedule 3**

5 Insert:

6 (ha) the *Petroleum (Submerged Lands) Act 1982* of Western
7 Australia;

1

2 **Part 13—Greenhouse gas storage**

3 *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

4 **53 After subsection 21(7)**

5 Insert:

6 (7A) In making an estimate under paragraph (6)(e) or (7)(f), disregard
7 subsection 388(8).

8 **54 Paragraph 297(1)(b)**

9 Omit “greenhouse gas holding lease over the block”, substitute
10 “greenhouse gas holding lease, or a greenhouse gas injection licence,
11 over the block”.

12 **55 Paragraph 297(3)(b)**

13 Omit “day”, substitute “day before the day”.

14 **56 Paragraph 297(3)(d)**

15 After “lessee”, insert “or licensee”.

16 **57 Paragraph 304(1)(b)**

17 Omit “greenhouse gas holding lease or a greenhouse gas injection
18 licence over the block”, substitute “greenhouse gas holding lease, or a
19 greenhouse gas injection licence, over the block”.

20 **58 Paragraph 304(3)(b)**

21 Omit “day”, substitute “day before the day”.

22 **59 Paragraph 304(3)(d)**

23 After “lessee”, insert “or licensee”.

24 **60 Subsection 358(8)**

25 After “a petroleum production licence”, insert “on the basis that the
26 responsible Commonwealth Minister is satisfied of the matter set out in
27 subparagraph 370(c)(i)”.

28 **61 After subsection 358(8)**

1 Insert:

2 (8A) If a greenhouse gas injection licence is granted under section 372
3 to the registered holder of a petroleum production licence on the
4 basis that the responsible Commonwealth Minister is satisfied of
5 the matter set out in subparagraph 370(c)(ii), the specified origin or
6 origins of some or all of the greenhouse gas substance must be
7 situated in:

- 8 (a) the licence area of a petroleum production licence; or
9 (b) the licence areas of petroleum production licences.

10 **62 After subsection 374(4)**

11 Insert:

12 (4A) If:

- 13 (a) the licence was granted under section 372 to the registered
14 holder of a petroleum production licence on the basis that the
15 responsible Commonwealth Minister was satisfied of the
16 matter set out in subparagraph 370(c)(i); and
17 (b) the responsible Commonwealth Minister is satisfied that it is
18 in the public interest to do so;

19 the responsible Commonwealth Minister may exercise the power
20 of variation conferred by subsection (3) as if the licence had been
21 granted on the basis that the responsible Commonwealth Minister
22 had been satisfied of the matter set out in subparagraph 370(c)(ii).

1

2 **Part 14—Technical corrections**

3 ***Offshore Petroleum and Greenhouse Gas Storage Act 2006***

4 **63 Subsections 222(2) and (5)**

5 Omit “gave”, substitute “give”.

6 Note 1: The heading to subsection 132(1) is altered by omitting “*an exploration permittee*” and
7 substituting “*a petroleum exploration permittee*”.

8 Note 2: The heading to section 297 is altered by omitting “**Retention lessee or production**
9 **licensee**” and substituting “**Petroleum retention lessee or petroleum production**
10 **licensee**”.

11 Note 3: The heading to section 304 is altered by omitting “**Retention lessee or production**
12 **licensee**” and substituting “**Petroleum retention lessee or petroleum production**
13 **licensee**”.

14 Note 4: The heading to section 346 is altered by omitting “**Retention lease**” and substituting
15 “**Petroleum retention lease**”.

16 **64 Subclauses 36(2) and (4) of Schedule 6**

17 Omit “Subsection”, substitute “Subclause”.

18 ***Offshore Petroleum and Greenhouse Gas Storage (Annual***
19 ***Fees) Act 2006***

20 **65 Section 3 (note)**

21 Omit “section 6”, substitute “section 7”.

22 ***Offshore Petroleum and Greenhouse Gas Storage***
23 ***(Registration Fees) Act 2006***

24 **66 Section 3 (note)**

25 Omit “section 6”, substitute “section 7”.

26 ***Offshore Petroleum (Royalty) Act 2006***

27 **67 Section 3 (note)**

28 Omit “section 6”, substitute “section 7”.

1 ***Petroleum Resource Rent Tax Assessment Act 1987***

2 **68 Section 2 (definition of *infrastructure licence*)**

3 Omit “section 6”, substitute “section 7”.