



Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Safety and Other Measures) Act 2024

No. 43, 2024

**An Act to amend the *Offshore Petroleum and
Greenhouse Gas Storage Act 2006*, and for related
purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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An Act to amend the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, and for related purposes

[Assented to 11 June 2024]

The Parliament of Australia enacts:

No. 43, 2024

*Offshore Petroleum and Greenhouse Gas Storage Legislation
Amendment (Safety and Other Measures) Act 2024*

1

1 Short title

This Act is the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Safety and Other Measures) Act 2024*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	11 June 2024
2. Schedule 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 12 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	11 June 2025
3. Schedule 2, Part 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	11 December 2024
4. Schedule 2, Part 3	The day after this Act receives the Royal Assent.	12 June 2024
5. Schedule 2, items 36 and 37	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent,	11 December 2024

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
	they commence on the day after the end of that period.	
6. Schedule 2, items 38 to 41	The day after this Act receives the Royal Assent.	12 June 2024

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

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

Schedule 1—Safety measures

Part 1—Main amendments

Offshore Petroleum and Greenhouse Gas Storage Act 2006

1 Section 7 (at the end of the definition of *approved*)

Add:
; or (h) Schedule 3.

2 Section 7

Insert:

diving has the meaning given by section 24B.

Note: *Dive* and *diver* have corresponding meanings (see section 18A of the *Acts Interpretation Act 1901*).

diving operations has the meaning given by section 24C.

health means physical and psychological health.

3 After section 24A

Insert:

24B Diving

- (1) For the purposes of this Act, a person is *diving* if the person:
- (a) is in a chamber inside which the ambient pressure is equal to or higher than the hydrostatic pressure at a depth of 1 metre in seawater (whether or not the chamber is submerged in water or another liquid); or
 - (b) is submerged in water or another liquid and the person's lungs are subjected to a pressure greater than atmospheric pressure (whether or not the person is wearing a wetsuit or other protective clothing); or
 - (c) is in a manned submersible craft that is submerged in water or another liquid.

- (2) For the purposes of this Act, **diving** includes (subject to subsection (3)):
 - (a) diving using a snorkel; and
 - (b) diving without the use of any breathing apparatus.
- (3) For the purposes of this Act, **diving** does not include:
 - (a) diving using a snorkel for the purpose of conducting an environmental survey; or
 - (b) diving without the use of any breathing apparatus for that purpose.

24C Diving operations

- (1) For the purposes of this Act, **diving operations** are any regulated operations (within the meaning of Part 6.9) that consist of one or more dives.
- (2) For the purposes of this Act, a diving operation:
 - (a) begins when the diver, or first diver, who takes part in the operation starts to prepare to dive; and
 - (b) ends when the diver, or last diver, who takes part in the operation:
 - (i) leaves the water, or the chamber or environment, in which the dive took place; and
 - (ii) has completed any necessary decompression procedures; and
 - (c) includes the time taken for therapeutic recompression if that is necessary.

4 At the end of paragraph 602E(2)(b)

Add:

- ; (iv) an OHS do not disturb notice under clause 78C of Schedule 3;
- (v) an OHS prohibition notice under clause 78E of Schedule 3;
- (vi) an OHS improvement notice under clause 78G of Schedule 3.

5 Subsection 602K(8) (at the end of the definition of *titleholder's obligations*)

Add:

; or (iv) clause 13C of Schedule 3 (duties of titleholders in relation to unrelated operators).

6 Subsection 611B(2) (table item 2, column headed “is an *authorised applicant* in relation to the following civil penalty provisions in this Act (to the extent indicated) ...”, after paragraph (k))

Insert:

(ka) subclause 30(8) of Schedule 3;

7 Subsection 611B(2) (table item 2, column headed “is an *authorised applicant* in relation to the following civil penalty provisions in this Act (to the extent indicated) ...”, after paragraph (m))

Insert:

(ma) subclause 78H(3) of Schedule 3;

8 Subsection 611B(2) (table item 2, column headed “is an *authorised applicant* in relation to the following civil penalty provisions in this Act (to the extent indicated) ...”, after paragraph (n))

Insert:

(na) subclause 83A(5) of Schedule 3;

(nb) subclause 83B(5) of Schedule 3;

9 Paragraph 611E(1)(j)

Omit “subclause 82(9)”, substitute “subclauses 82(9) and (9D)”.

10 After paragraph 611E(1)(k)

Insert:

; (l) subclause 83A(5) of Schedule 3.

11 Subsection 611E(2) (table item 1, column headed “is an *infringement officer* in relation to the following provisions in this Act ...”, paragraph (e))

Omit “subclause 82(9)”, substitute “subclauses 82(9) and (9D)”.

12 Subsection 611E(2) (table item 1, at the end of the column headed “is an *infringement officer* in relation to the following provisions in this Act ...”)

Add:

; (g) subclause 83A(5) of Schedule 3.

13 Subsection 611E(2) (table item 3, column headed “is an *infringement officer* in relation to the following provisions in this Act ...”, paragraph (j))

Omit “subclause 82(9)”, substitute “subclauses 82(9) and (9D)”.

14 Subsection 611E(2) (table item 3, at the end of the column headed “is an *infringement officer* in relation to the following provisions in this Act ...”)

Add:

; (l) subclause 83A(5) of Schedule 3.

15 Subsection 611J(2) (table item 3, column headed “is an authorised person in relation to the following provisions in this Act (to the extent indicated) ...”, paragraph (x))

Omit “13A(1) and (2),”, substitute “13A(1) and (2) and 13B(1) and (2), clause 13C and subclauses”.

16 Subsection 611J(2) (table item 3, column headed “is an authorised person in relation to the following provisions in this Act (to the extent indicated) ...”, after paragraph (x))

Insert:

(xa) subclause 30(7) of Schedule 3;

17 Subsection 611J(2) (table item 3, column headed “is an authorised person in relation to the following provisions in this Act (to the extent indicated) ...”, after paragraph (zd))

Insert:

- (zda) subclause 78C(6) of Schedule 3;
- (zdb) subclause 78E(6) of Schedule 3;
- (zdc) subclause 78H(1) of Schedule 3;

18 Subsection 611J(2) (table item 3, column headed “is an authorised person in relation to the following provisions in this Act (to the extent indicated) ...”, paragraph (zf) and (zg))

Repeal the paragraphs, substitute:

- (zf) subclauses 82(1), (5), (6) and (9A) of Schedule 3;
- (zg) subclauses 83(1) and (1A) of Schedule 3;
- (zga) subclause 83A(1) of Schedule 3;
- (zgb) subclauses 83B(1) and (2) of Schedule 3;

19 Subsection 611J(2) (at the end of the cell at table item 3, column headed “is an authorised person in relation to the following provisions in this Act (to the extent indicated) ...”)

Add:

- ; (zk) clause 88C of Schedule 3.

20 Subsection 611N(2) (table item 2, column headed “is an authorised person in relation to the following provisions in this Act (to the extent indicated) ...”, paragraph (w))

After “16C(1),”, insert “30(3), 30(4), 30(7),”.

21 Subsection 611N(2) (table item 2, column headed “is an authorised person in relation to the following provisions in this Act (to the extent indicated) ...”, paragraph (w))

Omit “79(4), 82(4), 82(9), 83(4), 83(6), 86(1), 87(1), 87(2) and 88(2)”, substitute “78C(6), 78E(6), 78H(2), 78H(3), 79(4), 82(4), 82(5C), 82(9), 82(9D), 83(4), 83(6), 83A(1), 83B(1), 83B(2), 86(1), 87(1), 87(2) and 88(2), and clause 88C,”.

22 Clause 2 of Schedule 3

After:

- | |
|---|
| (e) a supplier of a facility, or of any plant or substance for use at a facility; |
|---|

insert:

- | |
|--|
| (ea) a registered titleholder of a title that relates to a facility; |
|--|

23 Clause 3 of Schedule 3

Insert:

approved means approved in writing by the Chief Executive Officer of NOPSEMA.

Note: See also clause 92A (publication requirements for approved forms etc.).

discriminatory conduct has the meaning given by clause 88A.

dive vessel means a vessel that:

- (a) a NOPSEMA inspector is authorised to board, or to remain on board, under clause 52 or 53; and
- (b) is not a facility or an associated offshore place in relation to a facility.

diving contractor means a person engaged under a contract for services to conduct one or more diving operations.

diving supervisor means the person for the time being supervising diving that is carried out as part of a diving operation.

24 Clause 3 of Schedule 3 (definition of *OHS do not disturb notice*)

Repeal the definition, substitute:

OHS do not disturb notice means a notice issued under subclause 76(1) or 78C(1).

25 Clause 3 of Schedule 3 (definition of *OHS improvement notice*)

Repeal the definition, substitute:

OHS improvement notice means a notice issued under subclause 78(1) or 78G(1).

26 Clause 3 of Schedule 3 (definition of *OHS prohibition notice*)

Repeal the definition, substitute:

OHS prohibition notice means a notice issued under subclause 77(1) or 78E(1).

27 Clause 3 of Schedule 3

Insert:

prohibited reason has the meaning given by clause 88B.

safety management-related document has the meaning given by subclauses 37A(5) and (6).

titleholder's safety-related obligations means the obligations of a titleholder to comply with:

- (a) clause 13A of this Schedule (petroleum titleholder duty of care); or
- (b) clause 13B of this Schedule (greenhouse gas titleholder duty of care); or
- (c) clause 13C of this Schedule (duties of titleholders in relation to unrelated operators); or
- (d) prescribed regulations, or a prescribed provision of regulations, made under this Act.

28 Clause 3 of Schedule 3 (definition of *titleholder's well-related obligations*)

Repeal the definition.

29 Clause 3 of Schedule 3

Insert:

union means:

- (a) an employee organisation that is registered, or taken to be registered, under the *Fair Work (Registered Organisations) Act 2009*; or
- (b) an association of employees or independent contractors, or both, that is registered or recognised as such an association (however described) under a State or Territory industrial law (within the meaning of the *Fair Work Act 2009*).

30 Paragraph 9(2)(a) of Schedule 3

Omit “a physical”, substitute “an occupational”.

31 Paragraph 10(2)(a) of Schedule 3

Omit “physical”, substitute “occupational”.

32 After clause 13B of Schedule 3

Insert:

13C Duties of titleholders in relation to unrelated operators

If:

- (a) a facility has been used, is being used, has been prepared for use, or is being prepared for use, in connection with operations authorised by a petroleum title or a greenhouse gas title; and
- (b) the operator of the facility is not:
 - (i) a registered holder of the title; or
 - (ii) a related body corporate of a registered holder of the title;

the registered holder of the title must take all reasonably practicable steps to ensure that the operator complies with, and is

able to comply with, its obligations under this Act (and any regulations made for the purposes of this Act), in so far as they relate to the health and safety of persons at or near the facility.

33 Clause 16A of Schedule 3 (after paragraph (f) of the definition of *health and safety requirement*)

Insert:

- (fa) clause 13C (duties of titleholders in relation to unrelated operators);

34 At the end of subclause 17(3) of Schedule 3

Add:

- ; (s) providing for a scheme for notifying NOPSEMA of, and seeking NOPSEMA's comments about, the design of proposed facilities.

35 Subclause 26(4) of Schedule 3

Repeal the subclause, substitute:

- (4) An election conducted or arranged to be conducted under subclause (3) must be conducted:
 - (a) in accordance with regulations made for the purposes of this paragraph, if this is requested in accordance with subclause (4A); and
 - (b) with the assistance of a union or other person or organisation, if this is requested in accordance with subclause (4A).
- (4A) A request for the purposes of paragraph (4)(a) or (b) must be made by the lesser of:
 - (a) 100 members of the workforce normally in the designated work group; or
 - (b) a majority of the members of the workforce normally in the designated work group.

36 Clause 27 of Schedule 3

Before "The operator of a facility must", insert "(1)".

37 At the end of clause 27 of Schedule 3

Add:

- (2) The operator of a facility must provide a copy of a list prepared or updated under subclause (1) to NOPSEMA as soon as practicable after it is prepared or updated (as the case requires).
- (3) NOPSEMA must retain a copy of a list provided under subclause (2):
 - (a) in such a form that it is easily accessible for the purposes of NOPSEMA or a NOPSEMA inspector contacting the health and safety representatives; and
 - (b) until such time as a copy of any further list for the facility is provided under that subclause.

38 Clause 30 of Schedule 3

Repeal the clause, substitute:

30 Training of health and safety representatives

Health and safety representative must complete training

- (1) A health and safety representative for a designated work group must:
 - (a) complete a course of training relating to occupational health and safety (the **initial training course**), as soon as practicable after being selected as the health and safety representative for the designated work group; and
 - (b) complete a course of training designed to refresh or update the representative's skills and knowledge relating to occupational health and safety (a **refresher training course**) as soon as practicable before or after the end of 12 months after:
 - (i) the day the representative completed the initial training course; and
 - (ii) the day the representative last completed a refresher training course.

Accreditation and consultation requirements

- (2) A course of training completed by the representative for the purposes of paragraph (1)(a) or (b):

- (a) must be a course that is accredited by NOPSEMA for the purposes of that paragraph; and
- (b) may be chosen by the health and safety representative.

Operator of facility and employer must allow representative to attend training

- (3) The operator of the facility concerned and, if the representative is employed by a person other than the operator, that employer, must:
 - (a) permit the representative to take such time off work as is required to attend the initial training course and any refresher training courses, without loss of remuneration or other entitlements; and
 - (b) permit the representative to attend the initial training course as soon as practicable after the representative is selected as the health and safety representative for the designated work group; and
 - (c) permit the representative to attend a refresher training course as soon as practicable before or after the end of each 12 month period applicable under paragraph (1)(b).

Operator of facility or employer must pay training costs

- (4) The following person must pay any course fees associated with the representative undertaking training required by subclause (1) and the representative's reasonable costs of attending the training:
 - (a) the operator of the facility concerned (unless paragraph (b) of this subclause applies);
 - (b) if the representative is employed by a person other than the operator—the employer.

Disputes about training

- (5) If agreement cannot be reached between the operator or employer and the representative about a matter mentioned in subclause (3) or (4), any party may ask NOPSEMA to appoint a NOPSEMA inspector to decide the matter.
- (6) The NOPSEMA inspector may decide the matter in accordance with this clause, having regard to the following matters:

- (a) the timing and availability of courses accredited as mentioned in paragraph (2)(a);
 - (b) factors affecting when the representative can reasonably undertake the training;
 - (c) whether a deputy health and safety representative for the designated workgroup will be able to exercise the powers of a health and safety representative for the group while the training is undertaken;
 - (d) if the dispute relates to the reasonable costs of attending the training—such matters as the NOPSEMA inspector considers relevant that may affect whether the costs are reasonable;
 - (e) any other matter the NOPSEMA inspector considers relevant.
- (7) The operator of a facility concerned and, if the representative is employed by a person other than the operator, that employer, must:
- (a) allow a health and safety representative to:
 - (i) take such time off work as is decided by the NOPSEMA inspector; and
 - (ii) attend a course within any period decided by the NOPSEMA inspector; and
 - (b) pay any costs decided by the NOPSEMA inspector.

Civil penalty

- (8) A person is liable to a civil penalty if the person contravenes a requirement under subclause (3), (4) or (7).

Civil penalty: 100 penalty units.

Continuing contraventions

- (9) A person who contravenes subclause (3), (4) or (7) commits a separate contravention in respect of each day (including a day of the making of a relevant civil penalty order or any later day) during which the contravention continues.
- (10) The maximum civil penalty for each day that a contravention of subclause (3), (4) or (7) continues is 10% of the maximum civil penalty that can be imposed in respect of that contravention.

39 Subclause 32(2) of Schedule 3

Omit “either or both”, substitute “one or more”.

40 At the end of subclause 32(2) of Schedule 3

Add:

- ; (c) that the health and safety representative has failed to attend an initial training course, or any refresher training courses, as required by clause 30, in circumstances where the following have complied with their obligations under that clause in relation to the representative:
 - (i) the operator of the facility concerned;
 - (ii) if the representative is employed by a person other than the operator, that employer.

41 After paragraph 34(1)(d) of Schedule 3

Insert:

- (da) request a review of safety management-related documents by the operator of the facility, in accordance with clause 37A; and

42 After clause 37 of Schedule 3

Insert:

37A Request for review of safety management-related documents

Requests for review

- (1) A health and safety representative for a designated work group in relation to a facility may request the operator of the facility to review safety management-related documents relating to the facility, if the representative reasonably believes that:
 - (a) a circumstance exists that affects the health and safety of workers at the facility; and
 - (b) the operator has not adequately reviewed the documents in response to the circumstance.
- (2) A request made under subclause (1) must:
 - (a) be in the approved form (if any); and

- (b) specify the relevant circumstance mentioned in paragraph (1)(a); and
- (c) specify details about how the circumstance affects the health and safety of workers at the facility; and
- (d) set out the reasons why the representative believes the operator has not adequately reviewed the documents in response to the circumstance; and
- (e) comply with any other requirements prescribed by the regulations for the purposes of this paragraph.

Review and revision of safety management-related documents

- (3) As soon as practicable after receiving a request under subclause (1), the operator of the facility must review the safety management-related documents.
- (4) As soon as practicable after reviewing the safety management-related documents in accordance with subclause (3), the operator of the facility must give a written notice to the health and safety representative specifying:
 - (a) that the safety management-related documents have been reviewed; and
 - (b) either:
 - (i) if the operator considers that revisions to the safety management-related documents are necessary—the revisions the operator intends to make and the reasons for each revision; or
 - (ii) if the operator considers that no revisions are necessary—an explanation as to why revisions are not required.

Meaning of safety management-related document

- (5) Subject to subclause (6), a **safety management-related document** is a document prepared by, or on behalf of, the operator of a facility that sets out, in whole or in part, a system for managing occupational health and safety at the facility.
- (6) The regulations may provide that a specified document is taken to be, or taken not to be, a **safety management-related document**.

43 After paragraph 40(1)(d) of Schedule 3

Insert:

- (da) in relation to a request from the representative, under subclause 37A(1), for the operator to review safety management-related documents relating to the facility:
 - (i) review those documents in accordance with subclause 37A(3); and
 - (ii) give notice to the representative in accordance with subclause 37A(4); and
 - (iii) if the notice specifies, under subparagraph 37A(4)(b)(i), revisions the operator intends to make to those documents—make the revisions as soon as practicable after giving the notice; and

44 Paragraph 40(1)(e) of Schedule 3

Repeal the paragraph, substitute:

- (e) permit the representative to take such time off work, without loss of remuneration or other entitlements, as is necessary to:
 - (i) exercise the powers of a health and safety representative; and
 - (ii) attend an initial training course and any refresher training courses in accordance with clause 30; and

45 Subclause 41(2) of Schedule 3

Omit “The”, substitute “Subject to subclauses (3A) to (3C), the”.

46 After subclause 41(3) of Schedule 3

Insert:

- (3A) If:
 - (a) there is only one designated work group at the facility; and
 - (b) the health and safety representative for the designated work group consents to being a member of the health and safety committee;the representative is a member of the committee.
- (3B) If there are 2 or more designated work groups at the facility, the health and safety representatives for those designated work groups

may choose one or more of their number, who consent, to be members of the health and safety committee.

- (3C) For the purposes of subparagraph (2)(b)(i), a health and safety representative who is a member of the health and safety committee under subclause (3A) or (3B) is taken to be a member chosen by the members of the workforce to represent the interests of the members of the workforce.

47 Subclause 41(4) of Schedule 3

After “members of health and safety committees”, insert “(including as mentioned in subclause (3B))”.

48 Clause 47 of Schedule 3

After “at or near a facility”, insert “, or on certain vessels if the accident or occurrence is directly related to certain diving operations relating to a facility”.

49 Paragraph 49(2)(c) of Schedule 3

Repeal the paragraph, substitute:

- (c) concerning an accident or dangerous occurrence that has happened:
 - (i) at or near a facility; or
 - (ii) on a vessel that is neither a facility nor an associated offshore place in relation to a facility, if the accident or dangerous occurrence is directly related to diving operations relating to the construction, installation, operation, maintenance or decommissioning of a facility.

50 At the end of subclause 49(2) of Schedule 3

Add:

Note: A facility includes an associated offshore place in relation to the facility (see paragraph (b) of the definition of *facility* in clause 3).

51 At the end of clause 49 of Schedule 3

Add:

Location of vessel is immaterial for certain purposes

- (5) For the purposes of:
- (a) subparagraph (2)(c)(ii) (OHS inspections concerning accidents or dangerous occurrences on certain vessels); or
 - (b) for any OHS inspection—the exercise of a power under this Part for the purposes of the inspection in relation to a vessel that is neither a facility nor an associated offshore place in relation to a facility;
- it is immaterial whether the vessel is:
- (c) in an offshore area; or
 - (d) in the coastal waters of a State or the Northern Territory; or
 - (e) in waters within the limits of a State or Territory.

52 At the end of subclause 50(1) of Schedule 3

Add:

Note: A facility includes an associated offshore place in relation to the facility (see paragraph (b) of the definition of *facility* in clause 3).

53 Subclause 50(2) of Schedule 3 (note)

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

54 Subparagraph 51(1)(a)(ii) of Schedule 3

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

55 After clause 51 of Schedule 3

Insert:

52 OHS inspections—diving operations

Power to board and search vessels

- (1) A NOPSEMA inspector may, for the purposes of an OHS inspection:
- (a) at any reasonable time, board a vessel (other than a facility or an associated offshore place in relation to a facility) if the inspector is satisfied on reasonable grounds that the vessel is

being used in connection with diving operations that relate to the construction, installation, operation, maintenance or decommissioning of a facility; and

- (b) search the vessel for any plant, substances, documents or things on the vessel that relate to the diving operations; and
- (c) inspect, examine or measure, or conduct tests concerning, any such plant, substances or things on the vessel; and
- (d) take photographs of, make video recordings of, or make sketches of, any such plant, substances or things on the vessel; and
- (e) inspect, take extracts from, or make copies of, any such documents on the vessel; and
- (f) observe any diving operations in connection with which the vessel is being used and take photographs of, make video recordings of, or make sketches of any such operations; and
- (g) exercise the powers conferred by clause 74 in relation to the OHS inspection; and
- (h) exercise the powers conferred by clause 75 in relation to the OHS inspection.

Notification of boarding

- (2) Immediately on boarding a vessel under this clause for the purposes of an OHS inspection, a NOPSEMA inspector must take reasonable steps to notify the purpose of the boarding to:
 - (a) the master of the vessel; and
 - (b) the person on the vessel who is in charge of the diving operations.
- (3) The inspector must, on being requested to do so by the master of the vessel, produce for inspection by the master:
 - (a) the inspector's identity card; and
 - (b) a copy of NOPSEMA's written direction (if any) to conduct the inspection; and
 - (c) a copy of any directions issued by NOPSEMA under section 602A in relation to the exercise of the inspector's powers.

53 OHS inspections—vessel becoming or ceasing to be an associated offshore place

Vessel that becomes an associated offshore place

(1) If:

- (a) a vessel becomes an associated offshore place in relation to a facility (the **relevant facility**) at a particular time (the **transition time**); and
- (b) immediately before that time, a NOPSEMA inspector was on board the vessel as authorised by clause 52 (including because of the operation of subclause (2) of this clause);

then, at and after the transition time:

- (c) clause 50 is taken to authorise the NOPSEMA inspector to remain on board the vessel for the purposes of the OHS inspection; and
- (d) the NOPSEMA inspector may exercise powers under subparagraphs 50(1)(a)(i) to (vi) and paragraphs 50(1)(b) and 52(1)(f) for the purposes of the OHS inspection while the inspector remains on board the vessel; and
- (e) subclause 50(2) applies in relation to the OHS inspection and the relevant facility as if the NOPSEMA inspector had entered the facility at the transition time; and
- (f) subclauses 50(2A) and (3), and 52(1) and (2) (other than paragraph 52(1)(f)), do not apply in relation to the OHS inspection; and
- (g) subclause 52(3) continues to apply in relation to the OHS inspection.

Note: A vessel is part of a facility while it is an associated offshore place in relation to the facility: see paragraph (b) of the definition of **facility** in clause 3.

Vessel that ceases to be an associated offshore place

(2) If:

- (a) a vessel ceases to be an associated offshore place in relation to a facility (the **relevant facility**) at a particular time (the **transition time**); and

- (b) immediately before that time, a NOPSEMA inspector was on board the vessel as authorised by clause 50 (including because of the operation of subclause (1) of this clause); and
 - (c) at the transition time, the NOPSEMA inspector is satisfied on reasonable grounds that the vessel is being used in connection with diving operations that relate to the construction, installation, operation, maintenance or decommissioning of a facility;
- then, at and after the transition time:
- (d) clause 52 is taken to authorise the NOPSEMA inspector to remain on board the vessel for the purposes of the OHS inspection; and
 - (e) the NOPSEMA inspector may exercise powers under paragraphs 52(1)(b) to (h) for the purposes of the OHS inspection while the inspector remains on board the vessel; and
 - (f) subclauses 52(2) and (3) apply in relation to the OHS inspection (with subclause 52(2) doing so as if the NOPSEMA inspector had boarded the vessel at the transition time); and
 - (g) clause 50 does not apply in relation to the OHS inspection.

56 Subclauses 54(1) and (1A) of Schedule 3

Omit “50 or 51”, substitute “50, 51 or 52”.

57 Before clause 73 of Schedule 3

Insert:

Subdivision A—Powers to require assistance, information or documents and power to take possession of plant etc.

58 Subclause 73(1) of Schedule 3 (at the end of the heading)

Add “—*OHS inspections on facilities*”.

59 After subclause 73(2) of Schedule 3

Insert:

Requirement to provide assistance—OHS inspections on dive vessels

- (2A) A NOPSEMA inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of an OHS inspection on a dive vessel, require a person covered by subclause (2C) to provide the inspector with reasonable assistance and facilities:
- (a) that is or are reasonably connected with the conduct of the inspection on board the vessel; or
 - (b) for the effective exercise of the inspector's powers in connection with the conduct of the inspection on board the vessel.
- (2B) The reasonable assistance referred to in subclause (2A) includes, so far as the persons covered by subclause (2C) are concerned:
- (a) appropriate transport to or from the vessel for the inspector and for any equipment required by the inspector, or any thing of which the inspector has taken possession; and
 - (b) arranging for the inspector to be present on board the vessel; and
 - (c) arranging for persons on board the vessel to facilitate the conduct by the inspector of the OHS inspection; and
 - (d) arranging for reasonable means of subsistence while the inspector is present on board the vessel; and
 - (e) arranging for reasonable accommodation while the inspector is present on board the vessel.
- (2C) This subclause covers the following persons:
- (a) the diving contractor for the diving operations being carried out on or from the dive vessel;
 - (b) the operator of the facility to which those diving operations relate.

60 Subclause 73(5) of Schedule 3

Omit "titleholder's well-related obligations", substitute "titleholder's safety-related obligations".

61 After subparagraph 74(1)(b)(vf) of Schedule 3

Insert:

(vg) in the case of an inspection on a dive vessel on or from which diving operations are being carried out—the diving contractor, the diving supervisor or a person engaged in the diving operations; or

62 Subclause 74(2) of Schedule 3

After “regulated business premises”, insert “or, for subparagraph (1)(b)(vg), the dive vessel”.

63 After subparagraph 74(3)(b)(vf) of Schedule 3

Insert:

(vg) in the case of an inspection on a dive vessel on or from which diving operations are being carried out—the diving contractor, the diving supervisor or a person engaged in the diving operations; or

64 Subclause 74(4) of Schedule 3

After “regulated business premises”, insert “or, for subparagraph (3)(b)(vg), the dive vessel”.

65 Subclause 74(10) of Schedule 3

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

66 Subclause 74(16) of Schedule 3

Omit “titleholder’s well-related obligations” (wherever occurring), substitute “titleholder’s safety-related obligations”.

67 Subclause 75(1) of Schedule 3

After “regulated business premises”, insert “or on a dive vessel”.

68 Subclause 75(1) of Schedule 3

After “at those premises”, insert “, or on that vessel,”.

69 Paragraphs 75(1)(a) and (b) of Schedule 3

After “premises”, insert “or that vessel”.

70 Subclause 75(2) of Schedule 3 (note)

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

71 After subclause 75(2A) of Schedule 3

Insert:

- (2B) On taking possession of plant, a substance or a thing, or taking a sample of a substance or thing, in connection with an OHS inspection on a dive vessel, the inspector must, by written notice, inform:
- (a) the master of the vessel; and
 - (b) the diving contractor for the diving operations being carried out on or from the dive vessel; and
 - (c) the diving supervisor for those diving operations; and
 - (d) if the plant, substance or thing is used by a person in the course of the person’s employment by a particular employer (within the ordinary meaning of that expression)—the employer; and
 - (e) if the plant, substance or thing is owned by a person other than a person mentioned in any of paragraphs (a) to (d)—that other person;
- of the taking of possession or the taking of the sample, and the reasons for it.

72 After subclause 75(3) of Schedule 3

Insert:

- (3A) If the OHS inspection is on a dive vessel, the diving supervisor for the diving operations being carried out on or from the dive vessel must cause the notice given to the diving supervisor under paragraph (2B)(c) to be displayed in a prominent place in the area on the vessel from which the plant, substance or thing was removed.

73 At the end of clause 75 of Schedule 3

Add:

- (8) If the OHS inspection is on a dive vessel, and the inspector takes possession of plant, a substance or a thing on the vessel for the purpose of inspecting, examining, taking measurements of, or conducting tests concerning, the plant, substance or thing, the inspector must:
- (a) ensure that the inspection, examination, measuring or testing is conducted as soon as practicable; and
 - (b) return it to the vessel, or to the owner of the plant, substance or thing, as soon as practicable afterwards.
- (9) As soon as practicable after completing any such inspection, examination, measurement or testing, the inspector must give a written statement setting out the results to each person whom the inspector is required to notify under subclause (2B).

74 After clause 75 of Schedule 3

Insert:

Subdivision B—OHS notices relating to facilities

75 Clause 76 of Schedule 3 (heading)

After “OHS inspections”, insert “in relation to facilities”.

76 Paragraph 76(2)(b) of Schedule 3

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

77 Subclause 76(3) of Schedule 3 (note)

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

78 Paragraph 76(7)(a) of Schedule 3

After “OHS do not disturb notice”, insert “issued under this clause”.

79 Clauses 76A and 77 of Schedule 3 (heading)

After “OHS inspections”, insert “in relation to facilities”.

80 Paragraph 77(2)(b) of Schedule 3

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

81 Subclause 77(3) of Schedule 3 (note)

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

82 Paragraph 77(7)(a) of Schedule 3

After “OHS prohibition notice”, insert “issued under this clause”.

83 Clause 77A of Schedule 3 (heading)

After “OHS inspections”, insert “in relation to facilities”.

84 Subclause 77A(5) of Schedule 3

Repeal the subclause, substitute:

Display of notice

- (5) The operator’s representative at the facility must cause a copy of the notice to be displayed in a prominent place at or near each workplace at which work affected by the notice is being performed.

85 Clause 78 of Schedule 3 (heading)

After “OHS inspections”, insert “in relation to facilities”.

86 Subclause 78(2) of Schedule 3 (note)

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

87 Clause 78A of Schedule 3 (heading)

After “OHS inspections”, insert “in relation to facilities”.

88 Subclause 78A(1) of Schedule 3

After “OHS improvement notice”, insert “issued under clause 78”.

89 Clause 78B (heading) of Schedule 3

After “OHS inspections”, insert “in relation to facilities”.

90 Subparagraph 78B(7)(d)(ii) of Schedule 3

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

91 After clause 78B of Schedule 3

Insert:

Subdivision C—OHS notices relating to dive vessels

78C OHS inspections on dive vessels—OHS do not disturb notices (general)

When a notice may be issued

- (1) A NOPSEMA inspector may issue a notice (an ***OHS do not disturb notice***), in writing, under this clause if, in conducting an OHS inspection on a dive vessel, the inspector is satisfied on reasonable grounds that it is reasonably necessary to issue the notice in order to:
 - (a) remove an immediate threat to the health or safety of any person; or
 - (b) allow the inspection, examination or measurement of, or the conducting of tests concerning, particular plant, or a particular substance or thing, on the vessel.

Issue of notice

- (2) The notice may be issued to either or both of the following persons (the ***responsible person***):
 - (a) the diving contractor for the diving operations being carried out on or from the dive vessel;
 - (b) the diving supervisor for those diving operations.

Contents of notice

- (3) The notice must:

- (a) direct the responsible person to take all reasonably practicable steps to ensure that one or more of the following are not disturbed for a period specified in the notice:
 - (i) a particular part of the vessel;
 - (ii) particular plant, or a particular substance or thing, on the vessel; and
 - (b) set out the reasons for the inspector's decision to issue the notice.
- (4) The period specified in the notice must be a period that the inspector is satisfied on reasonable grounds is necessary in order to allow the inspection, examination, measuring or testing to take place.

Renewal of notice

- (5) The notice may be renewed by another notice in the same terms.

Offence

- (6) A person commits an offence if:
- (a) the person is subject to an OHS do not disturb notice issued under this clause; and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the notice.

Penalty for contravention of subclause (6): 300 penalty units.

78D OHS inspections on dive vessels—OHS do not disturb notices (notification and display)

Scope

- (1) This clause applies if a NOPSEMA inspector issues an OHS do not disturb notice to a person (the *responsible person*) under clause 78C.

Notification to interested persons

- (2) The inspector must, as soon as practicable after issuing the notice, take reasonable steps to give a copy of the notice to:

- (a) if the only responsible person for the notice is the diving contractor—the diving supervisor; and
- (b) if the only responsible person for the notice is the diving supervisor—the diving contractor; and
- (c) in any case—the master of the dive vessel and the operator of the facility to which the diving operations relate; and
- (d) if the notice relates to any plant, substance or thing that is owned by a person other than a person mentioned in paragraph (a), (b) or (c)—that owner.

Display of notice

- (3) The responsible person for the notice must cause a copy of the notice to be displayed in a prominent place:
 - (a) at the particular place on the vessel that is to be left undisturbed; or
 - (b) where the plant, substance or thing that is to be left undisturbed is located on the vessel.

78E OHS inspections on dive vessels—OHS prohibition notices (issue)

When a notice may be issued

- (1) A NOPSEMA inspector may issue a notice (an ***OHS prohibition notice***), in writing, under this clause if, in conducting an OHS inspection on a dive vessel, the inspector is satisfied on reasonable grounds that:
 - (a) either:
 - (i) an activity is occurring on, or near, the vessel that involves an immediate threat to the health or safety of a person; or
 - (ii) an activity may occur on, or near, the vessel that, if it occurred, would involve an immediate threat to the health or safety of a person; and
 - (b) the threat is directly related to the diving operations being carried out on or from the vessel; and
 - (c) it is reasonably necessary to issue the notice in order to remove the threat.

Note: The notice will be published on NOPSEMA's website (see clause 80AA).

Responsible person for the notice

- (2) The notice may be issued to either or both of the following persons (the **responsible person**):
- (a) the diving contractor for the diving operations being carried out on or from the dive vessel;
 - (b) the diving supervisor for those diving operations.

Contents of notice

- (3) The notice must:
- (a) specify the activity mentioned in subparagraph (1)(a)(i) or (ii); and
 - (b) set out the reasons for the inspector's satisfaction about the circumstances mentioned in subparagraph (1)(a)(i) or (ii); and
 - (c) direct the responsible person for the notice to:
 - (i) ensure that the activity is not conducted; or
 - (ii) ensure that the activity is not conducted in a specified manner.
- (4) For the purposes of subparagraph (3)(c)(ii), a specified manner may relate to any one or more of the following:
- (a) any part of the vessel at which the activity is not to be conducted;
 - (b) any chamber or other environment in which the activity is not to be conducted;
 - (c) any plant, substance or thing that is not to be used in connection with the activity;
 - (d) any procedure that is not to be followed in connection with the activity.
- (5) The notice may specify action that may be taken to satisfy a NOPSEMA inspector that adequate action has been taken to remove the threat to health or safety.

Offence

- (6) A person commits an offence if:
- (a) the person is subject to an OHS prohibition notice issued under this clause; and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the notice.

Penalty for contravention of subclause (6): 600 penalty units.

Continuing offences

- (7) A person who commits an offence against subclause (6) commits a separate offence in respect of each day (including a day of a conviction under this clause or any later day) during which the offence continues.
- (8) The maximum penalty for each day that an offence under subclause (6) continues is 10% of the maximum penalty that can be imposed in respect of that offence.

78F OHS inspections on dive vessels—OHS prohibition notices (notification, display and compliance)

Scope

- (1) This clause applies if a NOPSEMA inspector issues an OHS prohibition notice to a person (the *responsible person*) under clause 78E in relation to a threat to health or safety that is directly related to diving operations.

Notification to interested persons

- (2) The inspector must, as soon as practicable after issuing the notice, take reasonable steps to give a copy of the notice to:
- (a) if the only responsible person for the notice is the diving contractor—the diving supervisor; and
 - (b) if the only responsible person for the notice is the diving supervisor—the diving contractor; and
 - (c) in any case—the master of the dive vessel and the operator of the facility to which the diving operations relate; and

- (d) if the notice relates to any plant, substance or thing that is owned by a person other than a person mentioned in paragraph (a), (b) or (c)—that owner.

Display of notice

- (3) The responsible person for the notice must cause a copy of the notice to be displayed in a prominent place on the dive vessel at or near the particular place on the vessel at or from which work or activities that are affected by the notice are taking place.

Inadequate action in response to notice

- (4) If a NOPSEMA inspector is satisfied that action taken by the responsible person to remove the threat to health or safety is not adequate, the inspector must inform the responsible person accordingly.
- (5) In making a decision under subclause (4), a NOPSEMA inspector may exercise such of the powers of a NOPSEMA inspector conducting an OHS inspection as the inspector considers necessary for the purposes of making the decision.

When notice ceases to have effect

- (6) The notice ceases to have effect in relation to a responsible person when a NOPSEMA inspector notifies the responsible person that the inspector is satisfied that the responsible person, or another person, has taken adequate action to remove the threat to health or safety.

78G OHS inspections on dive vessels—OHS improvement notices (issue)

When a notice may be issued

- (1) A NOPSEMA inspector may issue a notice (an ***OHS improvement notice***) to a person covered by subclause (2) (the ***responsible person***), in writing, under this clause if, in conducting an OHS inspection on a dive vessel, the inspector is satisfied on reasonable grounds that:
 - (a) the responsible person:

- (i) is contravening a provision of a listed OHS law; or
- (ii) has contravened a provision of a listed OHS law and is likely to contravene that provision again; and
- (b) as a result, there is, or may be, a risk to the health or safety of any person; and
- (c) that risk is directly related to the diving operations being carried out on or from the dive vessel.

Note: The notice will be published on NOPSEMA's website (see clause 80AA).

Responsible person for the notice

- (2) This subclause covers the following persons:
 - (a) the diving contractor for the diving operations being carried out on or from the dive vessel;
 - (b) the diving supervisor for those diving operations.

Contents of notice

- (3) The notice must:
 - (a) specify the contravention that the NOPSEMA inspector is satisfied on reasonable grounds is occurring, or has occurred and is likely to occur again, and set out those grounds; and
 - (b) specify the risk to health or safety mentioned in paragraph (1)(b); and
 - (c) specify action that the inspector is satisfied on reasonable grounds is required to be taken by the responsible person to reduce or prevent the risk; and
 - (d) specify a period within which the responsible person is to take the action.

Period of notice and action to be taken

- (4) The period specified in the notice must be reasonable.
- (5) If the NOPSEMA inspector is satisfied on reasonable grounds that it is appropriate to do so, the NOPSEMA inspector may, in writing and before the end of the period, extend the period specified in the notice.

**78H OHS inspections on dive vessels—OHS improvement notices
(compliance)**

Duty of responsible person

- (1) A responsible person in relation to an OHS improvement notice issued under clause 78G must ensure that the notice is complied with to the extent that it relates to any matter over which the person has control.

Offence

- (2) A person commits an offence if:
- (a) the person is subject to a requirement under subclause (1); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 300 penalty units.

Civil penalty

- (3) A person is liable to a civil penalty if the person contravenes a requirement under subclause (1).

Civil penalty: 400 penalty units.

Continuing offences and continuing contraventions of civil penalty provisions

- (4) The maximum penalty for each day that an offence under subclause (2) continues is 10% of the maximum penalty that can be imposed in respect of that offence.

Note: Subclause (2) is a continuing offence under section 4K of the *Crimes Act 1914*.

- (5) The maximum civil penalty for each day that a contravention of subclause (3) continues is 10% of the maximum civil penalty that can be imposed in respect of that contravention.

Note: Subclause (3) is a continuing civil penalty provision under section 93 of the Regulatory Powers Act.

**78J OHS inspections on dive vessels—OHS improvement notices
(notification and display)**

Scope

- (1) This clause applies if a NOPSEMA inspector issues an OHS improvement notice to a person (the **responsible person**) under clause 78G in relation to a contravention, or likely contravention, of a listed OHS law.

Notification to interested persons

- (2) The inspector must, as soon as practicable after issuing the notice, take reasonable steps to give a copy of the notice to:
- (a) if the only responsible person for the notice is the diving contractor—the diving supervisor; and
 - (b) if the only responsible person for the notice is the diving supervisor—the diving contractor; and
 - (c) in any case:
 - (i) the master of the dive vessel; and
 - (ii) the operator of the facility to which the diving operations relate; and
 - (d) if the notice relates to any plant, substance or thing that is owned by a person other than a person mentioned in paragraph (a), (b) or (c)—that owner.

Display of notice

- (3) The responsible person for the notice must cause a copy of the notice to be displayed in a prominent place at or near the particular place on the vessel at or from which work or activities that are affected by the notice are taking place.

**Subdivision D—Tampering with notices and publication of
OHS notices**

92 Subclause 79(1) of Schedule 3

Omit “or 78B(6)”, substitute “, 78B(6), 78D(3), 78F(3) or 78J(3)”.

93 After subclause 79(2) of Schedule 3

Insert:

- (2A) If a notice has been displayed under subclause 75(3A), a person must not remove the notice until the plant, substance or thing to which the notice relates is returned to the vessel or to the owner of the plant, substance or thing.

94 Subclause 79(3) of Schedule 3

Omit “or 78B(6)”, substitute “, 78B(6), 78D(3), 78F(3) or 78J(3)”.

95 Paragraph 79(4)(a) of Schedule 3

After “(2)”, insert “, (2A)”.

96 Subclause 80(1A) of Schedule 3

Omit “section”, substitute “clause”.

97 Paragraph 80(3)(aa) of Schedule 3

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

98 After paragraph 80(3)(aa) of Schedule 3

Insert:

- (ab) if the report relates to diving operations carried out on or from a dive vessel—the diving contractor; and

99 Subclause 80(4) of Schedule 3

Repeal the subclause, substitute:

- (4) NOPSEMA may, in writing, request a person to whom a copy of the report is given under subclause (3) to provide to NOPSEMA, within a reasonable period specified in the request, details of:
- (a) any action proposed to be taken as a result of the conclusions or recommendations contained in the report; and
 - (b) if a notice has been issued under clause 77 or 78 in relation to work being performed for the person—any action taken, or proposed to be taken, in respect of that notice; and

- (c) if a notice has been issued under clause 78E or 78G in relation to diving operations for which the person is the diving contractor—any action taken, or proposed to be taken, in respect of that notice;
and the person must comply with the request.

100 Paragraph 80A(1)(b) of Schedule 3

Omit “items 4 to 8”, substitute “items 4 to 12”.

101 Subclause 80A(1) of Schedule 3 (table item 1, column headed “the following persons may appeal against the decision to the reviewing authority by written notice ...”, paragraph (c))

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

102 Subclause 80A(1) of Schedule 3 (table item 3, column headed “the following persons may appeal against the decision to the reviewing authority by written notice ...”, paragraph (b))

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

103 Subclause 80A(1) of Schedule 3 (table item 3A, column headed “the following persons may appeal against the decision to the reviewing authority by written notice ...”, paragraph (e))

Omit “titleholder’s well-related obligations”, substitute “titleholder’s safety-related obligations”.

104 Subclause 80A(1) of Schedule 3 (after table item 3A)

Insert:

- | | | |
|----|--|--|
| 3B | A decision to take possession of plant, a substance or thing, or to take a sample, in conducting an OHS inspection on a dive vessel in | (a) the master of the vessel, if the master is affected by the decision;
(b) the diving contractor for the diving operations; |
|----|--|--|

relation to diving operations under
clause 75

- (c) the diving supervisor for the diving operations;
- (d) a person who owns the plant, substance or thing;
- (e) if the plant, substance or thing is used by a person in the course of the person's employment by a particular employer (within the ordinary meaning of that expression)—the employer.

105 Subclause 80A(1) of Schedule 3 (table items 6 and 7, column headed “If the inspector makes the following decision ...”, paragraph (a))

After “OHS prohibition notice has been issued”, insert “under clause 77”.

106 Subclause 80A(1) of Schedule 3 (at the end of the table)

Add:

9	Either of the following: (a) a decision to issue an OHS do not disturb notice, under clause 78C; (b) a decision to exercise the corresponding power under section 602E.	(a) the diving contractor for the diving operations, if the notice is issued to the diving contractor; (b) the diving supervisor for the diving operations, if the notice is issued to the diving supervisor; (c) a person who owns the plant, substance or thing; (d) the master of the dive vessel, if the master is affected by the decision; (e) the operator of the facility to which the diving operations relate, if the operator is affected by the decision.
10	Either of the following: (a) a decision to issue an OHS prohibition notice, under clause 78E;	(a) the diving contractor for the diving operations, if the notice is issued to the diving contractor;

	(b) a decision to exercise the corresponding power under section 602E.	(b) the diving supervisor for the diving operations, if the notice is issued to the diving supervisor; (c) the master of the dive vessel, if the master is affected by the decision; (d) the operator of the facility to which the diving operations relate, if the operator is affected by the decision.
11	Either of the following: (a) a decision that a person to whom an OHS prohibition notice has been issued under clause 78E has not taken adequate action to remove a threat to health and safety, for the purposes of subclause 78F(4); (b) a corresponding decision in relation to the exercise of the corresponding power under section 602E.	(a) the diving contractor for the diving operations, if the notice is issued to the diving contractor; (b) the diving supervisor for the diving operations, if the notice is issued to the diving supervisor; (c) the operator of the facility to which the diving operations relate, if the operator is affected by the decision.
12	Either of the following: (a) a decision to issue an OHS improvement notice, under clause 78G; (b) a decision to exercise the corresponding power under section 602E.	(a) the diving contractor for the diving operations, if the notice is issued to the diving contractor; (b) the diving supervisor for the diving operations, if the notice is issued to the diving supervisor; (c) a person who owns any plant, substance or thing to which the notice relates; (d) the master of the dive vessel, if the master is affected by the decision; (e) the operator of the facility to which the diving operations relate, if the operator is affected by the decision.

107 Subclause 81(4) of Schedule 3

Omit “item 8”, substitute “item 8 or 12”.

108 Subclause 81(4) of Schedule 3 (note)

Repeal the note, substitute:

- Note 1: Item 8 of the table in subclause 80A(1) applies to a decision to issue an OHS improvement notice under clause 78, or to exercise a corresponding power under section 602E.
- Note 2: Item 12 of the table in subclause 80A(1) applies to a decision to issue an OHS improvement notice under clause 78G, or to exercise a corresponding power under section 602E.

109 Subclause 81(8) of Schedule 3

Repeal the subclause, substitute:

Inspector's duty to return plant etc.

(8) If:

- (a) the decision appealed against is a decision under clause 75 to take possession of plant, a substance or a thing; and
- (b) the decision is not affirmed;

the inspector who made the decision must ensure that, to the extent that the decision is not affirmed, the plant, substance or thing is returned as soon as practicable to:

- (c) if the plant, substance or thing was taken at a facility—the workplace from which it was taken; or
- (d) if the plant, substance or thing was taken at regulated business premises (other than a facility)—a representative of the occupier of the premises; or
- (e) if the plant, substance or thing was taken on a dive vessel—the vessel or the owner of the plant, substance or thing.

110 Subclause 82(1) of Schedule 3

Omit “, in accordance with the regulations, give NOPSEMA notice of the accident or dangerous occurrence”, substitute “give NOPSEMA notice of the accident or dangerous occurrence in accordance with subclause (2) and regulations made for the purposes of subclause (3)”.

111 Subclauses 82(2) and (3) of Schedule 3

Repeal the subclauses, substitute:

- (2) The notice must be given in the approved form (if any) and in an approved manner (if any).
- (3) The regulations may prescribe:
 - (a) the time within which a notice under subclause (1) is to be given; and
 - (b) information to be included in a notice under that subclause.

112 Subclause 82(4) of Schedule 3 (note)

Repeal the note.

113 After subclause 82(4) of Schedule 3

Insert:

Duty of diving supervisor to notify accidents and dangerous occurrences

- (5) If:
 - (a) an accident or dangerous occurrence happens on a vessel at a particular time; and
 - (b) the vessel is neither a facility nor an associated offshore place in relation to a facility at that time; and
 - (c) the accident or dangerous occurrence is directly related to diving operations relating to the construction, installation, operation, maintenance or decommissioning of a facility; and
 - (d) in the case of an accident—the accident causes:
 - (i) the death of, or serious injury to, any individual; or
 - (ii) a person involved in the diving operations to be incapacitated from performing work for a period prescribed for the purposes of this subparagraph;the diving supervisor for the diving operations must give NOPSEMA notice of the accident or dangerous occurrence in accordance with subclause (5A) and regulations made for the purposes of subclause (5B).

- (5A) The notice must be given in the approved form (if any) and in an approved manner (if any).

- (5B) The regulations may prescribe:

- (a) the time within which a notice under subclause (5) is to be given; and
 - (b) information to be included in a notice under that subclause.
- (5C) A person commits an offence of strict liability if:
- (a) the person is subject to a requirement under subclause (5); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 60 penalty units.

114 Subclause 82(6) of Schedule 3

Omit “, in accordance with the regulations, give NOPSEMA a report about the accident or dangerous occurrence”, substitute “give NOPSEMA a written report about the accident or dangerous occurrence in accordance with subclause (7) and regulations made for the purposes of subclause (8)”.

115 Subclauses 82(7) and (8) of Schedule 3

Repeal the subclauses, substitute:

- (7) The report must be given in the approved form (if any) and in an approved manner (if any).
- (8) The regulations may prescribe:
 - (a) the time within which a report under subclause (6) is to be given; and
 - (b) information to be included in a report under that subclause.

116 Subclause 82(9) of Schedule 3 (note)

Repeal the note.

117 After subclause 82(9) of Schedule 3

Insert:

Duty of diving supervisor to report accidents and dangerous occurrences

- (9A) If:

- (a) an accident or dangerous occurrence happens on a vessel at a particular time; and
 - (b) the vessel is neither a facility nor an associated offshore place in relation to a facility at that time; and
 - (c) the accident or dangerous occurrence is directly related to diving operations relating to the construction, installation, operation, maintenance or decommissioning of a facility; and
 - (d) in the case of an accident—the accident causes:
 - (i) the death of, or serious injury to, any individual; or
 - (ii) a person involved in the diving operations to be incapacitated from performing work for a period prescribed for the purposes of this subparagraph;the diving supervisor for the diving operations must give NOPSEMA a written report about the accident or dangerous occurrence in accordance with subclause (9B) and regulations made for the purposes of subclause (9C).
- (9B) The report must be given in the approved form (if any) and in an approved manner (if any).
- (9C) The regulations may prescribe:
- (a) the time within which a report under subclause (9A) is to be given; and
 - (b) information to be included in a report under that subclause.
- (9D) A person commits an offence of strict liability if:
- (a) the person is subject to a requirement under subclause (9A); and
 - (b) the person omits to do an act; and
 - (c) the omission breaches the requirement.

Penalty: 30 penalty units.

118 Subclauses 82(10) and (11) of Schedule 3

Omit “(4) or (9)”, substitute “(4), (5C), (9) or (9D)”.

119 Subclause 83(1) of Schedule 3 (heading)

Omit “*of operator*”, substitute “*to keep records of accidents and dangerous occurrences*”.

120 Subclause 83(1) of Schedule 3

Omit “by clause 82”, substitute “by subclause 82(1)”.

121 After subclause 83(1) of Schedule 3

Insert:

- (1A) The diving supervisor for diving operations must maintain, in accordance with the regulations, a record of each accident or dangerous occurrence in respect of which the diving supervisor is required by subclause 82(5) to notify NOPSEMA.

122 Subclause 83(2) of Schedule 3

After “subclause (1)”, insert “or (1A)”.

123 Paragraph 83(2)(a) of Schedule 3

Omit “this clause”, substitute “either of those subclauses”.

124 Subclause 83(3) of Schedule 3

After “subclause (1)”, insert “or (1A)”.

125 Paragraph 83(4)(a) of Schedule 3

After “subclause (1)”, insert “or (1A)”.

126 Subclause 83(4) of Schedule 3 (note)

Repeal the note.

127 Subclause 83(6) of Schedule 3

After “subclause (1)”, insert “or (1A)”.

128 After clause 83 of Schedule 3

Insert:

83A Monthly reporting

Duty of operator

- (1) The operator of a facility must, in accordance with subclause (2) and regulations made for the purposes of subclause (3), give

NOPSEMA a written report, for each calendar month in which activities are carried out at or near the facility, relating to matters that may affect the health and safety of persons at or near the facility.

- (2) The report must be given in the approved form (if any) and in an approved manner (if any).
- (3) The regulations may prescribe:
 - (a) the time within which a report under subclause (1) must be given; and
 - (b) information to be included in such a report.
- (4) Subclause (1) does not apply in relation to facilities prescribed by the regulations for the purposes of this subclause.

Civil penalty

- (5) A person is liable to a civil penalty if the person contravenes a requirement under subclause (1).

Civil penalty: 60 penalty units.

Continuing contraventions

- (6) A person who contravenes subclause (5) commits a separate contravention in respect of each day (including a day of the making of a relevant civil penalty order or any later day) during which the contravention continues.
- (7) The maximum civil penalty for each day that a contravention of subclause (5) continues is 10% of the maximum civil penalty that can be imposed in respect of that contravention.

83B Vessel activity notification scheme

Duty to notify NOPSEMA when vessel becomes a facility or an associated offshore place

- (1) If a vessel becomes a facility, or an associated offshore place in relation to a facility, at a particular time (the **transition time**), the person who is the operator of the facility immediately after the

transition time must, within 24 hours after that time, notify NOPSEMA in accordance with subclause (3) that the vessel has become a facility or an associated offshore place in relation to a facility (as the case requires).

Duty to notify NOPSEMA when vessel ceases to be a facility or an associated offshore place

- (2) If a vessel ceases to be a facility, or an associated offshore place in relation to a facility, at a particular time (the **transition time**), the person who was the operator of the facility immediately before the transition time must, as soon as practicable after that time, notify NOPSEMA in accordance with subclause (3) that the vessel has ceased to be a facility or an associated offshore place in relation to a facility (as the case requires).

Requirements for notices

- (3) A notice under subclause (1) or (2) must:
- (a) be given in the approved form (if any) and in an approved manner (if any); and
 - (b) include any information prescribed by the regulations for the purposes of this paragraph.

Exempt vessels

- (4) Subclause (1) or (2) does not apply in relation to a vessel prescribed by the regulations for the purposes of this subclause.

Civil penalty

- (5) A person is liable to a civil penalty if the person contravenes a requirement under subclause (1) or (2).

Civil penalty: 100 penalty units.

Continuing contraventions

- (6) A person who contravenes subclause (5) commits a separate contravention in respect of each day (including a day of the making of a relevant civil penalty order or any later day) during which the contravention continues.

- (7) The maximum civil penalty for each day that a contravention of subclause (5) continues is 10% of the maximum civil penalty that can be imposed in respect of that contravention.

83C Notifying potential contraventions of titleholders' duties in relation to unrelated operators

- (1) The operator of a facility may notify NOPSEMA in writing if the operator reasonably believes that:
- (a) the titleholder has contravened, or is contravening, clause 13C; and
 - (b) the contravention has affected, is affecting, or is likely to affect, the operator's ability to comply with its obligations under this Act, or regulations made for the purposes of this Act.
- (2) The notice must include:
- (a) a statement setting out the reasons for the operator's belief of the matters set out in subclause (1); and
 - (b) any details of the titleholder specified in the regulations for the purposes of this paragraph.
- (3) A notice under subclause (1) must be given in the approved form (if any) and in an approved manner (if any).

129 Subclause 84(1) of Schedule 3

Repeal the subclause, substitute:

- (1) The regulations may prescribe codes of practice for the purpose of providing practical guidance to any of the following:
- (a) operators of facilities;
 - (b) employers (other than such operators) of members of the workforce at facilities;
 - (c) diving contractors and diving supervisors for diving operations relating to the construction, installation, operation, maintenance or decommissioning of facilities.

130 Clause 88 of Schedule 3

Repeal the clause, substitute:

88 Prohibition of discriminatory conduct for a prohibited reason

- (1) An employer must not engage in discriminatory conduct for a prohibited reason.
- (2) A person commits an offence if:
 - (a) the person is subject to a requirement under subclause (1); and
 - (b) the person engages in conduct; and
 - (c) that conduct is discriminatory conduct; and
 - (d) the dominant reason for the discriminatory conduct is a prohibited reason.

Penalty: 600 penalty units.

- (3) Strict liability applies to paragraphs (2)(a), (c) and (d).

88A What is discriminatory conduct

- (1) An employer (whether the operator or another person) engages in ***discriminatory conduct*** if the employer:
 - (a) dismisses an employee; or
 - (b) engages in conduct that results in injury to an employee in the employee's employment; or
 - (c) engages in conduct that prejudicially alters the employee's position (whether by deducting or withholding remuneration or by any other means); or
 - (d) refuses or fails to offer to engage a prospective employee; or
 - (e) treats a prospective employee less favourably than another prospective employee would be treated in offering terms of engagement; or
 - (f) threatens to do any of the things mentioned in paragraphs (a) to (e).
- (2) An employer also engages in ***discriminatory conduct*** if the employer organises to take any action referred to in subclause (1) or threatens to organise or take that action.

88B What is a prohibited reason

Discriminatory conduct is engaged in for a *prohibited reason* if it is engaged in because the employee or prospective employee:

- (a) has complained or proposes to complain about a matter concerning the health, safety or welfare of employees at work; or
- (b) has assisted or proposes to assist, by giving information or otherwise, the conduct of an OHS inspection or an inspection in relation to a listed OHS law for the purposes of Division 1 of Part 6.5 of this Act; or
- (c) has ceased, or proposes to cease, to perform work, in accordance with a direction by a health and safety representative under paragraph 44(1)(b) or (3)(c), and the cessation or proposed cessation does not continue after:
 - (i) the health and safety representative has agreed with a person supervising the work that the cessation or proposed cessation was not, or is no longer, necessary; or
 - (ii) a NOPSEMA inspector has, under subclause 44(5), made a decision that has the effect that the employee should perform the work; or
- (d) is, has been or proposes to be a health and safety representative or a member of a health and safety committee; or
- (e) undertakes, has undertaken or proposes to undertake another role under this Act (or regulations made for the purposes of this Act); or
- (f) exercises a power or performs a function, has exercised a power or performed a function, or proposes to exercise a power or perform a function as a health and safety representative or as a member of a health and safety committee; or
- (g) exercises, has exercised or proposes to exercise a power under this Act (or regulations made for the purposes of this Act) or exercises, has exercised or proposes to exercise a power under this Act (or regulations made for the purposes of this Act) in a particular way; or

- (h) performs, has performed or proposes to perform a function under this Act (or regulations made for the purposes of this Act) or performs, has performed or proposes to perform a function under this Act (or regulations made for the purposes of this Act) in a particular way; or
 - (i) refrains from, has refrained from or proposes to refrain from exercising a power or performing a function under this Act (or regulations made for the purposes of this Act) or refrains from, has refrained from or proposes to refrain from exercising a power or performing a function under this Act (or regulations made for the purposes of this Act) in a particular way; or
 - (j) assists or has assisted or proposes to assist, or gives or has given or proposes to give any information to any person exercising a power or performing a function under this Act (or regulations made for the purposes of this Act); or
 - (k) raises, has raised, or proposes to raise an issue or concern about occupational health and safety with:
 - (i) the operator of a facility, the operator's representative at a facility, a titleholder or a titleholder's representative; or
 - (ii) a NOPSEMA inspector; or
 - (iii) a health and safety representative; or
 - (iv) a member of a health and safety committee; or
 - (v) another member of the workforce; or
 - (vi) any other person who has a duty under this Act (or regulations made for the purposes of this Act) in relation to the matter; or
 - (vii) any other person exercising a power or performing a function under this Act (or regulations made for the purposes of this Act); or
 - (l) is involved in, has been involved in or proposes to be involved in resolving an occupational health and safety issue under this Act (or regulations made for the purposes of this Act); or
 - (m) is taking action, has taken action or proposes to take action to seek compliance by any person with any duty or obligation under this Act (or regulations made for the purposes of this Act).
-

88C Prohibition of requesting, instructing, inducing, encouraging, authorising or assisting discriminatory conduct

A person must not request, instruct, induce, encourage, authorise or assist another person to commit an offence against subclause 88(2).

Penalty: 600 penalty units.

88D Proof of discriminatory conduct

- (1) This clause applies if, in proceedings for an offence of contravening subclause 88(2), the prosecution:
 - (a) proves that the discriminatory conduct was engaged in; and
 - (b) proves that a circumstance referred to in clause 88B existed at the time the discriminatory conduct was engaged in; and
 - (c) adduces evidence that the discriminatory conduct was engaged in for a prohibited reason.
- (2) The reason alleged for the discriminatory conduct is presumed to be the dominant reason for that conduct unless the defendant proves that the reason was not the dominant reason for the conduct.

Note: A defendant bears a legal burden in relation to the matter in subclause (2) (see section 13.4 of the *Criminal Code*).

88E Extended meaning of *employee* and *employer*

For the purposes of clauses 88 to 88D, if:

- (a) a person carries on an activity at a facility; and
 - (b) an individual is a contractor of the person;
- the person is taken to be an *employer* and the individual is taken to be an *employee* of the person.

131 After clause 92 of Schedule 3

Insert:

92A Publication requirements for approved forms etc.

NOPSEMA must publish on NOPSEMA's website:

- (a) a form approved by the Chief Executive Officer of NOPSEMA for the purposes of a provision of this Schedule or the regulations; and
- (b) a copy of an instrument, made by the Chief Executive Officer of NOPSEMA, approving a manner for the purposes of a provision of this Schedule or the regulations.

132 Paragraph 93(1)(b) of Schedule 3

Omit “committees; and”, substitute “committees.”.

133 Paragraph 93(1)(d) of Schedule 3

Repeal the paragraph.

Part 2—Consequential amendments

Occupational Health and Safety (Maritime Industry) Act 1993

134 Section 4 (subparagraph (b)(ii) of the definition of *prescribed ship*)

Repeal the subparagraph.

135 Section 4 (at the end of the definition of *prescribed ship*)

Add:

- Note 1: Sections 640 and 641 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* affect the application of this Act in relation to a ship or off-shore industry mobile unit while the ship or unit is a facility or part of a facility (within the meaning of Schedule 3 to that Act).
- Note 2: To the extent that this Act does not apply in relation to a ship or off-shore industry mobile unit because of either of those sections, either listed OHS laws (within the meaning of that Act), or State or Territory laws that substantially correspond to listed OHS laws, will apply.

Part 3—Application and transitional provisions

136 Definitions

In this Part:

amended Act means the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, as amended by Part 1 of this Schedule.

137 Up to date lists of health and safety representatives

Subclause 27(2) of Schedule 3 to the amended Act applies in relation to a list that is prepared or updated by the operator of a facility on or after the commencement of this item.

138 Training for health and safety representatives

- (1) If, before the commencement of this item, a health and safety representative had not completed an initial training course (within the meaning of clause 30 of Schedule 3 to the amended Act), the health and safety representative must complete such a course as soon as practicable after that commencement.
- (2) If a health and safety representative completed an initial training course or a refresher training course (both within the meaning of clause 30 of Schedule 3 to the amended Act) at a particular time (the *completion time*) before the commencement of this item, the health and safety representative must complete a refresher training course, within the meaning of that clause:
 - (a) if the completion time was more than 12 months before that commencement—as soon as practicable after that commencement; and
 - (b) otherwise—as soon as practicable before or after the end of 12 months after the completion time.

139 Reviews of safety management-related documents

Subclause 37A(1) of Schedule 3 to the amended Act applies in relation to a circumstance that exists on or after the commencement of this item, whether the circumstance came into existence before, on or after that commencement.

140 OHS inspections concerning accidents or dangerous occurrences on certain vessels

Subparagraph 49(2)(c)(ii) of Schedule 3 to the amended Act applies in relation to an accident or dangerous occurrence that happens before, on or after the commencement of this item.

141 Conducting OHS inspections on dive vessels

Part 4 of Schedule 3 to the amended Act applies in relation to an OHS inspection conducted on or after the commencement of this item, whether the inspection starts to be conducted before, on or after that commencement.

142 Notifying and reporting accidents and dangerous occurrences

Clause 82 of Schedule 3 to the amended Act applies in relation to an accident or dangerous occurrence that happens on or after the commencement of this item.

143 Monthly reporting

Clause 83A of Schedule 3 to the amended Act applies in relation to a calendar month that starts on or after the commencement of this item.

144 Vessel activity notification scheme

- (1) Subclause 83B(1) of Schedule 3 to the amended Act applies in relation to a vessel that becomes a facility, or an associated offshore place in relation to a facility, on or after the commencement of this item.
- (2) Subclause 83B(2) of Schedule 3 to the amended Act applies in relation to a vessel that ceases to be a facility, or an associated offshore place in relation to a facility, on or after the commencement of this item, whether the vessel became a facility, or an associated offshore place in relation to a facility, before, on or after that commencement.

Schedule 2—Other measures

Part 1—Interaction with Commonwealth maritime legislation

Navigation Act 2012

1 After section 342

Insert:

342A Vessels that become or stop being facilities etc.

- (1) AMSA may, by legislative instrument, make rules providing as mentioned in subsection (2) in relation to any of the following:
 - (a) vessels that become or stop being facilities or parts of facilities;
 - (b) persons on board or near such vessels;
 - (c) activities that take place on board such vessels.
- (2) Rules made under subsection (1) may:
 - (a) provide for the application, or continued application, of this Act with or without specified modifications in relation to a vessel, person or activity mentioned in paragraph (1)(a), (b) or (c); or
 - (b) make provision of a transitional, application or saving nature in relation to the transition from:
 - (i) the regime provided by this Act to a regime provided by a law covered by subsection (3); or
 - (ii) a regime provided by a law covered by subsection (3) to the regime provided by this Act;for a vessel, person or activity mentioned in paragraph (1)(a), (b) or (c).
- (3) This subsection covers the following laws:
 - (a) the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and legislative instruments under that Act;

- (b) a State PSLA (within the meaning of Part 6.9 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*) and regulations under a State PSLA;
 - (c) a Territory PSLA (within the meaning of Part 6.9 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*) and regulations under a Territory PSLA.
- (4) The rules may provide as mentioned in paragraph (2)(a) despite:
 - (a) the effect of sections 640 and 641 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* apart from this section; and
 - (b) anything else in this Act.
 - (5) The rules may deal with inconsistency between the rules and a law covered by subsection (3), including by providing that the rules prevail over such a law to the extent of any inconsistency.
 - (6) Paragraphs (2)(a) and (b) do not limit each other.
 - (7) AMSA may make rules under subsection (1) only with the agreement of the Chief Executive Officer of the National Offshore Petroleum Safety and Environmental Management Authority.
 - (8) In this section:
facility means:
 - (a) a facility within the meaning of Schedule 3 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or
 - (b) a vessel in an area in relation to which section 641 of that Act applies that would be a facility within the meaning of that Schedule if the vessel were located at a site in Commonwealth waters for the purposes of paragraph 4(1)(a) or (5A)(a) of that Schedule.

State PSLA has the same meaning as in Part 6.9 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Territory PSLA has the same meaning as in Part 6.9 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Offshore Petroleum and Greenhouse Gas Storage Act 2006

2 After subsection 640(2)

Insert:

(2A) Subsection (1) applies subject to:

- (a) section 342A of the *Navigation Act 2012*; and
- (b) rules made under that section.

Note: That section allows rules to be made dealing with the interaction between this Act and the *Navigation Act 2012*.

3 Subsection 640(3) (at the end of paragraph (a) of the definition of *Commonwealth maritime legislation*)

Add “, other than section 342A of that Act”.

4 Subsection 640(3) (at the end of paragraph (c) of the definition of *Commonwealth maritime legislation*)

Add “, other than rules made under section 342A of the *Navigation Act 2012*”.

5 After subsection 641(2)

Insert:

(2A) Subsection (2) applies subject to rules made under section 342A of the *Navigation Act 2012*.

Note: That section allows rules to be made dealing with the interaction between State or Territory PSLAs (and regulations made under them) and the *Navigation Act 2012*.

Part 3—Remedial directions

Offshore Petroleum and Greenhouse Gas Storage Act 2006

7 Subsection 586(2) (heading)

Omit “*to registered holder*”.

8 Subsection 586(2)

Omit “on or before the applicable date”, substitute “within the period specified in the notice”.

9 Subsection 586(2) (note 1)

Omit “*applicable date* and”.

10 After subsection 586(2D)

Insert:

(2E) The period specified in the notice must be reasonable.

(2F) Before giving the direction NOPSEMA may consult the Titles Administrator.

11 Subsection 586(6) (heading)

Repeal the heading, substitute:

Title area

12 Subsection 586(6) (table)

Repeal the table, substitute:

Title area		
Item	In the case of ...	the title area is ...
1	a petroleum exploration permit	the permit area.
2	a petroleum retention lease	the lease area.
3	a petroleum production licence	the licence area.
4	an infrastructure licence	the licence area.

Title area		
Item	In the case of ...	the title area is ...
5	a pipeline licence	the part of the offshore area in which the pipeline is constructed.

13 Subsection 586(7)

Repeal the subsection.

14 Subsection 586A(2) (heading)

Omit “*to registered holder*”.

15 Subsection 586A(2)

Omit “on or before the applicable date”, substitute “within the period specified in the notice”.

16 Subsection 586A(2) (note 1)

Omit “*applicable date* and”.

17 After subsection 586A(2D)

Insert:

(2E) The period specified in the notice must be reasonable.

(2F) Before giving the direction the responsible Commonwealth Minister may consult the Titles Administrator.

18 Subsection 586A(7) (heading)

Repeal the heading, substitute:

Title area

19 Subsection 586A(7) (table)

Repeal the table, substitute:

Title area		
Item	In the case of ...	the title area is ...
1	a petroleum exploration permit	the permit area.

Title area		
Item	In the case of ...	the <i>title area</i> is ...
2	a petroleum retention lease	the lease area.
3	a petroleum production licence	the licence area.
4	an infrastructure licence	the licence area.
5	a pipeline licence	the part of the offshore area in which the pipeline is constructed.

20 Subsection 586A(8)

Repeal the subsection.

21 Subsection 591B(2) (heading)

Omit “*to registered holder*”.

22 Subsection 591B(2)

Omit “on or before the applicable date”, substitute “within the period specified in the notice”.

23 Subsection 591B(2) (note 1)

Omit “*applicable date* and”.

24 After subsection 591B(2D)

Insert:

(2E) The period specified in the notice must be reasonable.

(2F) Before giving the direction NOPSEMA may consult the Titles Administrator.

25 Subsection 591B(7) (heading)

Repeal the heading, substitute:

Title area

26 Subsection 591B(7) (table)

Repeal the table, substitute:

Title area		
Item	In the case of ...	the <i>title area</i> is ...
1	a greenhouse gas assessment permit	the permit area.
2	a greenhouse gas holding lease	the lease area.
3	a greenhouse gas injection licence	the licence area.

27 Subsection 591B(8)

Repeal the subsection.

28 Subsection 592(2) (heading)

Omit “*to registered holder*”.

29 Subsection 592(2)

Omit “on or before the applicable date”, substitute “within the period specified in the notice”.

30 Subsection 592(2) (note 1)

Omit “*applicable date* and”.

31 After subsection 592(2D)

Insert:

(2E) The period specified in the notice must be reasonable.

(2F) Before giving the direction, the responsible Commonwealth Minister may consult the Titles Administrator.

32 Subsection 592(6) (heading)

Repeal the heading, substitute:

Title area

33 Subsection 592(6) (table)

Repeal the table, substitute:

Title area		
Item	In the case of ...	the <i>title area</i> is ...
1	a greenhouse gas assessment permit	the permit area.
2	a greenhouse gas holding lease	the lease area.
3	a greenhouse gas injection licence	the licence area.

34 Subsection 592(7)

Repeal the subsection.

35 Application of amendments

- (1) The amendments of sections 586, 586A, 591B and 592 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* made by this Schedule apply in relation to a direction given under any of those sections on or after the commencement of this item.
- (2) The amendments of those sections made by this Schedule do not affect the validity of a direction given under any of those sections before the commencement of this item.

Part 4—Minor and technical amendments

Division 1—Amendments

Offshore Petroleum and Greenhouse Gas Storage Act 2006

36 Subsection 21(3)

Repeal the subsection (not including the heading), substitute:

- (3) For the purposes of this Act, the *spatial extent* of an eligible greenhouse gas storage formation is the expected migration pathway or pathways of the particular amount of the particular greenhouse gas substance referred to in paragraph (1)(a) or (b), whichever is applicable.

37 Subsections 21(6) to (7A)

Repeal the subsections.

38 At the end of subsection 598A(2)

Add:

Note: In addition, if a petroleum remedial direction is in force in relation to a pipeline, that pipeline is a facility (within the meaning of Schedule 3 to this Act) even if the pipeline is no longer subject to a pipeline licence (see paragraph 4(8)(d) of Schedule 3).

39 After paragraph 695M(1)(g)

Insert:

(ga) a cross-boundary greenhouse gas assessment permit;

40 At the end of subclause 4(8) of Schedule 3

Add:

- ; (d) a pipeline that:
- (i) is not, but has previously been, subject to a pipeline licence; and
 - (ii) is a pipeline in relation to which a direction under section 586, 586A, 587 or 587A is in force.

Division 2—Application and transitional provisions

41 Application and transitional provisions

Spatial extent

- (1) Subject to subitem (2), the amendments of section 21 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* made by this Schedule apply in relation to:
 - (a) the making of a declaration under section 312 or 312A of that Act, on or after the commencement of the amendments, on an application made on or after that commencement; and
 - (b) the variation or revocation of a declaration under either of those sections on or after that commencement, whether the declaration is made before, on or after that commencement.
- (2) The amendments of section 21 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* made by this Schedule apply in relation to:
 - (a) the variation of an application under section 312 or 312A of that Act on or after the commencement of those amendments, whether the application is made before, on or after that commencement; and
 - (b) the making of a declaration under either of those sections, on or after that commencement, on an application that is the subject of a variation to which paragraph (a) of this subitem applies.

Annual titles administration levy

- (3) The amendment of section 695M of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* made by this Schedule applies in relation to annual titles administration levy imposed by the Regulatory Levies Act on a cross-boundary greenhouse gas assessment permit for a year that starts before, on or after the commencement of the amendment, subject to subitems (4) and (5).
- (4) Subitem (5) applies if annual titles administration levy imposed by the Regulatory Levies Act on a cross-boundary greenhouse gas assessment permit for a year that starts before the commencement of the

amendment mentioned in subitem (3) is wholly or partly unpaid at that commencement.

- (5) Subsection 695M(2) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* applies in relation to the levy on and after that commencement as if the reference in that subsection to the first day of the year for which the levy is imposed were instead a reference to the day after that commencement.

Remedial directions relating to pipelines

- (6) The amendment of subclause 4(8) of Schedule 3 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* made by this Schedule applies in relation to a pipeline in relation to which a direction comes into force under section 586, 586A, 587 or 587A of that Act on or after the commencement of the amendment.

[Minister's second reading speech made in—
House of Representatives on 15 February 2024
Senate on 27 March 2024]

(16/24)
