

2010-2011-2012-2013

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Migration Amendment (Offshore  
Resources Activity) Bill 2013**

**No.     , 2013**

*(Immigration and Citizenship)*

**A Bill for an Act to amend the *Migration Act 1958*,  
and for other purposes**



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1     **A Bill for an Act to amend the *Migration Act 1958*,**  
2     **and for other purposes**

3     The Parliament of Australia enacts:

4     **1 Short title**

5                     This Act may be cited as the *Migration Amendment (Offshore*  
6                     *Resources Activity) Act 2013*.

7     **2 Commencement**

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

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 12 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

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

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

### 7 **3 Schedule(s)**

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9 repealed as set out in the applicable items in the Schedule  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

1 **Schedule 1—Amendments**

2 **Part 1—Amendments**

3 *Migration Act 1958*

4 **1 Subsection 5(1) (at the end of the definition of *enter***  
5 ***Australia*)**

6 Add:

7 Note: See also section 9A, which concerns offshore resources activities.

8 **2 Subsection 5(1) (at the end of the definition of *leave***  
9 ***Australia*)**

10 Add:

11 Note: See also section 9A, which concerns offshore resources activities.

12 **3 Subsection 5(1) (at the end of the definition of *migration***  
13 ***zone*)**

14 Add:

15 Note: See also section 9A, which concerns offshore resources activities.

16 **4 Subsection 5(1)**

17 Insert:

18 *offshore resources activity* has the meaning given by  
19 subsection 9A(5).

20 **5 At the end of section 6**

21 Add:

22 Note: See also subsection 9A(3), which deals with when a person is taken to  
23 be in Australia, to travel to Australia, to enter Australia or to leave  
24 Australia. Section 9A concerns offshore resources activities.

25 **6 After section 9**

26 Insert:

1 **9A Migration zone etc.—offshore resources activities**

2 *Migration zone etc.*

- 3 (1) For the purposes of this Act, a person is taken to be in the  
4 migration zone while he or she is in an area to participate in, or to  
5 support, an offshore resources activity in relation to that area.

6 Example 1: A person is taken to be in the migration zone under this section if the  
7 person is on a vessel in an area to participate in an offshore resources  
8 activity under the *Offshore Petroleum and Greenhouse Gas Storage*  
9 *Act 2006* in that area by exploring for, or recovering, petroleum.

10 Example 2: A person who is a member of the crew of the vessel is also taken to be  
11 in the migration zone under this section if the person is supporting the  
12 offshore resources activity.

13 Example 3: Neither a stowaway on the vessel, nor a person on the vessel because  
14 the person was rescued at sea, is taken to be in the migration zone,  
15 because neither is participating in, or supporting, the offshore  
16 resources activity.

- 17 (2) To avoid doubt, a person may be taken to be in the migration zone  
18 under subsection (1):

- 19 (a) whether or not the person's participation in, or support of, an  
20 offshore resources activity in the area concerned has started,  
21 is continuing or has concluded; and  
22 (b) whether or not the offshore resources activity concerned has  
23 started, is continuing or has concluded.

- 24 (3) For the purposes of this Act:

- 25 (a) a person is taken to be in Australia while he or she is taken to  
26 be in the migration zone because of subsection (1); and  
27 (b) a person is taken to travel to Australia if the person travels to  
28 an area in which the person is taken to be in the migration  
29 zone because of subsection (1); and  
30 (c) a person is taken to enter Australia when the person enters an  
31 area in which the person is taken to be in the migration zone  
32 because of subsection (1); and  
33 (d) subject to section 80—a person is taken to leave Australia  
34 when the person leaves an area in which the person is taken  
35 to be in the migration zone because of subsection (1).

- 36 (4) Unless a provision of this Act, or another Act, expressly provides  
37 otherwise, this section does not have the effect of extending, for  
38 the purposes of another Act, the circumstances in which a person:



- 1 (a) is in the migration zone or is taken to be in the migration  
2 zone; or  
3 (b) is in Australia or is taken to be in Australia; or  
4 (c) travels to Australia or is taken to travel to Australia; or  
5 (d) enters Australia or is taken to enter Australia; or  
6 (e) leaves Australia or is taken to leave Australia.

7 *Meaning of offshore resources activity*

8 (5) In this section:

9 ***offshore resources activity***, in relation to an area, means:

- 10 (a) a regulated operation (within the meaning of section 7 of the  
11 *Offshore Petroleum and Greenhouse Gas Storage Act 2006*)  
12 that is being carried out, or is to be carried out, within the  
13 area, except an operation determined by the Minister under  
14 subsection (6); or  
15 (b) an activity performed under a licence or a special purpose  
16 consent (both within the meaning of section 4 of the *Offshore*  
17 *Minerals Act 1994*) that is being carried out, or is to be  
18 carried out, within the area, except an activity determined by  
19 the Minister under subsection (6); or  
20 (c) an activity, operation or undertaking (however described)  
21 that is being carried out, or is to be carried out:  
22 (i) under a law of the Commonwealth, a State or a  
23 Territory determined by the Minister under  
24 subsection (6); and  
25 (ii) within the area, as determined by the Minister under  
26 subsection (6).

27 (6) The Minister may, in writing, make a determination for the  
28 purposes of the definition of ***offshore resources activity*** in  
29 subsection (5).

30 (7) A determination made under subsection (6) is a legislative  
31 instrument, but section 42 (disallowance) of the *Legislative*  
32 *Instruments Act 2003* does not apply to the determination.

33 (8) To avoid doubt, for the purposes of subsection (1), a person may  
34 participate in, or support, an offshore resources activity in relation  
35 to an area whether the person:

- 36 (a) is on an Australian resources installation in the area; or

1 (b) is otherwise in the area to participate in, or support, the  
2 activity.

3 **7 After subsection 41(1)**

4 Insert:

5 *General rules about conditions*

6 **8 After subsection 41(2A)**

7 Insert:

8 *Conditions about offshore resources activity*

9 (2B) In addition to any restrictions applying because of regulations  
10 made for the purposes of paragraph (2)(b), a condition of a visa  
11 that allows the holder of the visa to work is not taken to allow the  
12 holder to participate in, or support, an offshore resources activity in  
13 relation to any area unless the visa is:

14 (a) a permanent visa; or

15 (b) a visa prescribed by the regulations for the purposes of this  
16 subsection.

17 Note: For *offshore resources activity*, see subsection 9A(5).

18 (2C) To avoid doubt, for the purposes of subsection (2B), a person may  
19 participate in, or support, an offshore resources activity in relation  
20 to an area whether the person:

21 (a) is on an Australian resources installation in the area; or

22 (b) is, under section 9A, otherwise in the area to participate in, or  
23 support, the activity.

24 *Additional conditions*

25 **9 Subsection 41(3)**

26 After “subsection (1),”, insert “or in subsection (2B),”.

1 **Part 2—Application**

2 **10 Application**

- 3 (1) The amendments of the *Migration Act 1958* made by Part 1 apply in  
4 relation to a person who, on or after the commencement of this  
5 Schedule:
- 6 (a) is in the migration zone, or is taken to be in the migration  
7 zone, under that Act (as amended); or
  - 8 (b) is in Australia, or is taken to be in Australia, under that Act  
9 (as amended); or
  - 10 (c) travels to Australia, or is taken to travel to Australia, under  
11 that Act (as amended); or
  - 12 (d) enters Australia, or is taken to enter Australia, under that Act  
13 (as amended); or
  - 14 (e) leaves Australia, or is taken to leave Australia, under that Act  
15 (as amended).
- 16 (2) The amendments of section 41 of the *Migration Act 1958* made by  
17 Part 1 apply in relation to a visa granted on or after the commencement  
18 of this Schedule.