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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE (REGULATORY  
LEVIES) AMENDMENT BILL 2014**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Industry,  
the Honourable Ian Macfarlane, MP)

# OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE (REGULATORY LEVIES) AMENDMENT BILL 2014

## GENERAL OUTLINE

The purpose of the Bill is to amend the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (the Regulatory Levies Act) to take account of amendments to the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (the Environment Regulations) which enable an applicant for certain titles to submit an environment plan to the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA). The Bill also amends the Regulatory Levies Act to ensure annual titles administration levy is imposed on each anniversary of the commencement of the term of the title, even if the title continues in force beyond the nominal term for that kind of title and even if the title does not remain in force for the full year.

### *Environment plan levies*

The functions of NOPSEMA (the national offshore petroleum regulator) are funded on a fully cost-recovered basis from fees and levies collected from the offshore petroleum industry. In order to fund NOPSEMA's regulatory functions in relation to environmental management, environment plan levy is imposed by the Regulatory Levies Act. Environment plan levy is imposed on submission of an environment plan or revision of an environment plans under the Environment Regulations where the activities to which the plan relates are authorised by one or more titles, and is payable by the relevant titleholder or, if the plan relates to activities to be carried out under two or more titles, by the titleholders jointly and severally. Environment plan levy is therefore currently only imposed where a title or titles is/are in force in respect of the location where the petroleum activity is to take place.

As a result of recent changes to the Environment Regulations, an applicant for a petroleum access authority, petroleum special prospecting authority, pipeline licence, greenhouse gas search authority or greenhouse gas special authority may submit an environment plan to NOPSEMA prior to the grant of the title. This Bill will therefore amend the Regulatory Levies Act so that the levy continues to be payable by the person who submits the environment plan, including where that person is the applicant for a title.

The amendments to the Environment Regulations also clarified that an environment plan is required for activities to be carried out under a petroleum scientific investigation consent or a greenhouse gas research consent. Additional amendments to the Regulatory Levies Act will therefore ensure that environment plan levy is payable by holders of a petroleum scientific investigation consent or greenhouse gas research consent that submit an environment plan or revision of an environment plan to NOPSEMA under the Environment Regulations.

### *Annual titles administration levy*

The National Offshore Petroleum Titles Administrator (the Titles Administrator) undertakes various functions under the OPGGS Act including titles administration, data and information management, and assisting and advising the Joint Authority and responsible Commonwealth Minister in the performance of their functions. The Titles Administrator's activities are funded on a fully cost-recovered basis through fees and levies collected from the offshore

petroleum industry, including annual titles administration levy imposed by the Regulatory Levies Act.

Annual titles administration levy is imposed for each year of the term of a title, which is defined as a period of one year beginning on the day on which the title comes into force or any anniversary of that day. However, in certain circumstances, a title may remain in force for a period beyond its nominal length as specified, for example, in section 102 of the OPGGS Act, and the additional period commonly bears no relation to a year. For example, the Joint Authority has the ability to extend the term of a petroleum exploration permit or petroleum retention lease if the Joint Authority suspends or exempts the titleholder from compliance with any of the conditions to which the permit or lease is subject. Titles may also be kept in force pending a decision on whether to grant a title renewal or a successor title.

Although there may be less than 12 months remaining in the life of the term of a title, the Titles Administrator is still required to conduct administration activities, including data management and receipt of reports, in relation to the title. However, as the Regulatory Levies Act is expressed to impose levy on each (full) year of the term of the title, it is not clear how the levy works in relation to periods of less than one year. To ensure the Titles Administrator is fully cost-recovered for its activities, this Bill amends the Regulatory Levies Act to ensure that annual titles administration levy is imposed for a year of the term of a title, even if the title does not remain in force for the full year.

The OPGGS Act is amended by the Offshore Petroleum and Greenhouse Gas Storage Amendment (Regulatory Powers and other Measures) Bill 2014 to enable the making of regulations to provide for remissions and refunds of titles administration levy in appropriate circumstances.

## **FINANCIAL IMPACT STATEMENT**

The Bill has no financial impact.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

This Bill 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 Bill**

The Bill makes amendments to the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (the Regulatory Levies Act) to provide for environment plan levy to be imposed on submission of an environment plan under the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* by an applicant for a petroleum access authority, petroleum special prospecting authority, pipeline licence, greenhouse gas special authority or greenhouse gas search authority. The Bill also amends the Regulatory Levies Act to ensure annual titles administration levy is imposed for a year of the term of a title, even if the title does not remain in force for the full year.

### **Human rights implications**

This Bill does not engage any of the applicable rights or freedoms.

### **Conclusion**

This Bill is compatible with human rights as it does not raise any human rights issues.

## **NOTES ON INDIVIDUAL CLAUSES**

### Clause 1 - Short title

Clause 1 is a formal provision specifying the short title of the Act.

### Clause 2 - Commencement

Sections 1 to 3 in the Bill will commence on the day the Act receives Royal Assent.

Schedule 1, items 1 and 2 commence on a single day to be fixed by Proclamation or, if there is no Proclamation within 6 months, on the day after the expiry of the 6 month period. The delayed commencement is to allow for the making of regulations providing for remissions and refunds in appropriate circumstances.

Schedule 1, items 3 to 21, commence on the day after Royal Assent.

### Clause 3 – Schedule(s)

This clause gives effect to the provisions in the Schedules to this Act.

## **Schedule 1 – Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003**

### *Part 1 – Amendments*

#### Titles administration levy

##### Item 1 – Subsection 10E(1)

Item 1 repeals subsection 10E(1), which is the provision that imposes annual titles administration levy, and replaces it with a new provision that imposes the levy on a title for the year beginning on the day the title comes into force and for each subsequent year beginning on the anniversary of that day, if the title is in force at the start of the anniversary day. The subsection also makes clear that levy is imposed whether or not the title is in force for the whole of the year.

Section 695M of the OPGGS Act is amended by the Offshore Petroleum and Greenhouse Gas Storage Amendment (Regulatory Powers and other Measures) Bill 2014 to enable the making of regulations to provide for remissions and refunds of titles administration levy in appropriate circumstances, if the title ceases to be in force before the end of the year.

Item 2 repeals subsection 10E(8), as the term defined by that subsection is no longer used.

#### Environment plan levy

##### Items 3 and 4 – After paragraph 10F(1)(b)

Items 3 and 4 provide for the imposition of environment plan levy where an environment plan is submitted to NOPSEMA by the applicant for a pipeline licence, a petroleum special prospecting authority, a petroleum access authority, a greenhouse gas search authority or a greenhouse gas special authority. These are the types of title in relation to which the Environment Regulations allow an applicant for the title to submit an environment plan to NOPSEMA.

Items 5, 6, 7 and 8 – Paragraphs 10F(3)(a) to (d)

These items amend paragraphs 10F(3)(a) to (d) to change the term “registered holder(s) of the Commonwealth title(s)” to “titleholder(s)”. This is necessary because a petroleum scientific investigation consent and a greenhouse gas research consent are not registered in the Register of titles.

Item 9 – At the end of subsection 10F(3)

Item 9 provides that, where the environment plan is submitted to NOPSEMA by an applicant for a title, the levy is payable by the applicant.

Items 10 and 11 – Definition of *Commonwealth title*

Items 10 and 11 add a petroleum scientific investigation consent and a greenhouse gas research consent to the definition of “Commonwealth title”.

Item 12 – Subsection 10F(7)

Item 12 adds definitions to subsection 10F(7) that are consequential on the inclusion of petroleum scientific investigation consents and greenhouse gas research consents (which are not registered) in the classes of titles in respect of which environment plan levy is payable on the lodgement of an environment plan.

Items 13 to 20 – Amendments relating to State/NT coastal waters

Items 13 to 20 make amendments to section 10G of the Regulatory Levies Act, which imposes environment plan levy in relation to activities authorised by State/Territory titles in State/NT coastal waters. The amendments mirror the amendments to section 10F (above), which apply in relation to activities in Commonwealth waters.

*Part 2 – Application of amendments*

Item 21 – Application of amendments

The amendments to section 10E apply in relation to the imposition of titles administration levy on an eligible title for a year (of the title) that begins on or after the commencement of the amendments. The commencement of the amendments is delayed to enable regulations to be made providing for remissions and refunds in appropriate circumstances, where a title remains in force for less than a year.

The amendments to sections 10F and 10G apply in relation to the imposition of environment plan levy on the submission of an environment plan that occurs on or after the commencement of the amendments.