Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Miscellaneous Measures) Act 2010

No. 118, 2010

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

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)
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Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Miscellaneous Measures) Act 2010

No. 118, 2010

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

[Assented to 16 November 2010]

The Parliament of Australia enacts:
1 Short title

This Act may be cited as the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Miscellaneous Measures) Act 2010*.

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.

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<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
<td>16 November 2010</td>
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<td>2. Schedule 1, Parts 1 to 6</td>
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<td>3. Schedule 1, Part 7</td>
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Note: This table relates only to the provisions of this Act as originally enacted.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 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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Schedule 1—Amendments

Part 1—Functions of the Safety Authority


1 Section 7

Insert:

*non-OHS structural integrity* means structural integrity, to the extent to which it does not relate to a matter or thing that affects, or is likely to affect, the occupational health and safety of persons engaged in:

(a) offshore petroleum operations (within the meaning of Part 6.9); or

(b) offshore greenhouse gas storage operations (within the meaning of Part 6.9).

2 Section 7

Insert:

*non-OHS structural integrity law* means:

(a) a listed OHS law, to the extent to which it relates to matters or things that do not affect, and are not likely to affect, the occupational health and safety of persons engaged in:

(i) offshore petroleum operations (within the meaning of Part 6.9); or

(ii) offshore greenhouse gas storage operations (within the meaning of Part 6.9); or

(b) a structural integrity law prescribed for the purposes of this paragraph.

A structural integrity law may be prescribed for the purposes of paragraph (b) even if it is, to any extent, a listed OHS law.

3 Section 7

Insert:

*structural integrity* includes the following:
(a) structural soundness;
(b) structural strength;
(c) stability;
(d) fitness for purpose;
(e) mechanical integrity in connection with the containment of:
   (i) petroleum; or
   (ii) a greenhouse gas substance; or
   (iii) any other substance.

4 Section 7
Insert:

structural integrity law means the regulations to the extent to which they relate to the structural integrity of:
(a) facilities (within the meaning of Schedule 3); or
(b) wells; or
(c) well-related equipment.

5 Section 7
Insert:

well-related equipment means any:
(a) plant; or
(b) equipment; or
(c) other thing;
for containing pressure in a well.

6 Section 642
After:

• The Safety Authority has functions in relation to the occupational health and safety of persons engaged in:
  (a) offshore petroleum operations; or
  (b) offshore greenhouse gas storage operations.

Insert:

4 Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment
(Miscellaneous Measures) Act 2010 No. 118, 2010
• The Safety Authority also has functions in relation to the non-OHS structural integrity of facilities, wells and well-related equipment.

7 Paragraphs 646(a) and (b)
After “in relation to”, insert “occupational health and safety matters in connection with”.

8 After paragraph 646(g)
Insert:

(ga) the functions conferred on it by or under this Act in relation to the non-OHS structural integrity of:
   (i) facilities (within the meaning of Schedule 3); or
   (ii) wells; or
   (iii) well-related equipment;
located in Commonwealth waters;

(gb) the functions conferred on it by or under a State PSLA or the Territory PSLA in relation to the non-OHS structural integrity of:
   (i) facilities; or
   (ii) wells; or
   (iii) well-related equipment;
located in the designated coastal waters of that State or Territory;

(gc) to develop and implement effective monitoring and enforcement strategies to ensure compliance by persons with their obligations under a non-OHS structural integrity law;

(gd) to investigate accidents, occurrences and circumstances that involve, or may involve, deficiencies in the non-OHS structural integrity of:
   (i) facilities (within the meaning of Schedule 3); or
   (ii) wells; or
   (iii) well-related equipment;
located in Commonwealth waters;

(ge) to report, as appropriate, to the responsible Commonwealth Minister, and to State and Northern Territory Petroleum Ministers, on investigations covered by paragraph (gd);
Schedule 1 Amendments
Part 1 Functions of the Safety Authority

(gf) to advise persons, either on its own initiative or on request, on matters relating to the non-OHS structural integrity of:

(i) facilities (within the meaning of Schedule 3); or
(ii) wells; or
(iii) well-related equipment;
located in Commonwealth waters;

Part 2—Multiple titleholders


9 After Part 9.6

Insert:

Part 9.6A—Multiple titleholders

Division 1—Eligible voluntary action by multiple titleholders

775A Eligible voluntary action

(1) For the purposes of this Division, eligible voluntary action means:
   (a) making an application; or
   (b) giving a nomination; or
   (c) making a request; or
   (d) giving a notice;
to the Joint Authority, the Designated Authority or the responsible Commonwealth Minister, where the application, nomination, request or notice is permitted, but not required, to be made or given under this Act.

(2) Subsection (1) does not apply to a notice given under:
   (a) subsection 774(2); or
   (b) subsection 774(5); or
   (c) subsection 775(2); or
   (d) subsection 775(5); or
   (e) subsection 775B(2); or
   (f) subsection 775B(6); or
   (g) subsection 775C(2); or
   (h) subsection 775C(6).
Schedule 1 Amendments
Part 2 Multiple titleholders

775B Eligible voluntary action by multiple holders of a petroleum title

Scope

(1) This section applies if there are 2 or more registered holders of a petroleum title.

Nomination

(2) Those registered holders may, by joint written notice given to the Designated Authority, nominate one of them as being the person who is authorised to take eligible voluntary actions on behalf of the registered holders.

Note: For eligible voluntary action, see section 775A.

(3) The joint written notice must be executed in an approved manner by or on behalf of each of the registered holders.

Eligible voluntary action to be taken by nominee

(4) If:
   (a) the registered holders of a petroleum title have nominated a person under subsection (2); and
   (b) the nomination is in force; and
   (c) the nominated person takes an eligible voluntary action; and
   (d) the application, nomination, request or notice to which the eligible voluntary action relates is expressed to be made or given, as the case may be, on behalf of the registered holders;

this Act has effect as if the application, nomination, request or notice to which the eligible voluntary action relates were made or given, as the case may be, by the registered holders jointly.

(5) The registered holders are not entitled to take an eligible voluntary action except in accordance with subsection (4).

Revocation of nomination

(6) If:
   (a) a person has been nominated under subsection (2) in relation to a petroleum title; and
(b) one of the registered holders of the petroleum title, by written notice given to the Designated Authority, revokes the nomination;
the nomination ceases to be in force.

Cessation of nomination—nominee ceases to be a registered holder

(7) If:
   (a) a person has been nominated under subsection (2) in relation to a petroleum title; and
   (b) the nominated person ceases to be one of the registered holders of the petroleum title;
the nomination ceases to be in force.

Definition

(8) In this section:

petroleum title means:
   (a) a petroleum exploration permit; or
   (b) a petroleum retention lease; or
   (c) a petroleum production licence; or
   (d) an infrastructure licence, where the infrastructure facility to which the licence relates is a facility, structure or installation for engaging in any of the activities to which subsection 15(2) applies; or
   (e) a pipeline licence, where the pipeline to which the licence relates is a petroleum pipeline; or
   (f) a petroleum special prospecting authority; or
   (g) a petroleum access authority.

775C Eligible voluntary action by multiple holders of a greenhouse gas title

Scope

(1) This section applies if there are 2 or more registered holders of a greenhouse gas title.
Nomination

(2) Those registered holders may, by joint written notice given to the Designated Authority, nominate one of them as being the person who is authorised to take eligible voluntary actions on behalf of the registered holders.

Note: For eligible voluntary action, see section 775A.

(3) The joint written notice must be executed in an approved manner by or on behalf of each of the registered holders.

Eligible voluntary action to be taken by nominee

(4) If:
   (a) the registered holders of a greenhouse gas title have nominated a person under subsection (2); and
   (b) the nomination is in force; and
   (c) the nominated person takes an eligible voluntary action; and
   (d) the application, nomination, request or notice to which the eligible voluntary action relates is expressed to be made or given, as the case may be, on behalf of the registered holders;

this Act has effect as if the application, nomination, request or notice to which the eligible voluntary action relates were made or given, as the case may be, by the registered holders jointly.

(5) The registered holders are not entitled to take an eligible voluntary action except in accordance with subsection (4).

Revocation of nomination

(6) If:
   (a) a person has been nominated under subsection (2) in relation to a greenhouse gas title; and
   (b) one of the registered holders of the greenhouse gas title, by written notice given to the Designated Authority, revokes the nomination;

the nomination ceases to be in force.

Cessation of nomination—nominee ceases to be a registered holder

(7) If:
(a) a person has been nominated under subsection (2) in relation to a greenhouse gas title; and
(b) the nominated person ceases to be one of the registered holders of the greenhouse gas title;
the nomination ceases to be in force.

Definition

(8) In this section:

**greenhouse gas title** means:
(a) a greenhouse gas assessment permit; or
(b) a greenhouse gas holding lease; or
(c) a greenhouse gas injection licence; or
(d) an infrastructure licence, where the infrastructure facility to which the licence relates is a facility, structure or installation for engaging in any of the activities to which subsection 15(3) applies; or
(e) a pipeline licence, where the pipeline to which the licence relates is a greenhouse gas pipeline; or
(f) a greenhouse gas search authority; or
(g) a greenhouse gas special authority.

Division 2—Obligations of multiple titleholders

775D Obligations of multiple holders of a petroleum title

Obligations of titleholders

(1) If:
(a) this Act imposes an obligation on the registered holder of a petroleum title; and
(b) there are 2 or more registered holders of the petroleum title;
the obligation is imposed on each of the registered holders, but may be discharged by any of the registered holders.

(2) The regulations may exempt a specified obligation from the scope of subsection (1).
Definition

(3) In this section:

*petroleum title* means:

(a) a petroleum exploration permit; or
(b) a petroleum retention lease; or
(c) a petroleum production licence; or
(d) an infrastructure licence, where the infrastructure facility to which the licence relates is a facility, structure or installation for engaging in any of the activities to which subsection 15(2) applies; or
(e) a pipeline licence, where the pipeline to which the licence relates is a petroleum pipeline; or
(f) a petroleum special prospecting authority; or
(g) a petroleum access authority.

775E Obligations of multiple holders of a greenhouse gas title

Obligations of titleholders

(1) If:

(a) this Act imposes an obligation on the registered holder of a greenhouse gas title; and
(b) there are 2 or more registered holders of the greenhouse gas title;

the obligation is imposed on each of the registered holders, but may be discharged by any of the registered holders.

(2) The regulations may exempt a specified obligation from the scope of subsection (1).

Definition

(3) In this section:

*greenhouse gas title* means:

(a) a greenhouse gas assessment permit; or
(b) a greenhouse gas holding lease; or
(c) a greenhouse gas injection licence; or
(d) an infrastructure licence, where the infrastructure facility to which the licence relates is a facility, structure or installation for engaging in any of the activities to which subsection 15(3) applies; or

(e) a pipeline licence, where the pipeline to which the licence relates is a greenhouse gas pipeline; or

(f) a greenhouse gas search authority; or

(g) a greenhouse gas special authority.

10 Application of amendments

(1) Sections 775B and 775C of the Offshore Petroleum and Greenhouse Gas Storage Act 2006 as amended by this Part apply in relation to eligible voluntary actions taken after the commencement of this item.

(2) Sections 775D and 775E of the Offshore Petroleum and Greenhouse Gas Storage Act 2006 as amended by this Part apply in relation to obligations that arise after the commencement of this item.
Part 3—Strict liability offences


11 Subsection 227(5) (penalty)
Omit “Imprisonment for 5 years”, substitute “100 penalty units”.

12 After subsection 227(5)
Insert:

(5A) An offence against subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

13 Subsection 228(1) (penalty)
Omit “Imprisonment for 5 years”, substitute “100 penalty units”.

14 At the end of section 228
Add:

(4) An offence against subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

15 Subsection 249(2) (penalty)
Omit “for contravention of this subsection”.

16 At the end of section 249
Add:

(3) An offence against subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

17 Subsection 280(3) (penalty)
Omit “for a contravention of this subsection”.

18 At the end of section 280
Add:
Amendments Schedule 1
Strict liability offences Part 3

(4) An offence against subsection (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

19 Subsection 284(5) (penalty)
Omit “for a contravention of this subsection”.

20 At the end of section 284
Add:

(6) An offence against subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

21 Subsection 420(2) (penalty)
Omit “for contravention of this subsection”.

22 At the end of section 420
Add:

(3) An offence against subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

23 Subsection 451(8) (penalty)
Omit “for a contravention of this subsection”.

24 At the end of section 451
Add:

(9) An offence against subsection (8) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

25 Subsection 452(5) (penalty)
Omit “for a contravention of this subsection”.

26 At the end of section 452
Add:

(6) An offence against subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.
27  **Subsection 460(3) (penalty)**
   Omit “for a contravention of this subsection”.

28  **At the end of section 460**
   Add:
   
   (4) An offence against subsection (3) is an offence of strict liability.
   
   Note: For strict liability, see section 6.1 of the *Criminal Code*.

29  **After subsection 508(4)**
   Insert:
   
   (4A) An offence against subsection (4) is an offence of strict liability.
   
   Note: For strict liability, see section 6.1 of the *Criminal Code*.

30  **Section 514**
   Before “A person commits”, insert “(1)”.

31  **At the end of section 514**
   Add:
   
   (2) An offence against subsection (1) is an offence of strict liability.
   
   Note: For strict liability, see section 6.1 of the *Criminal Code*.

32  **After subsection 557(4)**
   Insert:
   
   (4A) An offence against subsection (4) is an offence of strict liability.
   
   Note: For strict liability, see section 6.1 of the *Criminal Code*.

33  **After subsection 569(6)**
   Insert:
   
   (6A) An offence against subsection (6) is an offence of strict liability.
   
   Note: For strict liability, see section 6.1 of the *Criminal Code*.

34  **After subsection 570(5)**
   Insert:
   
   (5A) An offence against subsection (5) is an offence of strict liability.
35 **Subsection 575(4) (penalty)**
Omit “for contravention of this subsection”.

36 **At the end of section 575**
Add:

(5) An offence against subsection (4) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

37 **Subsection 581(4) (penalty)**
Omit “for contravention of this subsection”.

38 **At the end of section 581**
Add:

(5) An offence against subsection (4) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

39 **After subsection 586(5)**
Insert:

(5A) An offence against subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

40 **Subsection 587(6) (penalty)**
Omit “for contravention of this subsection”.

41 **At the end of section 587**
Add:

(7) An offence against subsection (6) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

42 **After subsection 592(5)**
Insert:

(5A) An offence against subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.
43 After subsection 593(8)

Insert:

(8A) An offence against subsection (8) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

44 Subsection 595(6) (penalty)

Omit “for contravention of this subsection”.

45 At the end of section 595

Add:

(7) An offence against subsection (6) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

46 After subsection 697(3)

Insert:

(3A) An offence against subsection (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

47 After subsection 723(3)

Insert:

(3A) An offence against subsection (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.
Part 4—Functions and powers of the Joint Authority and the Designated Authority


48 Subsection 57(1)
Omit “this Act confers”, substitute “this Act or the regulations confer”.

49 Subsection 57(2)
Omit “this Act confers”, substitute “this Act or the regulations confer”.

50 Subsection 57(3)
Omit “this Act confers”, substitute “this Act or the regulations confer”.

51 Subsection 71(1)
Omit “this Act confers”, substitute “this Act or the regulations confer”.

52 Subsection 71(2)
Omit “this Act confers”, substitute “this Act or the regulations confer”.

53 Subsection 71(3)
Omit “this Act confers”, substitute “this Act or the regulations confer”.

54 Subsection 71(4)
Omit “this Act confers”, substitute “this Act or the regulations confer”.

Part 5—Duties of titleholders in relation to wells


55 Clause 3 of Schedule 3
Insert:

*derived:*
(a) in relation to a petroleum title—has the meaning given by clause 8A; or
(b) in relation to a greenhouse gas title—has the meaning given by clause 8B.

56 Clause 3 of Schedule 3
Insert:

*petroleum title* means:
(a) a petroleum exploration permit; or
(b) a petroleum retention lease; or
(c) a petroleum production licence.

57 Clause 3 of Schedule 3
Insert:

*greenhouse gas title* means:
(a) a greenhouse gas assessment permit; or
(b) a greenhouse gas holding lease; or
(c) a greenhouse gas injection licence.

58 Clause 3 of Schedule 3 (at the end of the definition of *regulated business premises*)
Add:
; or (c) premises that are:
(i) occupied by a person who is the registered holder of a petroleum title; and
(ii) used, or proposed to be used, wholly or principally in connection with offshore petroleum operations; or
59 At the end of Part 1 of Schedule 3

Add:

8A When a petroleum title is derived from another petroleum title

Petroleum production licences

(1) For the purposes of this Schedule, if a petroleum production licence was granted to the registered holder of:

(a) a petroleum retention lease; or
(b) a petroleum exploration permit;

that was in force over the block or blocks to which the licence relates, the licence is derived from:

(c) the lease or permit; and
(d) each petroleum title from which the lease or permit referred to in paragraph (c) was derived.

Petroleum retention leases

(2) For the purposes of this Schedule, if a petroleum retention lease was granted to the registered holder of:

(a) a petroleum exploration permit; or
(b) a petroleum production licence;

that was in force over the block or blocks to which the lease relates, the lease is derived from:

(c) the permit or licence; and
(d) each petroleum title from which the permit or licence referred to in paragraph (c) was derived.
Schedule 1  Amendments
Part 5  Duties of titleholders in relation to wells

Renewals

(3) For the purposes of this Schedule, if there is a series of one or more renewals of a petroleum title, each petroleum title in that series is derived from:
   (a) each of the earlier petroleum titles in that series; and
   (b) each petroleum title from which each of those earlier petroleum titles was derived.

For this purpose, the series includes the original petroleum title.

Application

(4) Subclauses (1) and (2) apply to a grant, whether occurring before, at or after the commencement of this clause.

(5) Subclause (3) applies to a renewal, whether occurring before, at or after the commencement of this clause.

(6) For the purposes of the application of this clause to the grant of:
   (a) a petroleum production licence; or
   (b) a petroleum retention lease;
that occurred before the commencement of Chapter 2, a reference to a registered holder is a reference to a registered holder (within the meaning of the repealed Petroleum (Submerged Lands) Act 1967).

8B  When a greenhouse gas title is derived from another greenhouse gas title

Greenhouse gas injection licences

(1) For the purposes of this Schedule, if a greenhouse gas injection licence was granted to the registered holder of:
   (a) a greenhouse gas holding lease; or
   (b) a greenhouse gas assessment permit;
that was in force over the block or blocks to which the licence relates, the licence is derived from:
   (c) the lease or permit; and
   (d) each greenhouse gas title from which the lease or permit referred to in paragraph (c) was derived.
Greenhouse gas holding leases

(2) For the purposes of this Schedule, if a greenhouse gas holding lease was granted to the registered holder of a greenhouse gas assessment permit that was in force over the block or blocks to which the lease relates, the lease is derived from:

(a) the permit; and
(b) each greenhouse gas title from which the permit referred to in paragraph (a) was derived.

Renewals

(3) For the purposes of this Schedule, if there is a series of one or more renewals of a greenhouse gas title, each greenhouse gas title in that series is derived from:

(a) each of the earlier greenhouse gas titles in that series; and
(b) each greenhouse gas title from which each of those earlier greenhouse gas titles was derived.

For this purpose, the series includes the original greenhouse gas title.

Application

(4) Subclauses (1) and (2) apply to a grant, whether occurring before, at or after the commencement of this clause.

(5) Subclause (3) applies to a renewal, whether occurring before, at or after the commencement of this clause.

60 Clause 13A of Schedule 3

Repeal the clause, substitute:

13A Duties of petroleum titleholders in relation to wells

(1) If:

(a) either:

(i) a well 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 (the current title); or

(ii) a well has been used in connection with operations authorised by a petroleum title from which the current title is derived, and the wellhead is situated in the title area of the current title; and

(b) the well is not suspended, abandoned or closed off;

the registered holder of the current title must ensure that the well is so designed, constructed, commissioned, altered, equipped, maintained and operated that risks to the health and safety of persons at or near a facility from:

(c) the well; or

(d) any unplanned escape of fluids from the well; or

(e) anything in the well; or

(f) anything in a geological formation, or a part of a geological formation:

(i) to which the well is connected; or

(ii) through which the well passes;

are as low as is reasonably practicable.

Note: For derived, see clause 8A.

(2) If:

(a) either:

(i) a well has been used in connection with operations authorised by a petroleum title (the current title); or

(ii) a well has been used in connection with operations authorised by a petroleum title from which the current title is derived, and the wellhead is situated in the title area of the current title; and

(b) the well has been, is being, or is to be, suspended, abandoned or closed-off;

then the registered holder of the current title must ensure that the well is so suspended, abandoned or closed-off that risks to the health and safety of persons at or near a facility from:

(c) the well; or

(d) any unplanned escape of fluids from the well; or

(e) anything in the well; or

(f) anything in a geological formation, or a part of a geological formation:

(i) to which the well is connected; or
(ii) through which the well passes;
are as low as is reasonably practicable.

Note: For derived, see clause 8A.

**Offence**

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

Penalty: 200 penalty units.

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

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

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

**Diving operations**

(6) For the purposes of this clause, if a person is engaged in diving operations that are:
(a) offshore petroleum operations; or
(b) offshore greenhouse gas storage operations;
the person is taken to be at or near a facility.

**Definitions**

(7) In this clause:

*construct*, in relation to a well, includes:
(a) drill, bore, or otherwise make, the well; and
(b) install any well-related equipment associated with the well.

*prepare* includes construct.

*title area*:
(a) in relation to a petroleum exploration permit—means the permit area; or
(b) in relation to a petroleum retention lease—means the lease area; or
Schedule 1  Amendments
Part 5  Duties of titleholders in relation to wells

(c) in relation to a petroleum production licence—means the licence area.

well includes well-related equipment associated with a well.

13B Duties of greenhouse gas titleholders in relation to wells

(1) If:
   (a) either:
      (i) a well has been used, is being used, has been prepared for use, or is being prepared for use, in connection with operations authorised by a greenhouse gas title (the current title); or
      (ii) a well has been used in connection with operations authorised by a greenhouse gas title from which the current title is derived, and the wellhead is situated in the title area of the current title; and
   (b) the well is not suspended, abandoned or closed off;
the registered holder of the current title must ensure that the well is so designed, constructed, commissioned, altered, equipped, maintained and operated that risks to the health and safety of persons at or near a facility from:
   (c) the well; or
   (d) any unplanned escape of fluids from the well; or
   (e) anything in the well; or
   (f) anything in a geological formation, or a part of a geological formation:
      (i) to which the well is connected; or
      (ii) through which the well passes;
are as low as is reasonably practicable.
Note: For derived, see clause 8B.

(2) If:
   (a) either:
      (i) a well has been used in connection with operations authorised by a greenhouse gas title (the current title); or
      (ii) a well has been used in connection with operations authorised by a greenhouse gas title from which the

26 Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment
(Miscellaneous Measures) Act 2010 No. 118, 2010
current title is derived, and the wellhead is situated in the title area of the current title; and
(b) the well has been, is being, or is to be, suspended, abandoned or closed-off;
the registered holder of the current title must ensure that the well is so suspended, abandoned or closed-off that risks to the health and safety of persons at or near a facility from:
(c) the well; or
(d) any unplanned escape of fluids from the well; or
(e) anything in the well; or
(f) anything in a geological formation, or a part of a geological formation:
   (i) to which the well is connected; or
   (ii) through which the well passes;
are as low as is reasonably practicable.
Note: For derived, see clause 8B.

Offence

(3) A person commits an offence if:
   (a) the person is subject to a requirement under subclause (1) or (2); and
   (b) the person omits to do an act; and
   (c) the omission breaches the requirement.
Penalty: 200 penalty units.

(4) Absolute liability applies to paragraph (3)(a).
Note: For absolute liability, see section 6.2 of the Criminal Code.

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

Diving operations

(6) For the purposes of this clause, if a person is engaged in diving operations that are:
   (a) offshore petroleum operations; or
   (b) offshore greenhouse gas storage operations;
the person is taken to be at or near a facility.
Definitions

(7) In this clause:

construct, in relation to a well, includes:
(a) drill, bore, or otherwise make, the well; and
(b) install any well-related equipment associated with the well.

prepare includes construct.

title area:
(a) in relation to a greenhouse gas assessment permit—means the permit area; or
(b) in relation to a greenhouse gas holding lease—means the lease area; or
(c) in relation to a greenhouse gas injection licence—means the licence area.

well includes well-related equipment associated with a well.

61 Paragraphs 50(1)(a) and (b) of Schedule 3
Omit “the facility to which the inspection relates”, substitute “a facility to which the inspection relates”.

62 Paragraph 51(1)(a) of Schedule 3
Repeal the paragraph, substitute:
(a) at any reasonable time, enter any regulated business premises (other than a facility) if the OHS inspector has reasonable grounds to believe that there are likely to be at those premises documents that relate to:
(i) a facility that is, or facility operations that are, the subject of the inspection; or
(ii) if the investigation concerns a contravention or possible contravention of clause 13A or 13B—the contravention or possible contravention; and

63 Paragraph 52(1)(a) of Schedule 3
Repeal the paragraph, substitute:
(a) enter any premises (other than regulated business premises) if the OHS inspector has reasonable grounds to believe that
there are likely to be at those premises documents that relate to:

(i) a facility that is, or facility operations that are, the subject of the inspection; or

(ii) if the investigation concerns a contravention or possible contravention of clause 13A or 13B—the contravention or possible contravention; and

64 After paragraph 73(1)(c) of Schedule 3
Insert:
  (ca) a titleholder; or

65 At the end of paragraph 73(1)(d) of Schedule 3
Add “or”.

66 After paragraph 73(1)(d) of Schedule 3
Insert:
  (e) any person representing a person referred to in paragraph (ca);

67 At the end of clause 73 of Schedule 3
Add:

Limitation—titleholders

(5) Paragraphs (1)(ca) and (e) do not apply in relation to an inspection unless the inspection concerns a contravention or possible contravention of clause 13A or 13B.

Definition

(6) In this clause:

titleholder means the registered holder of:
  (a) a petroleum title; or
  (b) a greenhouse gas title.

68 After subparagraph 74(1)(b)(iii) of Schedule 3
Insert:
  (iiiia) a titleholder; or
69 At the end of paragraph 74(1)(b) of Schedule 3
Add:

or (v) any person representing a person referred to in subparagraph (iiiia);

70 After subparagraph 74(3)(b)(iii) of Schedule 3
Insert:

(iiiia) a titleholder; or

71 At the end of paragraph 74(3)(b) of Schedule 3
Add:

or (v) any person representing a person referred to in subparagraph (iiiia);

72 At the end of clause 74 of Schedule 3
Add:

Limitation—titleholders

(10) The following:

(a) subparagraph (1)(b)(iiiia);
(b) subparagraph (1)(b)(v);
(c) subparagraph (3)(b)(iiiia);
(d) subparagraph (3)(b)(v);

do not apply in relation to an inspection unless the inspection concerns a contravention or possible contravention of clause 13A or 13B.

Definition

(11) In this clause:

**titleholder** means the registered holder of:

(a) a petroleum title; or

(b) a greenhouse gas title.

73 Paragraph 80(3)(a) of Schedule 3
Repeal the paragraph, substitute:

(a) if the report relates to a facility—to the operator of the facility; and

(aa) if the report relates to a contravention or possible contravention of clause 13A by the registered holder of a petroleum title—to that registered holder; and

(ab) if the report relates to a contravention or possible contravention of clause 13B by the registered holder of a greenhouse gas title—to that registered holder; and

74 Paragraph 80(3)(b) of Schedule 3

Omit “or”, substitute “and”.

Part 6—Technical correction


75 Subclause 57(4) of Schedule 3

Omit “67(1)”, substitute “67(2) or (4)”. 

Part 7—Listed OHS laws

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

76 Paragraphs 638(1)(d), (e), (f) and (g)
Repeal the paragraphs, substitute:
(d) the *Offshore Petroleum (Safety) Regulations 2009*;

77 Subsection 638(2)
Omit “, (e), (f) or (g)”.

78 Transitional—pre-commencement contraventions of listed OHS laws etc.

1. A reference in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* to a contravention of a listed OHS law includes a reference to a contravention of:
   (a) the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996*; or
   (b) the *Petroleum (Submerged Lands) (Diving Safety) Regulations 2002*; or
   (c) the *Petroleum (Submerged Lands) (Occupational Health and Safety) Regulations 1993*; or
   (d) the *Petroleum (Submerged Lands) (Pipelines) Regulations 2001*, to the extent that those regulations relate to occupational health and safety matters;

2. A reference in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* to a contravention of a provision of a listed OHS law includes a reference to a contravention of a provision of:
   (a) the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996*; or
   (b) the *Petroleum (Submerged Lands) (Diving Safety) Regulations 2002*; or
   (c) the *Petroleum (Submerged Lands) (Occupational Health and Safety) Regulations 1993*.
(d) the Petroleum (Submerged Lands) (Pipelines) Regulations 2001, to the extent that those regulations relate to occupational health and safety matters;

that occurred before the commencement of this item.

(3) A reference in the Offshore Petroleum and Greenhouse Gas Storage Act 2006 to an offence against a listed OHS law includes a reference to an offence against:

(a) the Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996; or

(b) the Petroleum (Submerged Lands) (Diving Safety) Regulations 2002; or

(c) the Petroleum (Submerged Lands) (Occupational Health and Safety) Regulations 1993; or

(d) the Petroleum (Submerged Lands) (Pipelines) Regulations 2001, to the extent that those regulations relate to occupational health and safety matters;

that was committed before the commencement of this item.

[Minister’s second reading speech made in—
House of Representatives on 29 September 2010
Senate on 25 October 2010]