Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013

No. 11, 2013

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/)
# Contents

1. Short title................................................................................................................. 2
2. Commencement............................................................................................................. 2
3. Schedule(s).................................................................................................................. 3

## Schedule 1—Monitoring and investigation powers

- Part 2—Petroleum environmental inspections
- Part 3—OHS inspections
- Part 4—Consequential amendments
  - Division 1—General amendments
  - Division 2—NOPSEMA inspectors
- Part 5—Transitional, application and savings provisions

## Schedule 2—Offences and civil penalties

- Part 1—Offences and civil penalty provisions
- Part 2—Civil penalty enforcement
- Part 3—Application and transitional

## Schedule 3—Using and sharing information and things

- Part 1—Amendments
- Part 2—Application and transitional

## Schedule 4—Joint Authority for Tasmania

---

   No. 11, 2013
Part 1—Amendments  
*Offshore Petroleum and Greenhouse Gas Storage Act 2006*  
Part 2—Transitional  

*Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013*  
No. 11, 2013
Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013

No. 11, 2013

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

[Assented to 14 March 2013]

The Parliament of Australia enacts:
1 Short title

This Act may be cited as the Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013.

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.

<table>
<thead>
<tr>
<th>Provision(s)</th>
<th>Commencement</th>
<th>Date/Details</th>
</tr>
</thead>
<tbody>
<tr>
<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>14 March 2013</td>
</tr>
<tr>
<td>2. Schedule 1</td>
<td>The later of:</td>
<td>1 October 2014 (paragraph (b) applies)</td>
</tr>
<tr>
<td></td>
<td>(a) the start of the day after this Act receives the Royal Assent; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) immediately after the commencement of Parts 2 and 3 of the Regulatory Powers (Standard Provisions) Act 2013.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.</td>
<td></td>
</tr>
<tr>
<td>3. Schedule 2</td>
<td>The later of:</td>
<td>1 October 2014 (paragraph (b) applies)</td>
</tr>
<tr>
<td></td>
<td>(a) the start of the day after this Act receives the Royal Assent; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) immediately after the commencement of Part 4 of the Regulatory Powers (Standard Provisions) Act 2013.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.</td>
<td></td>
</tr>
<tr>
<td>4. Schedules 3 and 4</td>
<td>The day after this Act receives the Royal Assent.</td>
<td>15 March 2013</td>
</tr>
</tbody>
</table>
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.
Schedule 1—Monitoring and investigation powers


*Offshore Petroleum and Greenhouse Gas Storage Act 2006*

1 Section 7
   Insert:
   
   *NOPSEMA inspector* means a person appointed as a NOPSEMA inspector under section 602.

2 Section 7 (definition of *petroleum project inspector*)
   Repeal the definition.

3 Section 7
   Insert:
   

4 Part 6.5 (heading)
   Repeal the heading, substitute:

**Part 6.5—Compliance and enforcement**

5 Section 599
   Omit:
   
   • NOPSEMA may appoint petroleum project inspectors, and the petroleum project inspectors may exercise powers of access, inspection and entry for the purposes of this Act and the regulations.

substitute:

---

The CEO may appoint inspectors (called *NOPSEMA inspectors*). The NOPSEMA inspectors may exercise powers of entry, monitoring and investigation for the purposes of this Act.

The exercise of some of these powers is provided for under Parts 2 and 3 of the Regulatory Powers Act. Those Parts of that Act are applied by this Division with suitable modifications.

### 6 Sections 600 to 602

Repeal the sections, substitute:

#### 600 Definitions—this Division

In this Division:

- **CEO** means the Chief Executive Officer of NOPSEMA.
- **evidential material** has the same meaning as in the Regulatory Powers Act.
- **facility** has the same meaning as in Schedule 3.
- **function** includes duty.
- **listed NOPSEMA law**: see section 601.
- **operator** of a facility has the same meaning as in Schedule 3.
- **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; or
  - (e) a pipeline licence; or
  - (f) a petroleum special prospecting authority; or
  - (g) a petroleum access authority; or
  - (h) a petroleum scientific investigation consent.
- **this Act** includes a legislative instrument under this Act.
### 601 Meaning of listed NOPSEMA law

(1) For the purposes of this Act, the provisions listed in the following table are the **listed NOPSEMA laws**, to the extent provided in the column headed “Provisions”:

<table>
<thead>
<tr>
<th>Item</th>
<th>Provisions</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Chapter 2</td>
<td>Regulation of activities related to petroleum</td>
</tr>
<tr>
<td>2</td>
<td>Chapter 4</td>
<td>Registration of transfers of, and dealings in, petroleum titles</td>
</tr>
<tr>
<td>3</td>
<td>Sections 568 and 569</td>
<td>Works and operations obligations of petroleum titleholders</td>
</tr>
<tr>
<td>4</td>
<td>Sections 571 and 572, to the extent that the sections apply in relation to petroleum titles</td>
<td>Insurance and property obligations of petroleum titleholders</td>
</tr>
<tr>
<td>5</td>
<td>Part 6.2</td>
<td>Directions relating to petroleum</td>
</tr>
<tr>
<td>6</td>
<td>Division 1 of Part 6.4</td>
<td>Remedial directions for petroleum titleholders</td>
</tr>
<tr>
<td>7</td>
<td>Division 1 of Part 6.5</td>
<td>Compliance and enforcement—listed NOPSEMA laws</td>
</tr>
<tr>
<td>8</td>
<td>Part 6.6</td>
<td>Safety zones and the area to be avoided</td>
</tr>
<tr>
<td>9</td>
<td>Part 6.7, to the extent that the Part applies in relation to petroleum titles</td>
<td>Collection of fees and royalties payable to the Titles Administrator or the Commonwealth</td>
</tr>
<tr>
<td>10</td>
<td>Division 8 of Part 6.9</td>
<td>Collection of fees and levies payable to NOPSEMA</td>
</tr>
<tr>
<td>11</td>
<td>Division 4 of Part 6.10, to the extent that the Division applies in relation to petroleum titles</td>
<td>Collection of fees and levies payable to the Titles Administrator</td>
</tr>
<tr>
<td>12</td>
<td>Chapter 7</td>
<td>Information relating to petroleum</td>
</tr>
<tr>
<td>13</td>
<td>Schedule 2A</td>
<td>Petroleum environmental laws: additional NOPSEMA inspection powers</td>
</tr>
<tr>
<td>14</td>
<td>Schedule 3</td>
<td>Occupational health and safety (applying to offshore petroleum operations and offshore greenhouse</td>
</tr>
</tbody>
</table>
## Listed NOPSEMA laws

<table>
<thead>
<tr>
<th>Item</th>
<th>Provisions</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>The provisions of the <em>Offshore Petroleum and Greenhouse Gas Storage</em> (Safety) Regulations 2009</td>
<td>Safety regulation (applying to offshore petroleum operations and offshore greenhouse gas storage operations)</td>
</tr>
<tr>
<td>16</td>
<td>The provisions of the <em>Offshore Petroleum and Greenhouse Gas Storage</em> (Environment) Regulations 2009, to the extent that the regulations apply in relation to petroleum titles</td>
<td>Environment regulation</td>
</tr>
<tr>
<td>17</td>
<td>The provisions of Part 5 of the <em>Offshore Petroleum and Greenhouse Gas Storage</em> (Resource Management and Administration) Regulations 2011, to the extent that the Part applies in relation to petroleum titles</td>
<td>Structural integrity of petroleum wells and well operations</td>
</tr>
<tr>
<td>18</td>
<td>The provisions of the <em>Offshore Petroleum and Greenhouse Gas Storage</em> (Resource Management and Administration) Regulations 2011 (apart from Part 5), to the extent that the regulations apply in relation to petroleum titles</td>
<td>Resource management and administration</td>
</tr>
<tr>
<td>19</td>
<td>A provision of a legislative instrument under this Act, if (and to the extent that) it is prescribed by regulation for the purposes of this section</td>
<td>As stated in the regulation</td>
</tr>
</tbody>
</table>

(2) A listed NOPSEMA law includes a requirement made under a provision listed in the table in subsection (1).

### 602 NOPSEMA inspectors—appointment

*Appointment generally*

(1) The CEO may, in writing, appoint as NOPSEMA inspectors any of the following:
Schedule 1  Monitoring and investigation powers


(a) a member of the staff of NOPSEMA;
(b) an employee of the Commonwealth or of a Commonwealth authority;
(c) an employee of a State or of the Northern Territory, or of an authority of a State or of the Northern Territory.

(2) Despite subsection (1), the CEO may appoint as NOPSEMA inspectors persons who are not covered by paragraph (1)(a), (b) or (c), if the appointment is for a period, and for the performance of functions, stated in the instrument of appointment.

(3) The CEO must not appoint a person as a NOPSEMA inspector unless the CEO is satisfied that the person has suitable training or experience to properly exercise the powers of a NOPSEMA inspector (subject to any limitations as to powers or functions stated in an instrument under subsection (2) or a direction under 602A).

Identity cards

(4) An identity card issued to a NOPSEMA inspector under the Regulatory Powers Act must:
(a) state that the inspector is a NOPSEMA inspector for the purposes of this Act; and
(b) if the inspector is appointed subject to any limitations as to powers or functions stated in the instrument of appointment under subsection (2)—state that limitation; and
(c) if the appointment is in relation to the Eastern Greater Sunrise offshore area—identify the inspector as a Greater Sunrise visiting inspector.

Powers etc. given by State or Territory PSLA

(5) In addition to the powers and functions given for the purposes of this Act, a NOPSEMA inspector has all the powers and functions that are given by or under a State PSLA or the Territory PSLA.
602A NOPSEMA inspectors—directions by CEO

Directions etc. by the CEO

(1) The CEO may give written directions stating conditions subject to which a NOPSEMA inspector’s powers may be exercised for the purposes of this Act. If the CEO does so, the inspector’s powers must be exercised in accordance with those directions.

(2) The CEO may, by written notice, impose conditions (not inconsistent with any directions under subsection (1)) on the exercise of powers, or the performance of functions, by a particular NOPSEMA inspector for the purposes of this Act. If the CEO does so, the inspector’s powers and functions are to be exercised or performed subject to those conditions.

Status of directions and notices as legislative instruments

(3) If a direction under subsection (1) is of general application, the direction is a legislative instrument.

(4) If a direction under subsection (1) is not of general application, the direction is not a legislative instrument.

(5) A notice under subsection (2) is not a legislative instrument.

602B NOPSEMA inspectors—reimbursement for exercise of powers relating to the Titles Administrator

Scope

(1) This section applies if a NOPSEMA inspector:
   (a) engages in activities that are preparatory to the exercise, or the possible exercise, of a power for a purpose that relates to the powers or functions of the Titles Administrator; or
   (b) exercises a power for a purpose that relates to the powers or functions of the Titles Administrator.

Reimbursement

(2) NOPSEMA and the Titles Administrator may, with the agreement of the responsible Commonwealth Minister, make a written determination that provides that an amount worked out in

Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013
No. 11, 2013 9
accordance with the determination is, on a day worked out in accordance with the determination, to be:

(a) debited from the National Offshore Petroleum Titles Administrator Special Account; and
(b) credited to the National Offshore Petroleum Safety and Environmental Management Authority Special Account.

(3) The Titles Administrator must publish a determination under subsection (2) on the Department’s website.

(4) A determination under subsection (2) is not a legislative instrument.

602C Listed NOPSEMA laws—monitoring powers (general)

Provisions subject to monitoring

(1) The listed NOPSEMA laws are subject to monitoring under Part 2 of the Regulatory Powers Act.

Note 1: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether the listed NOPSEMA laws have been complied with. It includes powers of entry, search and inspection (see section 20 of that Act).

Note 2: For the listed NOPSEMA laws, see section 601.

Information subject to monitoring

(2) Information given in compliance or purported compliance with one or more of the listed NOPSEMA laws is subject to monitoring under Part 2 of the Regulatory Powers Act.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether the information is correct. It includes powers of entry, search and inspection (see section 20 of that Act).

Related provisions

(3) For the purposes of Part 2 of the Regulatory Powers Act, each of the following is related to the listed NOPSEMA laws and the information mentioned in subsection (2):

(a) a provision for an offence against this Act;
(b) a civil penalty provision under this Act;
(c) a provision for an offence against the *Crimes Act 1914* or the *Criminal Code* that relates to this Act.

**Authorised applicant**

(4) For the purposes of Part 2 of the Regulatory Powers Act, a NOPSEMA inspector is an *authorised applicant* in relation to both of the following:

(a) the listed NOPSEMA laws;
(b) the information mentioned in subsection (2).

**Authorised person**

(5) For the purposes of Part 2 of the Regulatory Powers Act, a NOPSEMA inspector is an *authorised person* in relation to both of the following:

(a) the listed NOPSEMA laws;
(b) the information mentioned in subsection (2).

**Issuing officer**

(6) For the purposes of Part 2 of the Regulatory Powers Act, a magistrate, or a Judge of the Federal Circuit Court, is an *issuing officer* in relation to both of the following:

(a) the listed NOPSEMA laws;
(b) the information mentioned in subsection (2).

**Relevant chief executive**

(7) For the purposes of Part 2 of the Regulatory Powers Act, the CEO is the *relevant chief executive* in relation to both of the following:

(a) the listed NOPSEMA laws;
(b) the information mentioned in subsection (2).

**Relevant court**

(8) For the purposes of Part 2 of the Regulatory Powers Act, each of the following courts is a *relevant court* in relation to the listed NOPSEMA laws and the information mentioned in subsection (2):

(a) the Federal Court;
(b) the Federal Circuit Court;
Schedule 1  Monitoring and investigation powers

(c) the Supreme Court of a State or Territory.

Person assisting

(9) For the purposes of Part 2 of the Regulatory Powers Act, a NOPSEMA inspector may be assisted by a member (or members) of the staff of NOPSEMA in exercising powers or performing functions in relation to both of the following:

(a) the listed NOPSEMA laws;
(b) the information mentioned in subsection (2).

Extension to offshore areas

(10) Part 2 of the Regulatory Powers Act extends to each offshore area, in the application of that Part in relation to both of the following:

(a) the listed NOPSEMA laws;
(b) the information mentioned in subsection (2).

Note: Under Schedule 3 to this Act, NOPSEMA inspectors may exercise additional powers, and perform additional functions, for the purpose of monitoring listed OHS laws, environmental management laws and structural integrity laws.

602D  Listed NOPSEMA laws—investigation powers (general)

Offences and civil penalty provisions that are subject to investigation

(1) The following are subject to investigation under Part 3 of the Regulatory Powers Act:

(a) an offence against a listed NOPSEMA law;
(b) a civil penalty provision that is a listed NOPSEMA law;
(c) an offence against the Crimes Act 1914 or the Criminal Code that relates to an offence against a listed NOPSEMA law.

Note 1: Part 3 of the Regulatory Powers Act creates a framework for investigating whether offences or civil penalty provisions that are subject to investigation have been committed or contravened. It includes powers of entry, search, inspection and seizure (see section 50 of that Act).

Note 2: For the listed NOPSEMA laws, see section 601.
Related provisions

(2) For the purposes of Part 3 of the Regulatory Powers Act, each of the following is related to evidential material that relates to an offence or civil penalty provision mentioned in subsection (1):
   (a) a provision for an offence against this Act;
   (b) a civil penalty provision under this Act;
   (c) a provision for an offence against the Crimes Act 1914 or the Criminal Code that relates to this Act.

Authorised applicant

(3) For the purposes of Part 3 of the Regulatory Powers Act, a NOPSEMA inspector is an authorised applicant in relation to evidential material that relates to an offence or civil penalty provision mentioned in subsection (1).

Authorised person

(4) For the purposes of Part 3 of the Regulatory Powers Act, a NOPSEMA inspector is an authorised person in relation to evidential material that relates to an offence or civil penalty provision mentioned in subsection (1).

Issuing officer

(5) For the purposes of Part 3 of the Regulatory Powers Act, a magistrate, or a Judge of the Federal Circuit Court, is an issuing officer in relation to evidential material that relates to an offence or civil penalty provision mentioned in subsection (1).

Relevant chief executive

(6) For the purposes of Part 3 of the Regulatory Powers Act, the CEO is the relevant chief executive in relation to evidential material that relates to an offence or civil penalty provision mentioned in subsection (1).

Relevant court

(7) For the purposes of Part 3 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to evidential
material that relates to an offence or civil penalty provision mentioned in subsection (1):
(a) the Federal Court;
(b) the Federal Circuit Court;
(c) the Supreme Court of a State or Territory.

Person assisting

(8) For the purposes of Part 3 of the Regulatory Powers Act, a NOPSEMA inspector may be assisted by a member (or members) of the staff of NOPSEMA in exercising powers or performing functions in relation to evidential material that relates to an offence or civil penalty provision mentioned in subsection (1).

Use of force in executing a warrant

(9) In executing an investigation warrant:
(a) an authorised person may use such force against things as is necessary and reasonable in the circumstances; and
(b) a person assisting the authorised person may use such force against things as is necessary and reasonable in the circumstances.

Extension to offshore areas

(10) Part 3 of the Regulatory Powers Act, as it applies in relation to an offence or civil penalty provision mentioned in subsection (1), extends to each offshore area.

602E Listed NOPSEMA laws—additional powers

Additional powers

(1) A NOPSEMA inspector may exercise the powers covered by subsection (2) after entering premises under Part 3 of the Regulatory Powers Act (as it applies under this Division).

Powers that may be exercised

(2) The powers covered by this subsection are as follows:
(a) if the inspector’s entry is in connection with a listed NOPSEMA law that is a petroleum environmental law—
power in relation to the premises that the inspector would have, if the inspector had entered the premises for the purposes of a petroleum environmental inspection under Schedule 2A, to issue a do not disturb notice under clause 10 of Schedule 2A;

(b) if the inspector’s entry is in connection with a listed NOPSEMA law that is a listed OHS law—the powers in relation to the premises that the inspector would have, if the inspector had entered the premises for the purposes of an OHS inspection under Schedule 3, to issue any of the following:

(i) a do not disturb notice under clause 76 of Schedule 3;
(ii) a prohibition notice under clause 77 of Schedule 3;
(iii) an improvement notice under clause 78 of Schedule 3.

Application of Schedule 2A and Schedule 3

(3) Schedule 2A applies in relation to the exercise (as provided by this section) of a power covered by paragraph (2)(a) as if the inspector were conducting a petroleum environmental inspection under that Schedule.

(4) Schedule 3 applies in relation to the exercise (as provided by this section) of a power covered by paragraph (2)(b) as if the inspector were conducting an OHS inspection under that Schedule.

602F Listed NOPSEMA laws—monitoring and investigation powers (special provisions)

Scope

(1) This section provides for extended or alternative meanings of terms used in Part 2 or 3 of the Regulatory Powers Act in the application of that Part under this Division.

Premises

(2) In that application (and without limiting its meaning under that Act) premises includes any vessel, structure or other thing located in an offshore area that is used, or that has been used, for the purposes of either of the following (within the meaning of Part 6.9):

Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013

No. 11, 2013 15
Schedule 1  Monitoring and investigation powers

(a) offshore petroleum operations;
(b) offshore greenhouse gas storage operations.

Examples of premises:
(a) a facility (within the meaning of Schedule 3); and
(b) an infrastructure facility (see section 15); and
(c) a petroleum pipeline.

Occupiers of premises located offshore

(3) In that application, but only in relation to the exercise of powers by a NOPSEMA inspector at premises that are located in an offshore area, occupier means:
(a) in the case of the exercise of powers at a facility in relation to a listed NOPSEMA law that is a listed OHS law—the operator’s representative at the facility (within the meaning of Schedule 3); or
(b) if paragraph (a) does not apply, and the premises are a vessel under the command or charge of a master—the master; or
(c) if paragraphs (a) and (b) do not apply, and the powers are exercised in relation to any listed NOPSEMA law that is a petroleum environmental law—the titleholder’s representative (if any) at the premises; or
(d) if there is no occupier at the premises as provided under paragraph (a), (b) or (c)—the person at the premises who appears to be in overall control of the premises.

Note: In the case of premises that are not located in an offshore area, occupier would have its ordinary meaning as applied under the Regulatory Powers Act.

602G  Listed NOPSEMA laws—monitoring and investigation powers
(reasonable facilities and assistance)

Scope

(1) This section applies if any powers are to be exercised by a NOPSEMA inspector under the Regulatory Powers Act as it applies under this Division in relation to premises that are located in an offshore area.

Note: For the meaning of premises in this context, see section 602F.
Reasonable facilities and assistance

(2) For the purposes of the application of section 32 or 64 of the Regulatory Powers Act under this Division, in addition to any facilities or assistance that must otherwise be provided under those sections in that application, the responsible person must provide:

(a) appropriate transport to or from the premises for the following:
   (i) the NOPSEMA inspector;
   (ii) any person assisting the inspector (within the meaning of section 24 or 54 of the Regulatory Powers Act as that section applies under this Division);
   (iii) any equipment required by the inspector;
   (iv) any thing of which the inspector has taken possession; and

(b) reasonable accommodation and means of subsistence for the inspector, and any such person assisting the inspector, while the inspector is at the premises.

Note: A NOPSEMA inspector may be assisted by a member of staff of NOPSEMA (see sections 602C and 602D). Any such assistance must be necessary and reasonable (see sections 24 and 54 of the Regulatory Powers Act).

(3) In this section:

responsible person means:

(a) if the powers are to be exercised in relation to a facility—the operator of the facility; or

(b) in any other case—the registered holder of a petroleum title in relation to which the powers are to be exercised.

602H Listed NOPSEMA laws—monitoring and investigation powers (Greater Sunrise visiting inspectors)

(1) For the purposes of this Act, a Greater Sunrise visiting inspector who produces, at a reasonable time, the inspector’s identity card:

(a) is to be given access to the regions in the following areas:
   (i) the Eastern Greater Sunrise offshore area;
   (ii) the Principal Northern Territory offshore area; and

(b) is to be given access to any structure, vessel, aircraft or building in that region that, in that inspector’s opinion,
contains any equipment used to measure amounts of petroleum recovered from one or more of the Greater Sunrise unit reservoirs; and

(c) may inspect and test any equipment that, in that inspector’s opinion, is being used in that region to measure amounts of petroleum recovered from one or more of the Greater Sunrise unit reservoirs.

Note: A Greater Sunrise visiting inspector is a NOPSEMA inspector whose identity card identifies the inspector as such (see subsection 602(4)).

(2) A Greater Sunrise visiting inspector must not, in his or her capacity as such, exercise any other powers of a NOPSEMA inspector under the Regulatory Powers Act (as applied by this Division), or otherwise under this Act.

602J Petroleum environmental laws—additional powers

NOPSEMA and NOPSEMA inspectors have the powers and functions given by Schedule 2A in relation to the petroleum environmental laws.

602K NOPSEMA inspections—titleholder’s representative

Scope

(1) This section applies in relation to an inspection by a NOPSEMA inspector at offshore premises that is wholly or partly in relation to a titleholder’s compliance with the titleholder’s obligations.

Meaning of titleholder’s representative

(2) For the purposes of this Act, a titleholder’s representative is a person nominated by the titleholder under this section who is present at the offshore premises in compliance with a requirement imposed on the titleholder by paragraph (5)(b).

Nomination of titleholder representative

(3) For the purposes of an inspection, a NOPSEMA inspector may, by written notice to the titleholder, require the titleholder to nominate a representative to be present at offshore premises at the time stated in the notice.
(4) Subsection (3) does not imply that, if the titleholder is an individual, the nominated representative of the titleholder may not be that individual.

(5) The titleholder must:
   (a) by written notice to the NOPSEMA inspector, nominate a representative as required by the notice under subsection (3); and
   (b) take all reasonably practicable steps to ensure that the nominated representative is present at the offshore premises at the time stated in the notice, and remains at the offshore premises after the stated time until no longer required for the purposes of the inspection.

Offence

(6) A person commits an offence of strict liability if:
   (a) the person is subject to a requirement under subsection (5); and
   (b) the person omits to do an act; and
   (c) the omission breaches the requirement.

Penalty:  50 penalty units.

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

Civil penalty

(7) A person who is subject to a requirement under subsection (5) must comply with the requirement.

Civil penalty:  135 penalty units.

Definitions

(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.

   inspection means:
Schedule 1 Monitoring and investigation powers

(a) an inspection under Part 2 or 3 of the Regulatory Powers Act, as applied by this Division; or
(b) a petroleum environmental inspection under Schedule 2A; or
(c) an OHS inspection under Part 4 of Schedule 3.

offshore premises means:
(a) a facility; or
(b) offshore petroleum premises within the meaning of Schedule 2A (which deals with inspections concerning petroleum environmental laws).

petroleum title: see section 600.

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

titleholder’s obligations means the obligations of a titleholder to comply with:
(a) for an inspection under Part 2 or 3 of the Regulatory Powers Act, as applied by this Division—a listed NOPSEMA law; or
(b) for a petroleum environmental inspection under Schedule 2A—a petroleum environmental law; or
(c) for an OHS inspection under Part 4 of Schedule 3:
   (i) clause 13A of Schedule 3 (petroleum titleholder duty of care); or
   (ii) Part 5 of the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011, to the extent that the Part relates to petroleum titles; or
   (iii) clause 13B of Schedule 3 (greenhouse gas titleholder duty of care).

602L Listed NOPSEMA laws—monitoring and investigation powers (relationship with other powers)

The exercise or performance by a NOPSEMA inspector (or any other person) of a power or function under Part 2 or 3 of the Regulatory Powers Act, as it applies under this Division:

(a) does not prevent the inspector (or other person) from exercising or performing a power or function under any provision of this Act; and
(b) is not prevented by the exercise or performance by a NOPSEMA inspector (or any other person) of a power or function under any provision of this Act.

Note: NOPSEMA inspectors may also exercise other powers under this Act. For example:
(a) under section 602J and Schedule 2A, in relation to provisions of this Act that are petroleum environmental laws; and
(b) under Part 6.8 and Schedule 3, in relation to provisions of this Act that are listed OHS laws.

7 Division 6 of Part 6.9 of Chapter 6
Repeal the Division.

8 At the end of Part 9.11
Add:

790A Regulations dealing with the Regulatory Powers Act

Regulations may:
(a) make a provision of a regulation a civil penalty provision (see Part 4 of the Regulatory Powers Act); and
(b) modify the Regulatory Powers Act as it applies in relation to a regulation.
Part 2—Petroleum environmental inspections


9 After Schedule 2

Insert:

Schedule 2A—Petroleum environmental laws: additional NOPSEMA inspection powers

Note: See section 602J.

Part 1—Introduction

1 Simplified outline

The following is a simplified outline of this Schedule:

- This Schedule covers those provisions of this Act (called petroleum environmental laws) that concern offshore petroleum management in Commonwealth waters (see clause 2).
- NOPSEMA inspectors may conduct an inspection (called a petroleum environmental inspection) to monitor compliance with petroleum environmental laws.
- A NOPSEMA inspector must prepare a report about an inspection and give the report to NOPSEMA.
- The powers that a NOPSEMA inspector may exercise for the purposes of a petroleum environmental inspection are in addition to the powers in relation to petroleum environmental laws that the inspector may exercise for the purposes of Division 1 of Part 6.5 of this Act.
2 Definitions

In this Schedule:

Commonwealth waters has the same meaning as in Part 6.9 of this Act.

do not disturb notice means a notice issued under clause 10.

enter, when used in relation to offshore petroleum premises that are a vessel, includes board.

facility: means a facility, within the meaning of Schedule 3, that is or is to be used, or has been used, for offshore petroleum operations (within the meaning of Part 6.9 of this Act).

master, in relation to a vessel, means the person having command or charge of the vessel.

offence against a petroleum environmental law: see clause 14.

offshore petroleum premises means any of the following, if located in Commonwealth waters:

(a) a facility;
(b) an infrastructure facility that is (or has been) the subject of an infrastructure licence, and that is or is to be operated, or that has been operated, for petroleum activities, as mentioned in subsection 15(2);
(c) a vessel that is or is to be used, or that has been used, to carry out a seismic survey for the purposes of petroleum exploration;
(d) any other premises, other than a vessel under the command or charge of a master, that are or are to be used, or that have been used, for the carrying out of an activity in connection with the exercise of a titleholder’s rights, or the performance of a titleholder’s obligations, under this Act.

operator, in relation to a facility, has the same meaning as in Schedule 3.

operator’s representative at the facility has the same meaning as in Schedule 3.

own includes own jointly or own in part.
petroleum environmental inspection: see clause 3.

petroleum environmental law:
(a) means the provisions of this Act, to the extent to which the provisions relate to offshore petroleum environmental management (within the meaning of Part 6.9 of this Act) in relation to Commonwealth waters; and
(b) includes a requirement made under a provision of this Act, to the extent mentioned in paragraph (a).

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; or
(e) a pipeline licence; or
(f) a petroleum special prospecting authority; or
(g) a petroleum access authority; or
(h) a petroleum scientific investigation consent.

plant includes any machinery, equipment or tool, or any component.

premises has the same meaning as in the Regulatory Powers Act in its application under Division 1 of Part 6.5 of this Act (see section 602F of this Act).

regulated business premises means premises, other than offshore petroleum premises, that are:
(a) occupied by the registered holder of a petroleum title; and
(b) used, or proposed to be used, wholly or principally in connection with operations in relation to one or more petroleum titles, including that petroleum title.

this Act includes a legislative instrument under this Act.

titleholder means the registered holder of a petroleum title.

titleholder’s representative, in relation to a titleholder within the meaning of this Schedule, has the meaning given by section 602K.
Part 2—Petroleum environmental inspections

Division 1—Petroleum environmental inspections: general provisions

3 Petroleum environmental inspections—nature of inspections

What is a petroleum environmental inspection?

(1) A petroleum environmental inspection is an inspection under this Part. Such an inspection:
   (a) includes an investigation or inquiry; and
   (b) need not include a physical inspection of any premises or thing.

Inspections—general power

(2) A NOPSEMA inspector may, at any time, conduct a petroleum environmental inspection:
   (a) to determine whether a petroleum environmental law has been, or is being, complied with; or
   (b) to determine whether information given in compliance, or purported compliance, with a petroleum environmental law is correct.

The inspection may be conducted at the inspector’s own initiative or in compliance with a direction under subclause (3).

Inspections—directed by NOPSEMA

(3) NOPSEMA may give a written direction to a NOPSEMA inspector to conduct a petroleum environmental inspection.

(4) The NOPSEMA inspector must conduct a petroleum environmental inspection as directed under subclause (3).
4 Petroleum environmental inspections—offshore petroleum premises

Power to enter and search

(1) A NOPSEMA inspector may, for the purposes of a petroleum environmental inspection, at any reasonable time during the day or night:

(a) enter offshore petroleum premises at which activities to which the inspection relates are being, or have been, carried on, and do any or all of the following:
   (i) search the premises;
   (ii) inspect, examine or measure, or conduct tests concerning, the premises (including any part of the premises and any plant, substance or thing at the premises);
   (iii) take photographs of, make video recordings of, or make sketches of, the premises (including any part of the premises and any plant, substance or thing at the premises);
   (iv) inspect, take extracts from, or make copies of, any documents at the premises that the inspector is satisfied on reasonable grounds relate, or are likely to relate, to the subject matter of the inspection; and
(b) inspect the seabed and subsoil in the vicinity of the offshore petroleum premises to which the inspection relates.

Notification of entry

(2) Immediately on entering the offshore petroleum premises for the purposes of the inspection, a NOPSEMA inspector must take reasonable steps to notify the purpose of the entry to the following person (the occupier):

(a) if the premises are a vessel under the command or charge of a master—the master;
(b) if paragraph (a) does not apply:
   (i) the titleholder’s representative at the premises who is nominated for the inspection; or

---

(ii) if there is no titleholder’s representative at the premises— the person at the premises who appears to be in overall control of the premises.

(3) The inspector must, on being requested to do so by the occupier, produce for inspection by the occupier:
   (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 given by the CEO under section 602A in relation to the exercise of the inspector’s powers.

5 Petroleum environmental inspections—regulated business premises

Power to enter and search

(1) A NOPSEMA inspector may, for the purposes of a petroleum environmental inspection:
   (a) at any reasonable time, enter any regulated business premises if the inspector is satisfied on reasonable grounds that there are likely to be at those premises documents or things that relate to:
      (i) operations conducted for the purposes of a petroleum title; or
      (ii) compliance or non-compliance with a petroleum environmental law; and
   (b) search for, inspect, take extracts from, or make copies of, any such documents at those premises.

Notification of entry

(2) Immediately on entering regulated business premises for the purposes of an inspection, a NOPSEMA inspector must take reasonable steps to notify the purpose of the entry to the occupier of the premises.

(3) The inspector must, on being requested to do so by the occupier, produce for inspection by the occupier:
Schedule 1  Monitoring and investigation powers
Part 2  Petroleum environmental inspections

(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.

6 Petroleum environmental inspections—obstructing or hindering
NOPSEMA inspector

(1) A person commits an offence if:
(a) the person engages in conduct; and
(b) the conduct obstructs or hinders a NOPSEMA inspector in
the exercise of the inspector’s powers under clause 4 or 5.

Penalty: 60 penalty units.

(2) A person is liable for a civil penalty if the person obstructs or
hinders a NOPSEMA inspector in the exercise of the inspector’s
powers under clause 4 or 5.

Civil penalty: 135 penalty units.

(3) Subclause (1) or (2) does not apply if the person has a reasonable
excuse.

Note 1: In proceedings for an offence against subclause (1), the defendant
bears an evidential burden in relation to the matter in subclause (3)—
see subsection 13.3(3) of the Criminal Code. The same applies in
proceedings for a civil penalty under subclause (2).

Note 2: See also Part 2.3 of the Criminal Code (circumstances in which there
is no criminal responsibility).

Note 3: The same conduct may be an offence against both subclause (1) of this
clause and section 149.1 of the Criminal Code.

28 Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures)
Act 2013  No. 11, 2013
Division 2—Petroleum environmental inspections: compliance powers

7 Petroleum environmental inspections—power to require assistance

Requirement to provide assistance

(1) A NOPSEMA inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of a petroleum environmental inspection at or near offshore petroleum premises in relation to a petroleum title, require:
   (a) the titleholder; or
   (b) the titleholder’s representative at the premises who is nominated for the inspection;
   to provide the inspector with reasonable assistance and facilities:
   (c) that is or are reasonably connected with the conduct of the inspection at or near the premises; or
   (d) for the effective exercise of the inspector’s powers in connection with the conduct of the inspection at or near the premises.

(2) The reasonable assistance referred to in subclause (1) includes, so far as the titleholder is concerned:
   (a) appropriate transport to or from the premises for the inspector and for any equipment required by the inspector, or any thing of which the NOPSEMA inspector has taken possession; and
   (b) reasonable accommodation and means of subsistence while the inspector is at the premises.

Offence

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

Penalty: Imprisonment for 6 months or 60 penalty units, or both.

(4) Subclause (3) does not apply if the person has a reasonable excuse.

Note 1: A defendant bears an evidential burden in relation to the matter in subclause (4)—see subsection 13.3(3) of the Criminal Code.
Note 2: See also Part 2.3 of the Criminal Code (circumstances in which there is no criminal responsibility).

8 Petroleum environmental inspections—powers to require information, and the production of documents and things

Requirement to answer questions

(1) If:
(a) a NOPSEMA inspector is satisfied on reasonable grounds that a person is capable of answering a question that is reasonably connected with the conduct of a petroleum environmental inspection in relation to a petroleum title; and
(b) the person is:
   (i) the titleholder; or
   (ii) in the case of an inspection at offshore petroleum premises—the titleholder’s representative at the premises who is nominated for the inspection, or any person engaged in petroleum activities at the premises; or
   (iii) in the case of an inspection at regulated business premises—any person representing the titleholder;
the inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to answer the question put by the inspector.

(2) If, at the time when a requirement under subclause (1) is imposed on a person, the person is not physically present at offshore petroleum premises or regulated business premises, the person is not obliged to comply with the requirement unless the requirement:
(a) is in writing; and
(b) specifies the day on or before which the question is to be answered; and
(c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.
The day specified under paragraph (b) must be at least 14 days after the day the requirement is imposed.

Requirement to produce documents or things

(3) If:
(a) a NOPSEMA inspector is satisfied on reasonable grounds that a person is capable of producing a document or thing that is reasonably connected with the conduct of a petroleum environmental inspection in relation to a petroleum title; and

(b) the person is:
   (i) the titleholder; or
   (ii) in the case of an inspection at offshore petroleum premises—the titleholder’s representative at the premises who is nominated for the inspection, or any person engaged in petroleum activities at the premises; or
   (iii) in the case of an inspection at regulated business premises—any person representing the titleholder;

the inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of the inspection, require the person to produce the document or thing.

(4) If, at the time when a requirement under subclause (3) is imposed on a person, the person is not physically present at offshore petroleum premises or regulated business premises, the person is not obliged to comply with the requirement unless the requirement:
   (a) is in writing; and
   (b) specifies the day on or before which the document or thing is to be produced; and
   (c) is accompanied by a statement to the effect that a failure to comply with the requirement is an offence.

The day specified under paragraph (b) must be at least 14 days after the day the requirement is imposed.

Offence

(5) A person commits an offence if:
   (a) the person is subject to a requirement under this clause; and
   (b) the person omits to do an act; and
   (c) the omission breaches the requirement.

Penalty: Imprisonment for 6 months or 60 penalty units, or both.

(6) Subclause (5) does not apply if the person has a reasonable excuse.

Note 1: A defendant bears an evidential burden in relation to the matter in subclause (6)—see subsection 13.3(3) of the Criminal Code.
Note 2: See also Part 2.3 of the Criminal Code (circumstances in which there is no criminal responsibility).

False information

(7) A person commits an offence if:
(a) the person gives information to another person; and
(b) the person does so knowing that the information is false or misleading in a material particular; and
(c) the information is given in compliance or purported compliance with a requirement under this clause.

Penalty: Imprisonment for 6 months or 60 penalty units, or both.
Note: The same conduct may be an offence against both subclause (7) of this clause and section 137.1 of the Criminal Code.

Self-incrimination

(8) A person is not excused from answering a question or producing a document or thing when required to do so under subclause (1) or (3) on the ground that the answer to the question, or the production of the document or thing, may tend to incriminate the person or make the person liable to a penalty.

(9) However:
(a) the answer given or document or thing produced; or
(b) answering the question or producing the document or thing; or
(c) any information, document or thing obtained as a direct or indirect consequence of the answering of the question or the production of the document or thing; is not admissible in evidence against the person:
(d) in any civil proceedings; or
(e) in any criminal proceedings other than:
(i) proceedings for an offence against this clause; or
(ii) proceedings for an offence against section 137.1 or 137.2 of the Criminal Code that relates to this clause.
9 Petroleum environmental inspections—power to take possession of plant and samples etc.

Power to take possession or samples

(1) In conducting a petroleum environmental inspection in relation to a petroleum title, a NOPSEMA inspector may, to the extent that it is reasonably necessary for the purposes of inspecting, examining or measuring, or conducting tests concerning, any plant, substance or thing at offshore petroleum premises in connection with the inspection:

(a) take possession of the plant, substance or thing and remove it from the premises; or

(b) take a sample of the substance or thing and remove that sample from the premises.

Notice

(2) On taking possession of plant, a substance or a thing, or taking a sample of a substance or thing, the inspector must, by written notice, inform the following persons of the taking of possession or the taking of the sample, and the reasons for it:

(a) in any case:

(i) the titleholder’s representative at the premises who is nominated for the inspection; or

(ii) if there is no titleholder’s representative at the premises—the titleholder;

(b) if the premises are a facility—the operator’s representative at the facility;

(c) if the premises are a vessel under the command or charge of a master—the master;

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

Display of notice

(3) The following person must cause the notice to be displayed in a prominent place at the premises:

(a) if the premises are a facility—the operator’s representative at the facility;
(b) in any other case—the person notified under paragraph (2)(a).

Note: The person notified under paragraph (2)(a) is either the titleholder’s representative or the titleholder.

Duties of NOPSEMA inspector

(4) If the NOPSEMA inspector takes possession of plant, a substance or a thing for the purpose of inspecting, examining or measuring, 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 premises as soon as practicable afterwards.

(5) 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 the inspector is required to notify under subclause (2).

10 Petroleum environmental inspections—do not disturb notices (general)

Scope

(1) This clause applies if a NOPSEMA inspector is conducting a petroleum environmental inspection in relation to offshore petroleum premises.

When a notice may be issued

(2) A NOPSEMA inspector may issue a do not disturb notice to a titleholder, in writing, under this clause if the inspector is satisfied on reasonable grounds that it is reasonably necessary to issue the notice in order to allow the inspection, examination or measurement of, or the conducting of tests concerning:

(a) the premises; or

(b) particular plant, or a particular substance or thing, at the premises.
Issue of notice

(3) Without limiting the way in which the notice may be issued, the notice may be issued to the titleholder by being given to the titleholder’s representative at the premises who is nominated for the inspection.

Contents of notice

(4) The notice must:
   (a) direct the titleholder 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 premises;
       (ii) particular plant, or a particular substance or thing, at the premises; and
   (b) set out the reasons for the inspector's decision to issue the notice.

(5) 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

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

Offence

(7) A person commits an offence if:
   (a) the person is subject to a do not disturb notice; and
   (b) the person omits to do an act; and
   (c) the omission breaches the notice.

Penalty for contravention of subclause (7): 300 penalty units.
11 Petroleum environmental inspections—do not disturb notices
(notification and display)

Notice to interested persons

(1) As soon as practicable after issuing a do not disturb notice, the NOPSEMA inspector must take reasonable steps to give a copy of the notice to the following persons:
   (a) if the premises are a facility—the operator’s representative at the facility;
   (b) if the premises are a vessel under the command or charge of a master—the master;
   (c) if the premises are, or the plant, substance or thing is, owned by a person other than the titleholder or operator—that owner.

Display of direction

(2) The following person must cause a copy of a do not disturb notice to be displayed in a prominent place at the premises:
   (a) if the premises are a facility—the operator’s representative at the facility;
   (b) in any other case:
      (i) if the notice is given to the titleholder’s representative under subclause 10(3)—the titleholder’s representative; or
      (ii) if the notice is not given to the titleholder’s representative—the titleholder.

12 Petroleum environmental inspections—tampering with and removing notices

Tampering with notice

(1) A person must not tamper with any notice that has been displayed under subclause 9(3) or 11(2) while that notice is so displayed.

Removing notice

(2) If a notice has been displayed under subclause 9(3), a person must not remove the notice until the plant, substance or thing to which
the notice relates is returned to the premises from which it was removed.

(3) If a notice has been displayed under subclause 11(2), a person must not remove the notice before the notice has ceased to have effect.

*Offence*

(4) A person commits an offence if:

(a) the person is subject to a requirement under subclause (1), (2) or (3); and

(b) the person engages in conduct; and

(c) the conduct breaches the requirement.

Penalty: 50 penalty units.

(5) Subclause (4) does not apply if the person has a reasonable excuse.

Note 1: A defendant bears an evidential burden in relation to the matter in subclause (5)—see subsection 13.3(3) of the *Criminal Code*.

Note 2: See also Part 2.3 of the *Criminal Code* (circumstances in which there is no criminal responsibility).

(6) An offence against subclause (4) is an offence of strict liability.

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

**Division 3—Reports: inspections concerning petroleum environmental laws**

**13 Reports on inspections concerning petroleum environmental laws**

*Scope*

(1) This section applies if a NOPSEMA inspector has conducted either of the following inspections in relation to a petroleum environmental law:

(a) a petroleum environmental inspection (under this Part);

(b) an inspection for the purposes of Division 1 of Part 6.5 of this Act.
Report to be given to NOPSEMA

(2) If a NOPSEMA inspector has conducted a petroleum environmental inspection in relation to a petroleum title, the inspector must, as soon as practicable, prepare a written report relating to the inspection and give the report to NOPSEMA.

(3) The report must include:
   (a) the NOPSEMA inspector’s conclusions from conducting the inspection and the reasons for those conclusions; and
   (b) any recommendations that the NOPSEMA inspector wishes to make arising from the inspection; and
   (c) such other matters (if any) as are prescribed by regulation.

Copies of report to be given to titleholder

(4) As soon as practicable after receiving the report, NOPSEMA must give a copy of the report, together with any written comments that it wishes to make, to the titleholder.

Details of remedial action etc.

(5) NOPSEMA may, in writing, request the titleholder to provide to NOPSEMA, within a reasonable period specified in the request, details of any action proposed to be taken as a result of the conclusions or recommendations contained in the report.

(6) The titleholder must comply with a request under subclause (5).

Part 3—General

14 Meaning of offence against a petroleum environmental law

In this Schedule:

*offence against a petroleum environmental law* includes an offence against section 6 of the *Crimes Act 1914* that relates to an offence against a petroleum environmental law.

Note: For other ancillary offences, see section 11.6 of the Criminal Code.
15 Offences against petroleum environmental laws—prosecutions

Proceedings for an offence against a petroleum environmental law may be instituted by NOPSEMA or by a NOPSEMA inspector.

16 Offences against petroleum environmental laws—conduct of directors, employees and agents

Scope

(1) This clause has effect for the purposes of a proceeding for an offence against a petroleum environmental law.

State of mind of a body corporate

(2) If it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:

(a) that the conduct was engaged in by a director, employee or agent of the body corporate within the scope of actual or apparent authority; and

(b) that the director, employee or agent had the state of mind.

Conduct of a body corporate

(3) Any conduct engaged in on behalf of a body corporate by a director, employee or agent of the body corporate within the scope of actual or apparent authority is taken to have been engaged in also by the body corporate unless it establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

State of mind of an individual

(4) If it is necessary to establish the state of mind of an individual in relation to particular conduct, it is sufficient to show:

(a) that the conduct was engaged in by an employee or agent of the individual within the scope of actual or apparent authority; and

(b) that the employee or agent had the state of mind.
Schedule 1  Monitoring and investigation powers
Part 2  Petroleum environmental inspections

Conduct of an individual

(5) Any conduct engaged in on behalf of an individual by an employee or agent of the individual within the scope of actual or apparent authority is taken to have been engaged in also by the individual unless the individual establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

Limitation on imprisonment

(6) If:
   (a) an individual is convicted of an offence; and
   (b) he or she would not have been convicted of the offence if subclauses (4) and (5) had not been enacted;
he or she is not liable to be punished by imprisonment for that offence.

Extended meaning of state of mind

(7) A reference in subclause (2) or (4) to the state of mind of a person includes a reference to:
   (a) the person’s knowledge, intention, opinion, belief or purpose; and
   (b) the person’s reasons for the intention, opinion, belief or purpose.

Disapplication of Part 2.5 of the Criminal Code

(8) Part 2.5 of the Criminal Code does not apply to an offence against a petroleum environmental law.

17 Petroleum environmental inspections—civil proceedings

(1) This Schedule does not:
   (a) confer a right of action in any civil proceeding in respect of any contravention of a provision of a petroleum environmental law; or
   (b) confer a defence to an action in any civil proceeding or otherwise affect a right of action in any civil proceeding.

(2) However, subclause (1) does not apply in relation to the enforcement, for the purposes of Division 4 of Part 6.5 of this Act, of a petroleum environmental law that is a civil penalty provision.

18 Offences against petroleum environmental laws—defence of circumstances preventing compliance

It is a defence to a prosecution for refusing or failing to do anything required by a petroleum environmental law if the defendant proves that it was not practicable to do that thing because of an emergency prevailing at the relevant time.

Note: A defendant bears a legal burden in relation to the matter in this clause—see section 13.4 of the Criminal Code.
Part 3—OHS inspections


10 After subsection 638(1)
Insert:

(1A) A listed OHS law includes a requirement made under a provision listed in subsection (1).

11 Section 642
Omit:

- The CEO may appoint OHS inspectors.

12 Section 643 (definition of OHS inspector)
Repeal the definition.

13 Section 675
Omit “(except a power conferred by section 680)”.

14 Section 675
After “powers”, insert “(except a power conferred by section 602)”.

15 Subsections 684(2) and 694(1)
Omit “an OHS inspector”, substitute “a NOPSEMA inspector”.

16 Clause 2 of Schedule 3
Omit:

(b) concerning a contravention or a possible contravention of a listed OHS law; or

17 Clause 2 of Schedule 3
Omit:
• The operator of a facility must report accidents and dangerous occurrences to NOPSEMA.

substitute:

• The powers that a NOPSEMA inspector may exercise for the purposes of an OHS inspection are in addition to the powers in relation to listed OHS laws that the inspector may exercise for the purposes of Division 1 of Part 6.5 of this Act.

• The operator of a facility must report accidents and dangerous occurrences to NOPSEMA.

18 Clause 3 of Schedule 3

Insert:

do not disturb notice means a do not disturb notice issued under clause 76.

19 Clause 3 of Schedule 3 (definition of inspection)

Repeal the definition.

20 Clause 3 of Schedule 3

Insert:

OHS inspection: see clause 49.

21 Clause 3 of Schedule 3 (definition of OHS inspector)

Repeal the definition.

22 Clause 3 of Schedule 3 (definition of premises)

Repeal the definition, substitute:

premises has the same meaning as in the Regulatory Powers Act in its application under Division 1 of Part 6.5 of this Act (see section 602F of this Act).

23 Clause 3 of Schedule 3

Insert:
Schedule 1  Monitoring and investigation powers
Part 3  OHS inspections

\textit{titleholder} means the registered holder of:
\begin{itemize}
  \item[(a)] a petroleum title; or
  \item[(b)] a greenhouse gas title.
\end{itemize}

24 Clause 3 of Schedule 3
Insert:

\textit{titleholder’s representative}, in relation to a titleholder within the meaning of this Schedule, has the meaning given by section 602K.

25 Clause 3 of Schedule 3
Insert:

\textit{titleholder’s well-related obligations} means the obligations of a titleholder to comply with:
\begin{itemize}
  \item[(a)] clause 13A of this Schedule (petroleum titleholder duty of care); or
  \item[(b)] Part 5 of the \textit{Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011}, to the extent that the Part applies in relation to petroleum titles; or
  \item[(c)] clause 13B of this Schedule (greenhouse gas titleholder duty of care).
\end{itemize}

26 Subparagraphs 34(1)(a)(iii) and (iv) of Schedule 3
Repeal the subparagraphs, substitute:
\begin{itemize}
  \item[(iii)] make a request to a NOPSEMA inspector or to NOPSEMA that an OHS inspection be conducted at the workplace;
  \item[(iv)] accompany a NOPSEMA inspector during any OHS inspection at the workplace by the inspector (whether or not the inspection is being conducted as a result of a request made by the health and safety representative);
\end{itemize}

27 Subclause 39(1) of Schedule 3 (heading)
Repeal the heading, substitute:

\textit{Request for OHS inspection}

28 Subclause 39(1) of Schedule 3

\begin{flushright}
44  \textit{Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013  No. 11, 2013}
\end{flushright}
Omit “an OHS inspector that an inspection”, substitute “a NOPSEMA inspector that an OHS inspection”.

29 Subclause 39(2) of Schedule 3
Omit “an OHS inspector”, substitute “a NOPSEMA inspector”.

30 Subclause 39(3) of Schedule 3 (heading)
Repeal the heading, substitute:

OHS inspection

31 Subclause 39(3) of Schedule 3
Omit “an inspection must be conducted of the work that is the subject of the disagreement, and the OHS inspector”, substitute “an OHS inspection must be conducted of the work that is the subject of the disagreement, and the NOPSEMA inspector”.

32 Subparagraph 40(1)(b)(i) of Schedule 3
Omit “an OHS inspector during an inspection at the workplace by the OHS inspector”, substitute “a NOPSEMA inspector during an OHS inspection at the workplace by the inspector”.

33 Subclause 44(4) of Schedule 3 (heading)
Repeal the heading, substitute:

OHS inspection

34 Subclause 44(4) of Schedule 3
Omit “an OHS inspector that an inspection”, substitute “a NOPSEMA inspector that an OHS inspection”.

35 Subclause 44(5) of Schedule 3
Omit “an inspection”, substitute “an OHS inspection”.

36 Subclause 44(5) of Schedule 3
Omit “OHS inspector” (first occurring), substitute “NOPSEMA inspector”.

37 Subclause 44(5) of Schedule 3
Omit “OHS” (last occurring).

38 Subclause 44(6) of Schedule 3

Omit “an OHS inspector or to NOPSEMA that an inspection”, substitute “NOPSEMA or to a NOPSEMA inspector that an OHS inspection”.

39 Part 4 of Schedule 3 (heading)

Repeal the heading, substitute:

Part 4—OHS inspections

40 Clauses 47 and 48 of Schedule 3

Repeal the clauses, substitute:

47 Simplified outline

The following is a simplified outline of this Part:

- A NOPSEMA inspector may conduct an inspection (called an OHS inspection):
  - to monitor compliance with listed OHS laws; or
  - concerning an accident or dangerous occurrence that has happened at or near a facility.
- A number of additional compliance powers are provided. The most significant of these are as follows:
  - to issue a do not disturb notice to deal with health and safety risks or to allow for measurements or tests to be carried out;
  - to issue a prohibition notice to remove an immediate threat to health or safety;
  - to issue an improvement notice specifying action to be taken to remove a risk to health or safety that
may result from the continuation or recurrence of a contravention of a listed OHS law.

- A NOPSEMA inspector must prepare a report about an inspection and give the report to NOPSEMA.
- The powers that a NOPSEMA inspector may exercise for the purposes of an OHS inspection are in addition to the powers in relation to listed OHS laws that the inspector may exercise for the purposes of Division 1 of Part 6.5 of this Act.

41 Division 2 of Part 4 of Schedule 3 (heading)
Repeal the heading, substitute:

**Division 2—OHS inspections: general provisions**

42 Clause 49 of Schedule 3
Repeal the clause, substitute:

**49 OHS inspections—nature of inspections**

*What is an OHS inspection?*

(1) An **OHS inspection** is an inspection under this Part. Such an inspection:
   (a) includes an investigation or inquiry; and
   (b) need not include a physical inspection of any facility, premises or thing.

**Inspections—general power**

(2) A NOPSEMA inspector may, at any time, conduct an OHS inspection:
   (a) to determine whether a listed OHS law has been, or is being, complied with; or
   (b) to determine whether information given in compliance, or purported compliance, with a listed OHS law is correct; or
   (c) concerning an accident or dangerous occurrence that has happened at or near a facility.
Schedule 1  Monitoring and investigation powers

Part 3  OHS inspections

The inspection may be conducted at the inspector’s own initiative or in compliance with a direction under subclause (3).

Inspections—directed by NOPSEMA

(3) NOPSEMA may give a written direction to a NOPSEMA inspector to conduct an OHS inspection.

(4) The NOPSEMA inspector must conduct an OHS inspection as directed under subclause (3).

43 Division 3 of Part 4 of Schedule 3 (heading)
Repeal the heading.

44 Subdivision A of Division 3 of Part 4 of Schedule 3 (heading)
Repeal the heading.

45 Clause 50 of Schedule 3 (heading)
Repeal the heading, substitute:

50 OHS inspections—facilities

46 Subclause 50(1) of Schedule 3
Omit “An OHS inspector may, for the purposes of an inspection,”, substitute “A NOPSEMA inspector may, for the purposes of an OHS inspection,”.

47 Subparagraphs 50(1)(a)(ii) and (iii) of Schedule 3
Repeal the subparagraphs, substitute:

(ii) inspect, examine or measure, or conduct tests concerning, the facility (including any workplace at the facility and any plant, substance or thing at the facility);

(iii) take photographs of, make video recordings of, or make sketches of, the facility (including any workplace at the facility and any plant, substance or thing at the facility);

48 Subparagraph 50(1)(a)(iv) of Schedule 3
Omit “OHS inspector has reasonable grounds to believe”, substitute “inspector is satisfied on reasonable grounds”.

49 **Subclause 50(2) of Schedule 3**

Repeal the subclause, substitute:

Notification of entry

(2) Immediately on entering a facility for the purposes of an OHS inspection, a NOPSEMA inspector must take reasonable steps to notify the purpose of the entry to each of the following (an occupier):

(a) the operator’s representative at the facility;
(b) if there is a health and safety representative for a designated work group having a group member likely to be affected by the matter the subject of the inspection—that representative;
(c) a titleholder’s representative (if any) at the facility who is nominated for the inspection.

Note: A titleholder’s representative is only required to be at the facility if the inspection concerns the titleholder’s well-related obligations (see section 602K).

(2A) The inspector must, on being requested to do so by an occupier, produce for inspection by the occupier:

(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.

50 **Subclause 50(3) of Schedule 3**

Omit “OHS”.

51 **Clause 51 of Schedule 3 (heading)**

Repeal the heading, substitute:

51 OHS inspections—regulated business premises (non-facilities)

52 **Subclause 51(1) of Schedule 3**

Omit “An OHS inspector may, for the purposes of an inspection:”, substitute “A NOPSEMA inspector may, for the purposes of an OHS inspection:”
53 **Paragraph 51(1)(a) of Schedule 3**

Omit “OHS inspector has reasonable grounds to believe”, substitute “inspector is satisfied on reasonable grounds”.

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

Repeal the subparagraph, substitute:

(ii) the titleholder’s well-related obligations; and

55 **Subclause 51(2) of Schedule 3**

Repeal the subclause, substitute:

*Notification of entry*

(2) Immediately on entering regulated business premises (other than a facility) for the purposes of an OHS inspection, a NOPSEMA inspector must take reasonable steps to notify the purpose of the entry to the occupier of the premises.

(3) The inspector must, on being requested to do so by the occupier, produce for inspection by the occupier:

(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.

56 **Clauses 52 and 53 of Schedule 3**

Repeal the clauses.

57 **Subdivision B of Division 3 of Part 4 of Schedule 3**

Repeal the Subdivision.

58 **Subdivision C of Division 3 of Part 4 of Schedule 3**

(heading)

Repeal the heading, substitute:
Division 3—OHS inspections: compliance powers

59 Clause 73 of Schedule 3 (heading)
Repeal the heading, substitute:

73 OHS inspections—power to require assistance

60 Subclause 73(1) of Schedule 3
Omit “An OHS inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of an inspection”, substitute “A NOPSEMA inspector may, to the extent that it is reasonably necessary to do so in connection with the conduct of an OHS inspection”.

61 Paragraph 73(1)(e) of Schedule 3 (the paragraph 73(1)(e) inserted by item 66 of Schedule 1 to the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Miscellaneous Measures) Act 2010)
Repeal the paragraph, substitute:

(da) the titleholder’s representative (if any) at a facility who is nominated for the inspection;

Note: There are currently 2 paragraphs “(e)” in subclause 73(1) of Schedule 3. This item corrects the error while also substituting a new paragraph.

62 Subclause 73(1) of Schedule 3
Omit “the OHS inspector”, substitute “the inspector”.

63 Paragraph 73(1)(f) of Schedule 3
Omit “OHS inspector’s powers under this Schedule”, substitute “inspector’s powers”.

64 Paragraphs 73(2)(a) of Schedule 3
Omit “the OHS inspector” (wherever occurring), substitute “the inspector”.

65 Paragraph 73(2)(a) of Schedule 3
Omit “article”, substitute “thing”.

66 Paragraphs 73(2)(b) of Schedule 3
Schedule 1  Monitoring and investigation powers
Part 3  OHS inspections

Omit “the OHS inspector”, substitute “the inspector”.

67 Subclauses 73(5) and (6) of Schedule 3
Repeal the subclauses, substitute:

Titleholders and their representatives—limitation on requirements

(5) Paragraphs (1)(ca) and (da), which give inspectors certain powers in relation to titleholders and their representatives, do not apply unless the inspection wholly or partly concerns the titleholder’s well-related obligations.

68 Clause 74 of Schedule 3 (heading)
Repeal the heading, substitute:

74 OHS inspections—powers to require information, and the production of documents and things

69 Paragraph 74(1)(a) of Schedule 3
Repeal the paragraph, substitute:

(a) a NOPSEMA inspector is satisfied on reasonable grounds that a person is capable of answering a question that is reasonably connected with the conduct of an OHS inspection; and

70 Subparagraph 74(1)(b)(v) of Schedule 3
Repeal the subparagraph, substitute:

(v) in the case of an inspection at a facility—the titleholder’s representative (if any) at the facility who is nominated for the inspection, or anyone engaged in petroleum or greenhouse gas activities at the facility; or

(vi) in the case of an inspection at a place other than a facility—any person representing the titleholder;

71 Subclause 74(1) of Schedule 3
Omit “the OHS inspector” (wherever occurring), substitute “the inspector”.

72 Subclause 74(3) of Schedule 3 (heading)
Repeal the heading, substitute:

_Requirement to produce documents or things_

**73 Paragraph 74(3)(a) of Schedule 3**
Repeal the paragraph, substitute:

(a) a NOPSEMA inspector is satisfied on reasonable grounds that a person is capable of producing a document or thing that is reasonably connected with the conduct of an OHS inspection; and

**74 Subparagraph 74(3)(b)(v) of Schedule 3**
Repeal the subparagraph, substitute:

(v) in the case of an inspection at a facility—the titleholder’s representative (if any) at the facility who is nominated for the inspection, or anyone engaged in petroleum or greenhouse gas activities at the facility; or

(vi) in the case of an inspection at a place other than a facility—any person representing the titleholder;

**75 Subclause 74(3) of Schedule 3**
Omit “the OHS inspector”, substitute “the inspector”.

**76 Subclause 74(3) of Schedule 3**
Omit “article” (last occurring), substitute “thing”.

**77 Paragraph 74(4)(b) of Schedule 3**
Omit “article”, substitute “thing”.

**78 Subclause 74(8) of Schedule 3**
Omit “article” (wherever occurring), substitute “thing”.

**79 Paragraphs 74(9)(a), (b) and (c) of Schedule 3**
Omit “article”, substitute “thing”.

**80 Subclauses 74(10) and (11) of Schedule 3**
Repeal the subclauses, substitute:
Titleholders and their representatives—limitation on requirements

(10) Subparagraphs (1)(b)(v) and (vi) and (3)(b)(v) and (vi), which give inspectors certain powers in relation to titleholders and their representatives, do not apply unless the inspection wholly or partly concerns compliance with the titleholder’s well-related obligations.

81 Clause 75 of Schedule 3 (heading)
Repeal the heading, substitute:

75 OHS inspections—power to take possession of plant and samples etc.

82 Subclause 75(1) of Schedule 3
Omit “In conducting an inspection, an OHS inspector”, substitute “In conducting an OHS inspection, a NOPSEMA inspector”.

83 Subclause 75(2) of Schedule 3
Omit “the OHS inspector”, substitute “the inspector”.

84 After paragraph 75(2)(d) of Schedule 3
Insert:

; and (e) the titleholder’s representative (if any) at the facility who is nominated for the inspection;

85 At the end of subclause 75(2) of Schedule 3
Add:

Note: A titleholder’s representative is only required to be at the facility if the inspection concerns the titleholder’s well-related obligations (see section 602K).

86 Subclause 75(3) of Schedule 3
Omit “the OHS inspector”, substitute “the inspector”.

87 Subclause 75(4) of Schedule 3 (heading)
Repeal the heading, substitute:

Duties of inspector

88 Subclauses 75(4) and (5) of Schedule 3

Omit “the OHS inspector” (wherever occurring), substitute “the inspector”.

89 Clauses 76, 77 and 78 of Schedule 3
Repeal the clauses, substitute:

76 OHS inspections—do not disturb notices (general)

When a notice may be issued

(1) A NOPSEMA inspector may issue a do not disturb notice, in writing, under this clause if, in conducting an OHS inspection in relation to a facility, 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:

(i) the facility; or
(ii) particular plant, or a particular substance or thing, at the facility.

Issue of notice

(2) The notice may be issued to either or both of the following persons (the responsible person) as applicable:

(a) in any case—the operator;
(b) if the inspection wholly or partly concerns compliance with the titleholder’s well-related obligations—the titleholder.

(3) Without limiting subclause (2), the notice may be issued to a responsible person as follows:

(a) if the operator is a responsible person—by being given to the operator’s representative at the facility;
(b) if the titleholder is a responsible person—by being given to the titleholder’s representative (if any) at the facility who is nominated for the inspection.

Note: A titleholder’s representative is only required to be at the facility if the inspection concerns the titleholder’s well-related obligations (see section 602K).
Contents of notice

(4) 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 workplace;
      (ii) particular plant, or a particular substance or thing, at the facility; and
   (b) set out the reasons for the inspector’s decision to issue the notice.

(5) 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

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

Offence

(7) A person commits an offence if:
   (a) the person is subject to a do not disturb notice; and
   (b) the person omits to do an act; and
   (c) the omission breaches the notice.

Penalty for contravention of subclause (7): 300 penalty units.

76A OHS inspections—do not disturb notices (notification and display)

Scope

(1) This clause applies if a NOPSEMA inspector issues a do not disturb notice to a person (the responsible person) under clause 76.

**Notification to interested persons**

(2) If the only responsible person for the notice is the titleholder, as soon as practicable after issuing the notice, the inspector must take reasonable steps to give a copy of the notice to:

(a) the operator; and

(b) if the inspector is at the facility when the notice is issued—

the operator’s representative at the facility.

(3) If the notice (or a copy of the notice) is not given to the operator’s representative at the facility, the operator must give a copy of the notice to the operator’s representative.

(4) The operator’s representative at the facility must give a copy of the notice to the following persons:

(a) if the workplace, plant, substance or thing to which the direction relates is owned by a person other than the operator of the facility—that owner;

(b) if there is a health and safety representative for a designated work group that includes a group member performing work at a workplace, or involving the plant, substance or thing, to which the direction relates—that representative.

**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 the workplace:

(a) that is to be left undisturbed; or

(b) where the plant, substance or thing that is to be left undisturbed is located.

### 77 OHS inspections—prohibition notices (issue)

**When a notice may be issued**

(1) A NOPSEMA inspector may issue a prohibition notice, in writing, under this clause if, in conducting an OHS inspection in relation to a facility, the inspector is satisfied on reasonable grounds that:

(a) either:

(i) an activity is occurring at the facility that involves an immediate threat to the health or safety of a person; or
Schedule 1  Monitoring and investigation powers
Part 3  OHS inspections

(ii) an activity may occur at the facility that, if it occurred, would involve an immediate threat to the health or safety of a person; and

(b) it is reasonably necessary to issue the notice in order to remove the threat.

Responsible person for the notice

(2) The notice may be issued to either or both of the following (the responsible person), as applicable:
   (a) in any case—the operator;
   (b) if the inspection wholly or partly concerns compliance with the titleholder’s well-related obligations—the titleholder.

(3) Without limiting subclause (2), the notice may be issued to a responsible person as follows:
   (a) if the operator is a responsible person—by being given to the operator’s representative at the facility;
   (b) if the titleholder is a responsible person—by being given to the titleholder’s representative (if any) at the facility who is nominated for the inspection.

Note: A titleholder’s representative is only required to be at the facility if the inspection concerns the titleholder’s well-related obligations (see section 602K).

Contents of notice

(4) 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) if the responsible person is the operator—either:
      (i) direct the operator to ensure that the activity is not conducted; or
      (ii) direct the operator to ensure that the activity is not conducted in a specified manner; and
   (d) if the responsible person is the titleholder—either:
      (i) direct the titleholder to ensure that the activity is not conducted; or

(ii) direct the titleholder to ensure that the activity is not conducted in a specified manner.

(5) For paragraph (4)(c) or (d), a specified manner may relate to any one or more of the following:
   (a) any workplace, or part of a workplace, at which the activity is not to be conducted;
   (b) any plant, substance or thing that is not to be used in connection with the activity;
   (c) any procedure that is not to be followed in connection with the activity.

(6) 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

(7) A person commits an offence if:
   (a) the person is subject to a prohibition notice; and
   (b) the person omits to do an act; and
   (c) the omission breaches the notice.

Penalty for contravention of subclause (7): 600 penalty units.

77A OHS inspections—prohibition notices (notification, display and compliance)

Scope

(1) This clause applies if a NOPSEMA inspector issues a prohibition notice to a person (the responsible person) under clause 77 in relation to a threat to health or safety at a facility.

Notification to interested persons

(2) If the only responsible person for the prohibition notice is the titleholder, as soon as practicable after issuing the notice, the inspector must take reasonable steps to give a copy of the notice to:
   (a) the operator; and
   (b) if the inspector is at the facility when the notice is issued—the operator’s representative at the facility.
(3) If the notice (or a copy of the notice) is not given to the operator’s representative at the facility, the operator must give a copy of the notice to the operator’s representative.

(4) The operator’s representative at the facility must give a copy of the notice to the following persons:
   (a) if the workplace, plant, substance or thing to which the notice relates is owned by a person other than the responsible person—that owner;
   (b) if there is a health and safety representative for a designated work group that includes a group member performing work at a workplace, or involving the plant, substance or thing, to which the direction relates—that representative.

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 the workplace:
   (a) that is to be left undisturbed; or
   (b) where the plant, substance or thing that is to be left undisturbed is located.

Inadequate action in response to notice

(6) 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.

(7) In making a decision under subclause (6), 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

(8) 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.
78 OHS inspections—improvement notices (issue)

When a notice may be issued

(1) A NOPSEMA inspector may issue an improvement notice to a person (the responsible person), in writing, under this clause if, in conducting an OHS inspection in relation to a facility, 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.

How notice may be issued

(2) Without limiting subclause (1), the notice may be issued to a responsible person as follows:
   (a) if the responsible person is the operator—by being given to the operator’s representative at the facility;
   (b) if the responsible person is an employer (other than the operator) of members of the workforce, but it is not practicable to give the notice to the employer—by being given to the operator’s representative at the facility;
   (c) if the responsible person is the titleholder—by being given to the titleholder’s representative (if any) at the facility who is nominated for the inspection.

Note: A titleholder’s representative is only required to be at the facility if the inspection concerns the titleholder’s well-related obligations (see section 602K).

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.

**78A OHS inspections—improvement notices (compliance)**

*Duty of responsible person*

(1) A responsible person in relation to an improvement notice 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.
78B OHS inspections—improvement notices (notification and display)

Scope

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

If notice not given to the operator’s representative—representative to be notified

(2) If the notice is not issued by being given to the operator’s representative at the facility, the responsible person (unless the responsible person is the titleholder) must cause a copy of the notice to be given to the operator’s representative.

Note: If the responsible person is the titleholder, subclauses (4) and (5) provide for the operator and the operator’s representative to be notified.

If responsible person is operator or employer—notification of health and safety representative

(3) If the responsible person is the operator or an employer (other than the operator) of members of the workforce, the operator’s representative at the facility must give a copy of the notice to each health and safety representative for a designated work group having group members performing work that is affected by the notice.

If responsible person is titleholder—notification of operator and operator’s representative

(4) If the responsible person is the titleholder, as soon as practicable after issuing the notice, the inspector must take reasonable steps to give a copy of the notice to:
   (a) the operator; and
   (b) if the inspector is at the facility when the notice is issued—the operator’s representative at the facility.
(5) If the responsible person is the titleholder, but the inspector is not at the facility when the notice is issued, the operator must give a copy of the notice to the operator’s representative at the facility.

Display of notice

(6) 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.

NOPSEMA to notify employer, owner etc.

(7) As soon as practicable after issuing the notice, the NOPSEMA inspector must take reasonable steps to give a copy of the notice to:
   (a) the employer of an employee who is a member of the workforce, if the notice is issued:
      (i) to the employee; and
      (ii) in connection with work performed by the employee;
   and
   (b) the owner of any workplace, plant, substance or thing that the notice relates to, unless the owner is:
      (i) the responsible person; or
      (ii) an employer referred to in paragraph (a); and
   (c) if the responsible person is the owner of any workplace, plant, substance or thing because of which the contravention has occurred, or is likely to occur:
      (i) the operator of the facility; and
      (ii) if the employer of employees who work in that workplace or who use that plant, substance or thing is a person other than the operator—that employer; and
   (d) the titleholder, if:
      (i) the responsible person is the operator; and
      (ii) the contravention relates, or is likely to relate, to the titleholder’s well-related obligations.

90 Clause 79 of Schedule 3 (heading)
   Repeal the heading, substitute:
79 OHS inspections—tampering with and removal of notices

91 Subclauses 79(1) and (3) of Schedule 3
Omit “76(4), 77(10) or 78(11)”, substitute “76A(5), 77A(5) or 78B(6)”.

92 At the end of subclause 79(3) of Schedule 3
Add “in relation to each person subject to the notice”.

93 Division 4 of Part 4 of Schedule 3 (heading)
Repeal the heading, substitute:

Division 4—Reports: OHS inspections etc.

94 Clause 80 of Schedule 3 (heading)
Repeal the heading, substitute:

80 Reports on listed OHS law inspections

95 Before subclause 80(1) of Schedule 3
Insert:

Scope

(1A) This section applies if a NOPSEMA inspector has conducted either of the following inspections in relation to a listed OHS law:
(a) an OHS inspection (under this Part);
(b) an inspection for the purposes of Division 1 of Part 6.5 of this Act.

96 Subclause 80(1) of Schedule 3
Omit “If an OHS inspector has conducted an inspection, the OHS inspector”, substitute “The inspector”.

97 Paragraphs 80(2)(a) and (b) of Schedule 3
Omit “OHS”.

98 Paragraphs 80(3)(aa) and (ab) of Schedule 3
Repeal the paragraphs, substitute:
Schedule 1  Monitoring and investigation powers
Part 3  OHS inspections

(aa) if the report relates wholly or partly to a titleholder’s
well-related obligations—to the titleholder; and

99  Subclause 80(4) of Schedule 3
After “request the operator”, insert “, the titleholder”.

100 Subclause 80(4) of Schedule 3
Omit “the Authority”, substitute “NOPSEMA”.

101 Paragraph 80(4)(b) of Schedule 3
After “for the operator”, insert “, the titleholder”.

102 Subclause 80(4) of Schedule 3
After “and the operator”, insert “, the titleholder”.

103 Division 5 of Part 4 of Schedule 3 (heading)
Repeal the heading, substitute:

Division 5—Appeals: OHS inspections etc.

80A Appeals concerning OHS inspections etc.—decisions subject to
appeal

Scope

(1) The following table has effect in relation to a decision by a
NOPSEMA inspector:
(a) in any case—in conducting an OHS inspection; or
(b) for items 4 to 8 of the table—in relation to the issue of a do
not disturb notice, a prohibition notice or an improvement
notice under section 602E (after entering premises under
Part 3 of the Regulatory Powers Act as applied under
Division 1 of Part 6.5 of this Act).

66 Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures)
Act 2013  No. 11, 2013
### Decisions subject to appeal

<table>
<thead>
<tr>
<th>Item</th>
<th>If the inspector makes the following decision …</th>
<th>the following persons may appeal against the decision to the reviewing authority by written notice …</th>
</tr>
</thead>
</table>
| 1    | A decision to confirm or vary a provisional improvement notice, under clause 39 | (a) a person to whom the provisional improvement notice was issued under subclause 38(2);  
(b) the operator of the facility;  
(c) a titleholder, if the notice relates to the titleholder’s well-related obligations;  
(d) an employer, if affected by the decision;  
(e) a relevant health and safety representative;  
(f) a relevant workforce representative, if requested by a member of the workforce affected by the decision;  
(g) a person who owns any workplace, plant, substance or thing to which the decision relates. |
| 2    | A decision to cancel a provisional improvement notice, under clause 39 | (a) a relevant health and safety representative;  
(b) a relevant workforce representative, if requested by a member of the workforce affected by the decision. |
| 3    | A decision to take possession of plant, a substance or thing, or to take a sample, under clause 75 | (a) the operator of the facility;  
(b) a titleholder, if the reasons stated in the notice under subclause 75(2) relate to the titleholder’s well-related obligations;  
(c) an employer, if affected by the decision;  
(d) a relevant health and safety representative;  
(e) a relevant workforce representative, if requested by a |
### Decisions subject to appeal

<table>
<thead>
<tr>
<th>Item</th>
<th>If the inspector makes the following decision …</th>
<th>the following persons may appeal against the decision to the reviewing authority by written notice …</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>member of the workforce affected by the decision;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(f) a person who owns the workplace, plant, substance or thing.</td>
</tr>
<tr>
<td>4</td>
<td>Either of the following:</td>
<td>(a) the operator of the facility;</td>
</tr>
<tr>
<td></td>
<td>(a) a decision to issue a do not disturb notice, under clause 76;</td>
<td>(b) a titleholder, if the notice is issued to the titleholder;</td>
</tr>
<tr>
<td></td>
<td>(b) a decision to exercise the corresponding power under section 602E.</td>
<td>(c) an employer, if affected by the decision;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(d) a relevant health and safety representative;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(e) a relevant workforce representative, if requested by a member of the workforce affected by the decision;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(f) a person who owns the workplace, plant, substance or thing.</td>
</tr>
<tr>
<td>5</td>
<td>Either of the following:</td>
<td>(a) the operator of the facility;</td>
</tr>
<tr>
<td></td>
<td>(a) a decision to issue a prohibition notice, under clause 77;</td>
<td>(b) a titleholder, if the notice is issued to the titleholder;</td>
</tr>
<tr>
<td></td>
<td>(b) a decision to exercise the corresponding power under section 602E.</td>
<td>(c) an employer, if affected by the decision;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(d) a relevant health and safety representative;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(e) a relevant workforce representative, if requested by a member of the workforce affected by the decision;</td>
</tr>
<tr>
<td>6</td>
<td>Either of the following:</td>
<td>(a) the operator of the facility;</td>
</tr>
<tr>
<td></td>
<td>(a) a decision that an operator of a facility, or a titleholder, to whom a prohibition notice has been issued has not taken adequate action to remove a threat to</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) a titleholder, if the notice is issued to the titleholder;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) an employer, if affected by the decision;</td>
</tr>
</tbody>
</table>

### Decisions subject to appeal

<table>
<thead>
<tr>
<th>Item</th>
<th>If the inspector makes the following decision …</th>
<th>the following persons may appeal against the decision to the reviewing authority by written notice …</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>health and safety, for the purposes of subclause 77A(6);</td>
<td>(d) a relevant health and safety representative;</td>
</tr>
<tr>
<td></td>
<td>(b) a corresponding decision in relation to the exercise of the corresponding power under section 602E.</td>
<td>(e) a relevant workforce representative, if requested by a member of the workforce affected by the decision.</td>
</tr>
<tr>
<td>7</td>
<td>Either of the following:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) a decision that an operator of a facility, or a titleholder, to whom a prohibition notice has been issued has taken adequate action to remove a threat to health and safety, for the purposes of subclause 77A(8);</td>
<td>(a) a relevant health and safety representative;</td>
</tr>
<tr>
<td></td>
<td>(b) a corresponding decision in relation to the exercise of the corresponding power under section 602E.</td>
<td>(b) a relevant workforce representative, if requested by a member of the workforce affected by the decision.</td>
</tr>
<tr>
<td>8</td>
<td>Either of the following:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) a decision to issue an improvement notice, under clause 78;</td>
<td>(a) the operator of the facility;</td>
</tr>
<tr>
<td></td>
<td>(b) a decision to exercise the corresponding power under section 602E.</td>
<td>(b) the titleholder, if the notice is issued to the titleholder;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) any other person to whom the notice is issued;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(d) an employer, if affected by the decision;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(e) a relevant health and safety representative;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(f) a relevant workforce representative, if requested by a member of the workforce affected by the decision;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(g) a person who owns any workplace, plant, substance or thing to which the decision relates.</td>
</tr>
</tbody>
</table>
(2) In this clause:

relevant health and safety representative, in relation to a decision, means the health and safety representative for a designated work group having a member affected by the decision.

relevant workforce representative, in relation to a member of the workforce affected by a decision, means:

(a) a workforce representative in relation to a designated work group, if the member of the workforce is a group member; or

(b) if there is no designated work group in relation to the member of the workforce—any workforce representative in relation to the member.

104 Clause 81 of Schedule 3 (heading)
Repeal the heading, substitute:

81 Appeals concerning OHS inspections etc.—associated rules and procedure

105 Subclauses 81(1) and (2) of Schedule 3
Repeal the subclauses.

106 Subclauses 81(3) and (4) of Schedule 3
Repeal the subclauses, substitute:

Appeal does not affect the operation of a decision

(3) Subject to this clause, the making of an appeal under this Division against a decision does not affect the operation of the decision or prevent the taking of action to implement the decision, except to the extent that the reviewing authority makes an order to the contrary.

Suspension of improvement notices

(4) If the decision appealed against is a decision to which item 8 of the table in subclause 80A(1) applies, the operation of the decision is suspended pending determination of the appeal, except to the extent that the reviewing authority makes an order to the contrary.
Monitoring and investigation powers  

**Schedule 1**  
OHS inspections  
**Part 3**

---

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

107 **Subclause 81(5) of Schedule 3**

Omit “an OHS inspector”, substitute “a NOPSEMA inspector”.

108 **Paragraph 81(6)(a) of Schedule 3**

Omit “subclause (1) or (2)”, substitute “this Division”.

109 **Subclause 81(8) of Schedule 3 (heading)**

Repeal the heading, substitute:

*Inspector’s duty to return plant etc. to the workplace*

110 **Subclause 81(8) of Schedule 3**

Omit “OHS inspector”, substitute “inspector”.

111 **Paragraph 88(1)(f) of Schedule 3**

Omit “an inspection”, substitute “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”.

112 **Subparagraph 88(1)(g)(ii) of Schedule 3**

Omit “an OHS inspector”, substitute “a NOPSEMA inspector”.

113 **Subclause 89(1) of Schedule 3 (heading)**

Repeal the heading, substitute:

*NOPSEMA or NOPSEMA inspector may institute prosecutions*

114 **Clause 91 of Schedule 3**

Before “This Schedule”, insert “(1)”.

115 **At the end of clause 91 of Schedule 3**

Add:

(2) However, subclause (1) does not apply in relation to the enforcement, for the purposes of Division 4 of Part 6.5 of this Act, of a listed OHS law that is a civil penalty provision.
Part 4—Consequential amendments

Division 1—General amendments


116 Section 7
Insert:

Federal Circuit Court means the Federal Circuit Court of Australia.

117 Section 7 (definition of Greater Sunrise visiting inspector)
Repeal the definition, substitute:

Greater Sunrise visiting inspector means a NOPSEMA inspector identified as a Greater Sunrise visiting inspector in his or her identity card (see subsection 602(4)).

118 Section 7
Insert:

identity card of a NOPSEMA inspector means an identity card issued to the inspector under the Regulatory Powers Act in its application under Division 1 of Part 6.5 of this Act.

119 Section 7
Insert:

listed NOPSEMA law: see section 601.

120 Section 7
Insert:

petroleum environmental law has the same meaning as in Schedule 2A.

121 Section 7
Insert:
titleholder’s representative: see section 602K.

122 Paragraph 699(1)(b)
Omit “petroleum project inspector in relation to an offshore area”, substitute “NOPSEMA inspector”.

123 Paragraph 699(1)(b)
Omit “the offshore area”, substitute “an offshore area”.

124 Subsection 707A(1)
Omit “petroleum project inspector as to the exercise of the petroleum project inspector’s”, substitute “NOPSEMA inspector as to the exercise of the inspector’s”.

125 Subsection 707A(2)
Omit “A petroleum project inspector”, substitute “A NOPSEMA inspector”.

126 Paragraph 768(1)(g)
Repeal the paragraph, substitute:
(g) a NOPSEMA inspector;

127 Paragraph 768(1)(i)
Repeal the paragraph.

128 Paragraph 780F(1)(c)
Omit “and”.

129 Paragraph 780F(1)(d)
Repeal the paragraph.

130 Subsection 780F(1)
Omit “under this Act”, substitute “for the purposes of this Act”.

131 Paragraph 780F(2)(c)
Omit “or”.

132 Paragraph 780F(2)(d)
Schedule 1  Monitoring and investigation powers
Part 4  Consequential amendments

Repeal the paragraph.

133  Subsection 780F(7)
     Omit “under this Act”, substitute “for the purposes of this Act”.

134  Paragraph 780F(7)(c)
     Omit “; or”, substitute “.”.

135  Paragraph 780F(7)(d)
     Repeal the paragraph.

136  Subsection 780F(8)
     Omit “Subsections 600(6), 606(5) and 681(5)”, substitute “The provisions covered by subsection (8A)”.

137  Subsection 780F(8)
     Omit “under this Act”, substitute “for the purposes of this Act”.

138  Paragraph 780F(8)(c)
     Omit “; or”, substitute “.”.

139  Paragraph 780F(8)(d)
     Repeal the paragraph.

140  After subsection 780F(8)
     Insert:

     (8A) For the purposes of subsection (8), the following provisions are covered by this subsection:

     (a) subsection 36(6) or 77(6) of the Regulatory Powers Act, as it applies in relation to a NOPSEMA inspector (see Division 1 of Part 6.5 of this Act);

     (b) subsection 606(5) (which applies in relation to a greenhouse gas project inspector).

     Note: The listed provisions require the inspectors concerned to carry their identity cards with them at all times while exercising their powers.

141  Paragraph 780F(9)(c)
     Omit “inspector;”; substitute “inspector.”.

142 Paragraph 780F(9)(d)
Repeal the paragraph.

Division 2—NOPSEMA inspectors


143 Multiple amendments
The provisions of the Offshore Petroleum and Greenhouse Gas Storage Act 2006 listed in this Division are amended by:
(a) omitting “a petroleum project inspector” and substituting “a NOPSEMA inspector”; and
(b) omitting “the petroleum project inspector” and substituting “the inspector”; and
(c) omitting “petroleum project inspector” and substituting “NOPSEMA inspector”.

144 Section 696
145 Section 699 (heading)
146 Subsection 699(2)
147 Section 701
148 Section 703
149 Section 704 (heading)
150 Subsections 704(1), (2) and (4)
151 Paragraph 705(a)
152 Paragraph 706(b)
153 Paragraphs 780F(1)(a), (2)(a), (7)(a), (8)(a) and (9)(a)
Part 5—Transitional, application and savings provisions

154 Definitions
In this Part:

*function* includes duty.


155 Application—general
Subject to this Part, the *Offshore Act*, as amended by this Schedule, applies on and after the commencement of this Schedule in relation to the following:

(a) acts or omissions of persons, whether occurring before, on or after that commencement;

(b) any other matter, whether arising before, on or after that commencement, that is relevant to the exercise of powers or the performance of functions of a NOPSEMA inspector, on or after that commencement, for the purposes of that Act.

156 Transitional—inspectors

*Petroleum project inspectors and OHS inspectors*

(1) If, immediately before the commencement of this Schedule, a person held an appointment under the *Offshore Act* as a petroleum project inspector or an OHS inspector, the person is, on and after that commencement, taken to hold an appointment under that Act (as amended by this Schedule) as a NOPSEMA inspector.

(2) The person’s appointment as a NOPSEMA inspector (as provided by subitem (1)) is taken to be:

(a) for the balance of the term of the appointment, on the same terms and conditions as the person’s appointment as a petroleum project inspector or an OHS inspector; and

(b) if the person previously held an appointment as an OHS inspector—subject to any directions or notice given to or in
relation to the person under clause 48 of Schedule 3 to the Offshore Act in his or her capacity as an OHS inspector.

(3) For the purposes of the Offshore Act as amended by this Schedule, a direction or notice mentioned in paragraph (2)(b) is taken to have been given as a direction or notice under section 602A of that Act. The direction or notice may be varied or revoked accordingly.

Greater Sunrise visiting inspectors

(4) If, immediately before the commencement of this Schedule, a person held an appointment under the Offshore Act as a petroleum project inspector in the capacity of a Greater Sunrise visiting inspector, the person is, on and from that commencement, taken to hold an appointment as a NOPSEMA inspector in the same capacity.

157 Transitional—identity cards

(1) This item applies to an identity card issued under the Offshore Act before the commencement of this Schedule, to a person appointed under that Act as a petroleum project inspector or an OHS inspector, if the identity card is in effect immediately before that commencement.

(2) The identity card continues in effect for 28 days after that commencement, as if it had been issued to the person as a NOPSEMA inspector for the purposes of section 602 of the Offshore Act as amended by this Schedule.

158 Savings—inspections still in progress

Petroleum inspections and OHS inspections may be continued

(1) An inspection in relation to particular conduct, or a particular event or circumstances, for the purposes of Division 1 of Part 6.5 of the Offshore Act, or Part 4 of Schedule 3 to the Offshore Act, that had started (but not ended) before the commencement of the amendments made by this Schedule may be continued on and after that commencement as if those amendments had not been made.

(2) For the purposes of the inspection, the Offshore Act continues to apply as in force immediately before that commencement in relation to the inspection until the inspection ends.
(3) Without limiting subitem (2), the Offshore Act as in force immediately before that commencement continues to apply, on and after that commencement, in relation to a warrant, notice, direction or other instrument issued, or anything else done (whether before, on or after the commencement of this Schedule) in the course of the inspection.

**New inspections may be started**

(4) This item does not prevent the following inspections being started on or after the commencement of this Schedule in relation to the same conduct, event or circumstances (or an aspect of that conduct or event, or those circumstances):

(a) an inspection involving the exercise of powers, and the performance of functions, for the purposes of Division 1 of Part 6.5 of the Offshore Act as amended by this Schedule;

(b) a petroleum environmental inspection under Schedule 2A to the Offshore Act as amended by this Schedule;

(c) an OHS inspection under Schedule 3 to the Offshore Act as amended by this Schedule.

**Definitions**

(5) For the purposes of this item:

(a) an inspection *starts* when the relevant inspector, or NOPSEMA, makes a decision to start the inspection; and

(b) an inspection *ends* when the relevant inspector, or NOPSEMA, makes a decision to end the inspection.

### 159 Transitional and savings—inquiries concerning significant offshore incidents

**Persons taken to be inspectors**

(1) If, immediately before the commencement of this Schedule, a direction by the Secretary was in force under section 780F of the Offshore Act in relation to a person, in accordance with which the person was taken under that section to be a petroleum project inspector, a Greater Sunrise visiting inspector or an OHS inspector under that Act, then on and after that commencement:

(a) the direction continues in force, subject to that Act as amended by this Schedule; and

---

(b) the person is taken under that section (as amended by this Schedule) to be a NOPSEMA inspector, or a NOPSEMA inspector in the capacity of a Greater Sunrise visiting inspector; and
(c) the person’s identity card issued under that section continues in effect for 28 days after that commencement in accordance with that section as amended by this Schedule; and
(d) that section applies in relation to the person accordingly.

**Inspections may be continued**

(2) An inspection in relation to particular conduct, or a particular event or circumstances, involving the exercise of powers or the performance of functions given to a person under section 780F of the Offshore Act that had started (but not ended) before the commencement of the amendments made by this Schedule may be continued on and after that commencement as if those amendments had not been made, subject to this item.

(3) For the purposes of the inspection, the Offshore Act continues to apply as in force immediately before that commencement in relation to the inspection until the inspection ends.

(4) Without limiting subitem (3), the Offshore Act as in force immediately before that commencement continues to apply, on and after the commencement, in relation to a warrant, notice, direction or other instrument issued, or anything else done (whether before, on or after the commencement of this Schedule) in the course of the inspection.

**New inspections may be started**

(5) This item does not prevent an inspection involving the exercise of powers or the performance of functions given to a person under section 780F of the Offshore Act as amended by this Schedule being started on or after the commencement of this Schedule in relation to the same conduct, event or circumstances (or an aspect of that conduct or event, or those circumstances).

**Definitions**

(6) For the purposes of this item:

(a) an inspection *starts* when the relevant inspector makes a decision to start the inspection; and

*Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013*

No. 11, 2013 79
(b) an inspection ends when the relevant inspector makes a decision to end the inspection.

160 **Transitional regulations**

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments and repeals made by this Schedule.

Schedule 2—Offences and civil penalties

Part 1—Offences and civil penalty provisions


1 Before subsection 228(1)

   Insert:

   *Offence*

2 Subsection 228(1)

   After “offence”, insert “of strict liability”.

3 At the end of subsection 228(1)

   Add:

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

4 After subsection 228(1)

   Insert:

   *Civil penalty*

   (1A) A person who is a pipeline licensee in relation to a pipeline is liable to a civil penalty if the person ceases to operate the pipeline.

   Civil penalty: 265 penalty units.

5 Subsection 228(2)

   Omit “Subsection (1)”, substitute “Subsection (1) or (1A)”.

6 Subsection 228(2) (note)

   Repeal the note, substitute:

   Note: In proceedings for an offence against subsection (1), the defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the *Criminal Code*. The same applies in proceedings for a civil penalty under subsection (1A) of this section.
7 Subsection 228(3)
Omit “Subsection (1)”, substitute “Subsection (1) or (1A)”.

8 Subsection 228(3) (note)
Repeal the note, substitute:

Note: In proceedings for an offence against subsection (1), the defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the Criminal Code. The same applies in proceedings for a civil penalty under subsection (1A) of this subsection.

9 Subsection 228(4)
Repeal the subsection (including the note).

10 After subsection 249(1)
Insert:

Offence

11 At the end of section 249
Add:

Civil penalty

(4) A person is liable to a civil penalty if the person contravenes a requirement under subsection (1).

Civil penalty: 90 penalty units.

12 At the end of section 280
Add:

Civil penalty

(5) A person is liable to a civil penalty if the person contravenes a requirement under subsection (2).

Civil penalty: 265 penalty units.

13 At the end of section 284
Add:

Civil penalty

(7) A person is liable to a civil penalty if the person contravenes a requirement under subsection (2).

Civil penalty: 150 penalty units.

14 After subsection 286A(8)

Insert:

Civil penalty

(8A) A person is liable to a civil penalty if the person contravenes a requirement under subsection (2), (3), (4) or (5).

Civil penalty: 90 penalty units.

15 After subsection 507(5)

Insert:

Civil penalty

(5A) A person is liable to a civil penalty if the person contravenes a requirement in a notice under subsection (2).

Civil penalty: 90 penalty units.

16 Subsection 507(6) (heading)

Repeal the heading, substitute:

Notice to set out the effect of offence and civil penalty provisions

17 At the end of subsection 507(6) (before the note)

Add:

; (c) subsection (5A).

18 After subsection 508(5)

Insert:
Schedule 2 Offences and civil penalties

Part 1 Offences and civil penalty provisions

Civil penalty

(5A) A person is liable to a civil penalty if the person contravenes a requirement in a notice under subsection (2).

Civil penalty: 90 penalty units.

19 Subsection 508(6) (heading)
Repeal the heading, substitute:

Notice to set out the effect of offence and civil penalty provisions

20 At the end of subsection 508(6) (before the note)
Add:
; (c) subsection (5A).

21 After subsection 509(6)
Insert:

Civil penalty

(6A) A person is liable to a civil penalty if the person contravenes a requirement in a notice under subsection (2).

Civil penalty: 90 penalty units.

22 Subsection 509(7) (heading)
Repeal the heading, substitute:

Notice to set out the effect of offence and civil penalty provisions

23 At the end of subsection 509(7) (before the note)
Add:
; (c) subsection (6A).

24 After subsection 569(6A)
Insert:

84 Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013 No. 11, 2013
Civil penalty

(6B) A person is liable to a civil penalty if the person contravenes a requirement under subsection (1).

Civil penalty: 1,000 penalty units.

25 After paragraph 569(7)(a)
Insert:

(aa) proceedings for a civil penalty order for the purposes of subsection (6B) in relation to a breach of a paragraph of an item of the table in subsection (1); or

26 Section 569 (notes 1 and 2)
Repeal the notes, substitute:

Note: A petroleum titleholder is required to comply with any directions by NOPSEMA or the responsible Commonwealth Minister given under the following provisions:
(a) sections 574 and 576B (by NOPSEMA);
(b) section 574A (by the responsible Commonwealth Minister).

27 After subsection 572(5)
Insert:

Civil penalty

(5A) A person is liable to a civil penalty if the person contravenes a requirement under subsection (2) or (3) in relation to a title area covered by item 1, 2, 3, 4, 5, 6 or 7 of the table in subsection (1).

Civil penalty: 525 penalty units.

28 Section 572 (notes 1 and 2)
Repeal the notes, substitute:

Note: A petroleum titleholder is required to comply with any directions by NOPSEMA or the responsible Commonwealth Minister given under the following provisions:
(a) sections 574 and 576B (by NOPSEMA);
(b) section 574A (by the responsible Commonwealth Minister).

29 Section 573 (fifth paragraph)
After “offence”, insert “, or a proceeding for a civil penalty order,”.
Schedule 2  Offences and civil penalties

Part 1  Offences and civil penalty provisions

30  Subsection 574(2) (note 2)
Repeal the note, substitute:

Note 2:  Breach of a direction may attract a criminal or civil penalty: see section 576.

31  Subsection 574A(2) (note 2)
Repeal the note, substitute:

Note 2:  Breach of a direction may attract a criminal or civil penalty: see section 576.

32  At the end of section 575
Add:

Civil penalty

(6)  A person is liable to a civil penalty if the person contravenes a requirement under subsection (1), (2), (3), (3A), (3B) or (3C).

Civil penalty:  135 penalty units.

33  Section 576
Repeal the section, substitute:

576  Directions under sections 574 and 574A—compliance

Basic rule

(1)  A person contravenes this subsection if:
    (a)  the person is subject to a direction under section 574 or 574A; and
    (b)  the person engages in conduct; and
    (c)  the person’s conduct breaches the direction.

Note 1:  NOPSEMA may do anything required to be done under a direction under section 574 in the event of a breach of the direction (see section 577).

Note 2:  The responsible Commonwealth Minister may do anything required to be done under a direction under section 574A in the event of a breach of the direction (see section 577A).

Note 3:  It is a defence in a proceeding for an offence or civil penalty order under this section if the person subject to the direction proves that the
person took all reasonable steps to comply with the direction (see section 578).

Fault-based offence

(2) A person commits an offence if the person contravenes subsection (1).

Penalty: 5 years imprisonment or 2,000 penalty units, or both.

(3) For the purposes of applying Chapter 2 of the Criminal Code to the offence in subsection (2), the physical elements of the offence are set out in subsection (1).

Note: Chapter 2 of the Criminal Code sets out general principles of criminal responsibility.

Strict liability offence

(4) A person commits an offence of strict liability if the person contravenes subsection (1).

Penalty: 100 penalty units.

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

Civil penalty provision

(5) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 525 penalty units.

Defences—breach of direction by person other than a registered holder

(6) Subsection (7) applies in relation to a breach of a direction if:

(a) both of the following persons are subject to the direction:

(i) a registered holder;
(ii) another person; and

(b) the other person is prosecuted for an offence against subsection (2) or (4), or a civil penalty is sought for the purposes of subsection (5), in relation to the other person’s breach of the direction; and
(c) the other person adduces evidence that the other person did not know, and could not reasonably be expected to have known, of the existence of the direction.

(7) Unless it is proved that the other person knew, or could reasonably be expected to have known, of the existence of the direction:

(a) if the other person is prosecuted for an offence—the other person is not to be convicted of the offence; or

(b) if a civil penalty order is sought against the other person—the order is not to be made against the other person.

34 Subsection 576B(7) (note 2)

Repeal the note, substitute:

Note 2: Breach of a direction under this section may attract a criminal or civil penalty: see section 576D.

35 Subsection 576C(1) (note 1)

Omit “general” (wherever occurring).

36 Section 576D

Repeal the section, substitute:

576D Directions for significant offshore petroleum incidents—compliance

Basic rule

(1) A person contravenes this subsection if:

(a) the person is subject to a direction under section 576B; and

(b) the person engages in conduct; and

(c) the person’s conduct breaches the direction.

Note 1: NOPSEMA may do anything required to be done under a direction in the event of a breach of the direction (see section 577).

Note 2: It is a defence in a proceeding for an offence or civil penalty order under this section if the person subject to the direction proves that the person took all reasonable steps to comply with the direction (see section 578).
Fault-based offence

(2) A person commits an offence if the person contravenes subsection (1).

Penalty: 5 years imprisonment or 2,000 penalty units, or both.

(3) For the purposes of applying Chapter 2 of the Criminal Code to the offence in subsection (2), the physical elements of the offence are set out in subsection (1).

Note: Chapter 2 of the Criminal Code sets out general principles of criminal responsibility.

Strict liability offence

(4) A person commits an offence of strict liability if the person contravenes subsection (1).

Penalty: 100 penalty units.

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

Civil penalty provision

(5) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 2,250 penalty units.

37 Section 578

Repeal the section, substitute:

578 Defence of taking reasonable steps to comply with a direction

(1) It is a defence in a prosecution for an offence, or in proceedings for a civil penalty order, for a breach of a direction covered by subsection (2) if the defendant proves that the defendant took all reasonable steps to comply with the direction.

Note: The defendant bears a legal burden in relation to a prosecution for an offence: see section 13.4 of the Criminal Code. The same applies in proceedings for a civil penalty.

(2) This subsection covers the following directions:

(a) a direction given by the Joint Authority or NOPSEMA under:
Schedule 2  Offences and civil penalties

Part 1  Offences and civil penalty provisions

(i) Chapter 2; or
(ii) this Chapter; or
(iii) Part 7.1; or
(iv) a regulation; or

(b) a direction given by the responsible Commonwealth Minister under this Part or Division 1 of Part 6.4.

38  Paragraph 584(b)

After “Part 6.2”, insert “or Division 1 of Part 6.4”.

39  At the end of subsection 586(2)

Add:

Note 4: Breach of a direction may attract a criminal or civil penalty: see section 587B.

40  Subsections 586(5) and (5A)

Repeal the subsections.

41  At the end of subsection 586A(2)

Add:

Note 3: Breach of a direction may attract a criminal or civil penalty: see section 587B.

42  Subsections 586A(5) and (6)

Repeal the subsections.

43  Subsection 587(2) (note)

Omit “Note”, substitute “Note 1”.

44  At the end of subsection 587(2)

Add:

Note 2: Breach of a direction may attract a criminal or civil penalty: see section 587B.

45  Subsections 587(6) and (7)

Repeal the subsections.

46  At the end of subsection 587A(2)
Add:

Note: Breach of a direction may attract a criminal or civil penalty: see section 587B.

47 Subsections 587A(6) and (7)
Repeal the subsections.

48 After section 587A
Insert:

587B Remedial directions—compliance

Basic rule

(1) A person contravenes this subsection if:
(a) the person is subject to a remedial direction; and
(b) the person engages in conduct; and
(c) the person’s conduct breaches the direction.

Fault-based offence

(2) A person commits an offence if the person contravenes subsection (1).
Penalty: 5 years imprisonment or 2,000 penalty units, or both.

(3) For the purposes of applying Chapter 2 of the Criminal Code to the offence in subsection (2), the physical elements of the offence are set out in subsection (1).
Note: Chapter 2 of the Criminal Code sets out general principles of criminal responsibility.

Strict liability offence

(4) A person commits an offence of strict liability if the person contravenes subsection (1).
Penalty: 100 penalty units.
Note: For strict liability, see section 6.1 of the Criminal Code.
Schedule 2  Offences and civil penalties

Part 1  Offences and civil penalty provisions

Civil penalty provision

(5) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:  525 penalty units.

Remedial directions

(6) In this section:

remedial direction means a direction under any of the following provisions:

(a) section 586 (petroleum titleholders—NOPSEMA direction);
(b) section 586A (petroleum titleholders—responsible Commonwealth Minister direction);
(c) section 587 (former petroleum titleholders—NOPSEMA direction);
(d) section 587A (former petroleum titleholders—responsible Commonwealth Minister direction).

Note 1:  NOPSEMA may do anything required to be done under a direction under section 587 in the event of a breach of the direction (see section 588).

Note 2:  The responsible Commonwealth Minister may do anything required to be done under a direction under section 587A in the event of a breach of the direction (see section 590A).

49  Paragraph 620(3)(b)

Omit “hinders or obstructs”, substitute “obstructs or hinders”.

50  Subsection 620(3) (penalty)

Omit “for contravention of this subsection”.

51  At the end of section 620

Add:

Civil penalties

(4) A person is liable to a civil penalty if the person contravenes a requirement under subsection (1).

Civil penalty:  350 penalty units.

(5) A person is liable to a civil penalty if the person obstructs or
hinders an authorised person who is acting under subsection (1).

Civil penalty: 350 penalty units.

52 Paragraph 621(9)(b)
Omit “hinders or obstructs”, substitute “obstructs or hinders”.

53 Subsection 621(10) (penalty)
Omit “for contravention of this subsection”.

54 At the end of section 621
Add:

Civil penalties

(11) A person is liable to a civil penalty if the person contravenes a
requirement under subsection (1), (4) or (7).

Civil penalty: 90 penalty units.

(12) A person is liable to a civil penalty if the person obstructs or
hinders an authorised person who is acting under subsection (1).

Civil penalty: 90 penalty units.

55 After subsection 697(3A)
Insert:

Civil penalty

(3B) A person is liable to a civil penalty if the person contravenes a
direction under subsection (2).

Civil penalty: 150 penalty units.

56 After subsection 699(5)
Insert:

Civil penalty

(5A) A person is liable to a civil penalty if the person contravenes a
requirement in a notice under subsection (2).
Schedule 2  Offences and civil penalties

Part 1  Offences and civil penalty provisions

Civil penalty: 150 penalty units.

57 Subsection 699(6) (heading)
Repeal the heading, substitute:

 Notice to set out the effect of offence and civil penalty provisions

58 After paragraph 699(6)(a)
Insert:
(aa) subsection (5A);

59 After subsection 759(3)
Insert:

 Offence

60 After subsection 759(4)
Insert:

 Civil penalty

(4A) A person is liable to a civil penalty if the person contravenes a requirement in a notice under subsection (2).

 Civil penalty: 150 penalty units.

61 Subsection 759(5) (heading)
Repeal the heading, substitute:

 Notice to set out the effect of offence and civil penalty provisions

62 After paragraph 759(5)(a)
Insert:
(aa) subsection (4A);

63 Clause 3 of Schedule 3
Insert:

 health and safety requirement: see clause 16A.

64 After subclause 6(2) of Schedule 3

Insert:

Offence

65 After subclause 6(4) of Schedule 3

Insert:

Civil penalty

(4A) A person is liable to a civil penalty if the person contravenes a requirement under subclause (1) or (2).

Civil penalty: 135 penalty units.

66 Subclause 9(1) of Schedule 3 (note)

Omit “Note”, substitute “Note 1”.

67 At the end of subclause 9(1) of Schedule 3

Add:

Note 2: Breach of a requirement under this subclause is an offence: see Division 1A.

68 Subclauses 9(4), (4A) and (4B) of Schedule 3

Repeal the subclauses.

69 Subclause 10(1) of Schedule 3 (note)

Omit “Note”, substitute “Note 1”.

70 At the end of subclause 10(1) of Schedule 3

Add:

Note 2: Breach of a requirement under this subclause is an offence: see Division 1A.

71 Subclauses 10(4), (5) and (6) of Schedule 3

Repeal the subclauses.

72 Subclause 11(1) of Schedule 3 (note)

Omit “Note”, substitute “Note 1”.
Schedule 2  Offences and civil penalties
Part 1  Offences and civil penalty provisions

73  At the end of subclause 11(1) of Schedule 3
Add:

Note 2: Breach of a requirement under this subclause is an offence: see Division 1A.

74  Subclauses 11(5), (5A) and (5B) of Schedule 3
Repeal the subclauses.

75  Subclause 12(1) of Schedule 3 (note)
Omit “Note”, substitute “Note 1”.

76  At the end of subclause 12(1) of Schedule 3
Add:

Note 2: Breach of a requirement under this subclause is an offence: see Division 1A.

77  Subclause 12(2) of Schedule 3 (note)
Omit “Note”, substitute “Note 1”.

78  At the end of subclause 12(2) of Schedule 3
Add:

Note 2: Breach of a requirement under this subclause is an offence: see Division 1A.

79  Subclauses 12(3), (3A) and (3B) of Schedule 3
Repeal the subclauses.

80  Subclause 13(1) of Schedule 3 (note)
Omit “Note”, substitute “Note 1”.

81  At the end of subclause 13(1) of Schedule 3
Add:

Note 2: Breach of a requirement under this subclause is an offence: see Division 1A.

82  Subclauses 13(2), (2A) and (2B) of Schedule 3
Repeal the subclauses.

83 Subclause 13A(1) of Schedule 3 (note)
Omit “Note”, substitute “Note 1”.

84 At the end of subclause 13A(1) of Schedule 3
Add:

Note 2: Breach of a requirement under this subclause is an offence: see Division 1A.

85 Subclause 13A(2) of Schedule 3 (note)
Omit “Note”, substitute “Note 1”.

86 At the end of subclause 13A(2) of Schedule 3
Add:

Note 2: Breach of a requirement under this subclause is an offence: see Division 1A.

87 Subclauses 13A(3), (4) and (5) of Schedule 3
Repeal the subclauses.

88 Subclause 14(1) of Schedule 3 (note)
Omit “Note”, substitute “Note 1”.

89 At the end of subclause 14(1) of Schedule 3
Add:

Note 2: Breach of a requirement under this subclause is an offence: see Division 1A.

90 Subclauses 14(2), (2A) and (2B) of Schedule 3
Repeal the subclauses.

91 At the end of subclause 15(1) of Schedule 3
Add:

Note: Breach of a requirement under this subclause is an offence: see Division 1A.

92 Subclauses 15(2), (2A) and (2B) of Schedule 3
Repeal the subclauses.
93 After Division 1 of Part 2 of Schedule 3
Insert:

Division 1A—Occupational health and safety duties: enforcement

16A Meaning of health and safety requirement

In this Schedule:

health and safety requirement means a requirement under any of the following provisions:

(a) subclause 9(1) (duties of operator);
(b) subclause 10(1) (duties of persons in control of facility or particular work);
(c) subclause 11(1) (duties of employers);
(d) subclause 12(1) or (2) (duties of manufacturers in relation to plant and substances);
(e) subclause 13(1) (duties of suppliers of facilities, plant and substances);
(f) subclause 13A(1) or (2) (duties of petroleum titleholders in relation to wells);
(g) subclause 14(1) (duties of persons erecting facilities or installing plant);
(h) subclause 15(1) (duties of persons in relation to occupational health and safety).

16B Occupational health and safety duties offence—recklessness

Offence

(1) A person commits an offence if:

(a) the person is subject to a health and safety requirement; and
(b) the person omits to do an act; and
(c) the omission breaches the requirement.

Penalty: 3,500 penalty units.
Offences and civil penalties  Schedule 2
Offences and civil penalty provisions  Part 1

Fault elements

(2) Absolute liability applies to paragraph (1)(a).
   Note: For absolute liability, see section 6.2 of the Criminal Code.

(3) Recklessness applies to paragraphs (1)(b) and (c).
   Note: For recklessness, see section 5.4 of the Criminal Code.

16C  Occupational health and safety duties offence—negligence

Offence

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

Penalty: 1,750 penalty units.

Fault elements

(2) Absolute liability applies to paragraph (1)(a).
   Note: For absolute liability, see section 6.2 of the Criminal Code.

(3) Negligence applies to paragraphs (1)(b) and (c).
   Note: For negligence, see section 5.5 of the Criminal Code.

94  Clause 54 of Schedule 3 (heading)
Repeal the heading, substitute:

54  OHS inspections—obstructing or hindering NOPSEMA inspector

95  Paragraph 54(1)(b) of Schedule 3
Repeal the paragraph, substitute:

(b) the conduct obstructs or hinders a NOPSEMA inspector in the exercise of the inspector’s powers under clause 50 or 51.

96  Subclause 54(1) of Schedule 3 (penalty)
Omit “50 penalty units”, substitute “60 penalty units”.
97 After subclause 54(1) of Schedule 3

Insert:

(1A) A person is liable for a civil penalty if the person obstructs or hinders a NOPSEMA inspector in the exercise of the inspector’s powers under clause 50 or 51.

Civil penalty: 135 penalty units.

98 Subclause 54(2) of Schedule 3

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

99 Subclause 54(2) of Schedule 3 (note 1)

Repeal the note, substitute:

Note 1: In proceedings for an offence against subclause (1), the defendant bears an evidential burden in relation to the matter in subclause (2): see subsection 13.3(3) of the Criminal Code. The same applies in proceedings for a civil penalty under subclause (1A).

100 Subclause 73(3) of Schedule 3 (at the end of the penalty)

Add “or 60 penalty units, or both”.

101 Subclauses 74(5) and (7) of Schedule 3 (at the end of the penalties)

Add “or 60 penalty units, or both”.

102 At the end of clause 83 of Schedule 3

Add:

Civil penalty

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

Civil penalty: 60 penalty units.

103 Subclause 86(1) of Schedule 3 (at the end of the penalty)

Add “or 60 penalty units, or both”.

104 Clause 87 of Schedule 3 (after the heading)

Insert:

100 Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013 No. 11, 2013
Offences and civil penalties  Schedule 2
Offences and civil penalty provisions  Part 1

Offence

105 Clause 87 of Schedule 3
Before “A person”, substitute “(1)”.

106 At the end of clause 87 of Schedule 3
Add:

Civil penalty

(2) A person mentioned in paragraph (1)(a) is liable to a civil penalty if the person engages in the conduct mentioned in paragraph (1)(b).

Civil penalty: 350 penalty units.

107 Subclause 88(2) of Schedule 3 (penalty)
Omit “250 penalty units”, substitute “600 penalty units”.

Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013
No. 11, 2013  101
Part 2—Civil penalty enforcement


108 At the end of Part 6.5
Add:

Division 4—Civil penalties

611A Simplified outline

The following is a simplified outline of this Division:

- This Division provides that civil penalty provisions set out in this Act are enforceable under Part 4 of the Regulatory Powers Act.

611B Civil penalty provisions

Specified civil penalty provisions

(1) A civil penalty provision in this Act may be enforced under Part 4 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

Authorised applicants

(2) The following table has effect.

<table>
<thead>
<tr>
<th>Item</th>
<th>For the purposes of Part 4 of the Regulatory Powers Act, each of the following persons …</th>
<th>is an authorised applicant in relation to the following civil penalty provisions in this Act (to the extent indicated) …</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The responsible Commonwealth Minister</td>
<td>(a) subsection 575(6), in relation to a direction given by that Minister (see section 574A);</td>
</tr>
</tbody>
</table>

## Authorised applicants for civil penalty provisions

<table>
<thead>
<tr>
<th>Item</th>
<th>For the purposes of Part 4 of the Regulatory Powers Act, each of the following persons …</th>
<th>is an authorised applicant in relation to the following civil penalty provisions in this Act (to the extent indicated) …</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>The Chief Executive Officer of NOPSEMA</td>
<td>(b) subsection 576(5), in relation to a direction given by that Minister (see section 574A);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) subsection 587B(5), in relation to a remedial direction given by that Minister (see sections 586A and 587A);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(d) subsection 759(4A).</td>
</tr>
<tr>
<td>3</td>
<td>The Titles Administrator</td>
<td>(a) subsection 280(5);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) subsection 286A(8A);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) subsection 569(6B);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(d) subsection 572(5A);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(e) subsection 575(6), in relation to a direction given by NOPSEMA (see section 574);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(f) subsection 576(5), in relation to a direction given by NOPSEMA (see section 574);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(g) subsection 576D(5);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(h) subsection 587B(5), in relation to a remedial direction given by NOPSEMA (see sections 586 and 587);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(i) subsection 620(4) or (5);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(j) subsection 621(11) or (12);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(k) subclause 6(4A) of Schedule 3;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(l) subclause 54(1A) of Schedule 3;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(m) subclause 78A(3) of Schedule 3;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(n) subclause 83(6) of Schedule 3;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(o) subclause 87(2) of Schedule 3.</td>
</tr>
</tbody>
</table>
Schedule 2 Offences and civil penalties
Part 2 Civil penalty enforcement

Authorised applicants for civil penalty provisions

<table>
<thead>
<tr>
<th>Item</th>
<th>For the purposes of Part 4 of the Regulatory Powers Act, each of the following persons …</th>
<th>is an authorised applicant in relation to the following civil penalty provisions in this Act (to the extent indicated) …</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(e) subsection 507(5A); (f) subsection 508(5A); (g) subsection 509(6A); (h) subsection 697(3B);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(i) subsection 699(5A).</td>
</tr>
</tbody>
</table>

Relevant court

(3) For the purposes of Part 4 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the civil penalty provisions mentioned in subsection (1):

(a) the Federal Court;
(b) the Federal Circuit Court;
(c) the Supreme Court of a State or a Territory.

Extension to offshore areas

(4) Part 4 of the Regulatory Powers Act, as it applies in relation to the civil penalty provisions mentioned in subsection (1), extends to each offshore area.
Part 3—Application and transitional

109 Application of Part 1 amendments

The amendments made by Part 1 apply in relation to contraventions of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* occurring on or after the commencement of this Schedule.

110 Transitional regulations

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments and repeals made by this Schedule.
Schedule 3—Using and sharing information and things

Part 1—Amendments


1 At the end of Chapter 6
Add:

Part 6.11—Using and sharing offshore information and things

Division 1—Introduction

695S Simplified outline

The following is a simplified outline of this Part:

- This Part deals with using and making available certain information, documents and things obtained for the purposes of this Act.
- The information, documents and things may be:
  
  (a) used within NOPSEMA for the purpose of exercising any of its powers or performing any of its functions; and

  (b) shared between the responsible Commonwealth Minister, the Secretary, NOPSEMA, the Titles Administrator and each member of the Joint Authority; and

  (c) shared between the Chief Executive Officer of NOPSEMA and certain other agencies, including law enforcement agencies and State and Territory Government agencies.

695T Definitions

In this Part:

CEO means the Chief Executive Officer of NOPSEMA.

function includes duty.

thing includes a sample.

this Act includes a legislative instrument under this Act.

under this Act includes for the purposes of this Act.

695U Scope of Part

Information or things covered by this Part

(1) Subject to this section, this Part applies in relation to information, a document, a copy of a document or an extract of a document (the offshore information) or a thing obtained in the course of:

(a) the exercise of a power, or the performance of a function, under this Act; or

(b) the administration of this Act.

The offshore information may be or include personal information (within the meaning of the Privacy Act 1988).

Note: The use or disclosure of personal information is regulated under the Privacy Act 1988.

(2) In particular, but without limiting subsection (1), this Part applies in relation to offshore information or a thing obtained by NOPSEMA (including obtained by an inspector appointed by NOPSEMA or the CEO, whether under a warrant issued for the purposes of this Act or otherwise).

Example: This Part applies in relation to information given by a person to an inspector under Schedule 3 in response to a requirement made of the person by the inspector to answer a question.

(3) This Part does not, by implication, limit the use of, or making available, offshore information or a thing otherwise than in accordance with this Part.
Schedule 3  Using and sharing information and things

Part 1  Amendments

---

Part does not apply in relation to Part 7.3

(4) This Part does not apply to offshore information or a thing covered by Part 7.3 or a legislative instrument made for the purposes of that Part.

Part does not apply in relation to inquiries into significant offshore incidents (Part 9.10A)

(5) This Part does not apply to the extent that offshore information or a thing is obtained in the course of the exercise of a power, or the performance of a function, under or for the purposes of Part 9.10A.

Part does not apply in relation to certain offshore greenhouse gas storage operations

(6) This Part does not apply to the extent that offshore information or a thing relates to offshore greenhouse gas storage operations within the meaning of Part 6.9, unless it is obtained in the course of the exercise of a power, or the performance of a function, under or for the purposes of a listed OHS law (other than Part 5 of the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011, which deals with the structural integrity of wells and well operations).

Division 2—NOPSEMA’s use of offshore information or things

695V Purposes for which NOPSEMA may use offshore information or things

If NOPSEMA obtains offshore information or a thing in the course of the exercise of a power, or the performance of a function, under this Act, NOPSEMA may use the offshore information or thing for the purpose of exercising any power, or performing any function, under this Act.
Division 3—Sharing offshore information or things

695W Sharing offshore information or things for the purposes of this Act

(1) Any of the following persons may make available offshore information or a thing to another of those persons (the recipient) to use as mentioned in subsection (2):
   (a) the responsible Commonwealth Minister;
   (b) the Secretary;
   (c) NOPSEMA;
   (d) the Titles Administrator;
   (e) each member of a Joint Authority.

(2) The recipient may use the offshore information or thing in the course of the following:
   (a) the exercise of powers, or the performance of functions, under this Act;
   (b) the administration of this Act.

695X CEO of NOPSEMA may share offshore information or things with other agencies

(1) The CEO may make available offshore information or a thing to one or more of the agencies referred to in subsection (2) for the agency to use in the course of the exercise of the agency’s powers, or the performance of the agency’s functions, under or for the purposes of a law.

(2) The agencies are the following:
   (a) the Australian Maritime Safety Authority;
   (b) the Civil Aviation Safety Authority;
   (c) the Australian Defence Force;
   (d) the Australian Federal Police;
   (e) Customs;
   (f) the police force of a State or Territory;
   (g) the Director of Public Prosecutions of the Commonwealth;
   (h) the coroner of a State or the Northern Territory;
Schedule 3  Using and sharing information and things
Part 1  Amendments

(i) an agency of the Commonwealth, or of a State or Territory, that is responsible for administering or implementing laws relating to occupational health and safety;

(j) an agency of the Commonwealth, or of a State or Territory, that is responsible for administering or implementing laws relating to the protection of the environment;

(k) any other agency of the Commonwealth, or of a State or Territory, responsible for investigating contraventions of laws, or administering or ensuring compliance with laws.

(3) If offshore information or a thing is made available to an agency under subsection (1), the CEO may, at any time, by written notice to the agency, impose conditions in relation to:

(a) the agency’s use of the offshore information or thing; or

(b) whether, and the extent to which, the agency itself may make the offshore information or thing available to any other agency or person.

(4) A notice under subsection (3) is not a legislative instrument.

695Y  Personal information

(1) This section applies to offshore information to the extent that it is personal information.

(2) Before the information is made available or used as mentioned in this Division, the person or agency making the information available, or using the information, must take such steps as are reasonable in the circumstances to ensure that the information is de-identified.

(3) Personal information is de-identified if the information is no longer about an identifiable individual or an individual who is reasonably identifiable.

Part 2—Application and transitional

2 Application

The amendment made by this Schedule applies in relation to the following:

(a) offshore information, to the extent that it is personal information, obtained on or after the commencement of this Schedule;

(b) other offshore information obtained before, on or after the commencement of this Schedule;

(c) things obtained before, on or after the commencement of this Schedule.

3 Transitional regulations

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendment made by this Schedule.
Schedule 4—Joint Authority for Tasmania

Part 1—Amendments


1 Section 4

Omit:

- Generally, the administration of this Act in relation to an offshore area of a State is the responsibility of the Joint Authority for the State (the Joint Authority is constituted by the responsible State Minister and the responsible Commonwealth Minister).

substitute:

- Generally, the administration of this Act in relation to an offshore area of a State is the responsibility of the Joint Authority for the State. The Joint Authority for a State (other than Tasmania) is constituted by the responsible State Minister and the responsible Commonwealth Minister. The Joint Authority for Tasmania is constituted by the responsible Commonwealth Minister.

2 Section 7 (paragraph (a) of the definition of responsible State Minister)

Repeal the paragraph, substitute:

(a) whichever of the following applies:

(i) the Minister of the State (other than Tasmania) who is authorised under a law of the State to perform the functions, and exercise the powers, of a member of the Joint Authority for the State under this Act;

(ii) the Minister of Tasmania who is responsible for the State PSLA for Tasmania, within the meaning of Part 6.9 (see section 643); or

3 Subsection 56(2)
4 After subsection 56(2)

Insert:

(2A) The responsible Commonwealth Minister is the Joint Authority for the offshore area of Tasmania. That Joint Authority is to be known as the Commonwealth-Tasmania Offshore Petroleum Joint Authority.

5 Subsection 56(6)

Omit “, and”, substitute “. That Joint Authority”.

6 Subsection 56(8)

Omit “and is to be known as”, substitute “and such a Joint Authority is to be known as”.

7 Subsections 58(1) and 59(1)

After “State”, insert “(other than Tasmania)”.

8 Section 60

After “State” (first occurring), insert “(other than Tasmania)”.

9 Subsection 61(2)

After “State”, insert “(other than Tasmania)”.

10 Before paragraph 61(2A)(a)

Insert:

(aa) Tasmania; or

11 Subsection 64(1) (heading)

Repeal the heading, substitute:

Joint Authority for a State (other than Tasmania) or the Northern Territory

12 Subparagraphs 64(1)(a)(i) and (ii)

After “State”, insert “(other than Tasmania)”.

Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013
No. 11, 2013 113
13 After subsection 64(1)

Insert:

Joint Authority for Tasmania

(1A) All courts must take judicial notice of:
(a) the signature of a person who is, or has been:
   (i) the Joint Authority for Tasmania; or
   (ii) a delegate of the Joint Authority for Tasmania; and
(b) the fact that the person is, or was at a particular time:
   (i) the Joint Authority for Tasmania; or
   (ii) a delegate of the Joint Authority for Tasmania.

14 Section 66 (heading)

Repeal the heading, substitute:

66 Delegation by a Joint Authority for a State (other than Tasmania) or the Northern Territory

15 Subsection 66(1)

After “State” (first occurring), insert “(other than Tasmania)”.

16 Paragraph 66(1)(b)

Repeal the paragraph, substitute:

(b) an employee of the relevant State, or of the Northern Territory, as the case requires.

17 After section 66

Insert:

66A Delegation by Joint Authority for Tasmania

(1) The Joint Authority for Tasmania may, by written instrument, delegate to a person any or all of the functions or powers of the Joint Authority under this Act or the regulations.

Note: See also sections 34AA and 34AB of the Acts Interpretation Act 1901.

(2) If the Joint Authority delegates a function or power under this section, the delegation continues in force despite:
(a) a vacancy in the office of Joint Authority; or
(b) a change in the identity of the holder of the office of Joint Authority.

(3) Despite subsection (2), a delegation under this section may be revoked by the Joint Authority in accordance with subsection 33(3) of the Acts Interpretation Act 1901.

(4) A copy of each instrument making, varying or revoking a delegation under this section must be published in the Gazette.

(5) A Joint Authority may delegate a function or power to an APS employee only if the APS employee is an SES employee or acting SES employee.

Note: The expressions APS employee, SES employee and acting SES employee are defined in section 2B of the Acts Interpretation Act 1901.
Part 2—Transitional

18 Previously constituted Joint Authority for Tasmania

(1) This item applies to an act or thing that was done for the purposes of the Offshore Act by, or in relation to, the Joint Authority for Tasmania as constituted before the commencement of this Schedule.

(2) On and after the commencement of this Schedule, the act or thing has effect, and the Offshore Act (as amended by this Schedule) applies accordingly, as if the act or thing had been done by, or in relation to, the Joint Authority for Tasmania as constituted immediately after that commencement.

(3) However, sections 61 and 64 of the Offshore Act, as in force immediately before the commencement of this Schedule, continue to apply on and after that commencement in relation to records and other documents signed by a person in the person’s capacity as a member of the Joint Authority for Tasmania as constituted before that commencement.

(4) In this item:

Offshore Act means the Offshore Petroleum and Greenhouse Gas Storage Act 2006, and includes legislative instruments and other instruments made under, or for the purposes of, that Act.

19 Transitional regulations

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments and repeals made by this Schedule.
Minister’s second reading speech made in—
House of Representatives on 28 November 2012
Senate on 28 February 2013}