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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE HOUSE OF REPRESENTATIVES

**OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE LEGISLATION
AMENDMENT BILL 2009**

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments and New Clauses to be moved on Behalf of the Government

(Circulated by authority of the Minister for Resources and Energy, the Honourable
Martin Ferguson AM, MP)

AMENDMENTS TO THE OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE LEGISLATION AMENDMENT BILL 2009

OUTLINE

These government amendments add to the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009 (the Bill) a new Part 15 which amends the greenhouse gas provisions of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* ('the Act') that provide for approval and registration of transfers of, and dealings in, petroleum titles. The affected parts of the Act are Part 4.3 (Transfer of titles), Part 4.6 (Dealings relating to existing titles) and Part 4.7 (Dealings in future interests).

The purpose of the amendments is to correct an oversight in the provisions establishing a process for enabling the responsible Commonwealth Minister (RCM) to give a direction to the Designated Authority (DA) with respect to the exercise of the DA's powers to approve and register transfers of, and dealings in, petroleum titles.

The error was the failure to limit the class of petroleum titles to which the new process was to apply. The greenhouse gas amendments made by the *Offshore Petroleum Amendment (Greenhouse Gas Storage) Act 2008* applied the process to all petroleum titles, whereas the intention was that it would apply only to petroleum titles that had a specified geographical relationship to an existing greenhouse gas title.

These amendments:

- define the class of petroleum titles to which the process applies;
- confine the provisions that establish the process to transfers of, and dealings in, petroleum titles of that class; and
- reduce the numbers of copies required to be lodged with other applications.

FINANCIAL IMPACT STATEMENT

These government amendments will not have any financial impact on the Australian Government Budget.

NOTES ON INDIVIDUAL CLAUSES

(1) Clause 2, page 2 (at the end of the table)

Amendment (1) provides for these amendments to commence retrospectively, immediately after the commencement of Part 1 of Schedule 4 to the *Offshore Petroleum Amendment (Greenhouse Gas Storage) Act 2008* (ie immediately after the commencement of the greenhouse gas amendments and the renumbering of the whole Act). The commencement date of the present amendments is therefore 22 November 2008.

Because there are not yet any existing greenhouse gas titles (and so no petroleum titles to which the new process was intended to apply) and because compliance with the process in relation to all transfers and dealings in petroleum titles would have involved a considerable (and wasted) administrative effort both for the Commonwealth and the Designated Authorities, the process has in fact not been followed in relation to the many transfers and dealings that have been approved and registered by the Designated Authorities since the greenhouse gas amendments came into force. The proposed amendments therefore need to be made retrospective, to cure any technical defect in the approvals and registrations that might have resulted from non-compliance with the process.

(2) Schedule 1, page 28 (after line 3), at the end of the Schedule

Amendment (2) adds a new Part 15 to the Bill, headed 'Registration of transfers of, and dealings in, petroleum titles'. All amendments in Part 15 of the Bill are to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Item 69 Section 7

Item 69 introduces the concept of a 'referable title'. This is the class of petroleum titles to which the process requirement was intended to apply.

Item 70 Section 467

Item 70 inserts a definition of 'referable title' into section 467. A 'referable title' is a petroleum title the title area of which overlaps the title area of a greenhouse gas title. It makes no difference whether the titles are held by the same, or different, title-holders.

Items 71 to 75 – Applications for approval of transfers of titles

Items 71 and 72

Item 71 confines to referable titles only the requirement in paragraph 474(c) to provide 2 copies of the application and other documents. For other petroleum titles, under new paragraph 474(d), inserted by item 72, the requirement reverts to 1 copy, as it was prior to the greenhouse gas amendments.

Item 73

Item 73 confines to referable titles only the requirement in section 475 that the DA forward to the RCM a copy of the application for approval of a transfer of title and related documents.

Items 74 and 75

Items 74 and 75 amend section 478 to confine to referable titles only:

- the obligation of the DA to defer making a decision on an application until a direction or notification is received from the RCM;
- the obligation of the DA to comply with a direction of the RCM; and
- the power of the RCM to give a direction.

Items 76 to 83 – Applications for approval of dealings.

Items 76 to 80

Item 76 confines to referable titles only the requirement in subsection 489(4) to provide 2 copies of the application and other documents. For other petroleum titles, item 78 inserts new subsection 489(4A) under which the requirement reverts to 1 copy, as it was prior to the greenhouse gas amendments.

Item 79 inserts a new paragraph (aa) to subsection 489(5), which confines to referable titles only the requirement that 3 copies of documents lodged under section 263 of the *Corporations Act 2001* be provided. For other petroleum titles, item 80 adds new subsection 489(6) under which the requirement reverts to 2 copies, as it was prior to the greenhouse gas amendments.

Item 81

Item 81 confines to referable titles only the requirement in section 490 that the DA forward a copy of the application for approval of a dealing and related documents to the RCM.

Items 82 and 83

Items 82 and 83 amend section 493 to confine to referable titles only:

- the obligation of the DA to defer making a decision on an application for approval of a dealing until a direction or notification is received from the RCM;
- the obligation of the DA to comply with a direction of the RCM; and
- the power of the RCM to give a direction.

Items 84 to 88 – Provisional applications for approval of dealings in future titles.

Items 84 to 87

Item 84 confines to referable titles only the requirement in subsection 499(4) to provide 2 copies of the provisional application and other documents. For other petroleum titles, item 85 inserts new subsection 499(4A) under which the requirement reverts to 1 copy, as it was prior to the greenhouse gas amendments.

Item 86 inserts a new paragraph (aa) to subsection 499(5), which confines to referable titles only the requirement that 3 copies of documents lodged under section 263 of the *Corporations Act 2001* be provided. For other petroleum titles, item 87 adds new subsection 499(6) under which the requirement reverts to 2 copies, as it was prior to the greenhouse gas amendments.

Item 88

Item 88 confines to referable titles the obligation to give a copy of the application and other documents to the RCM.