EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 153

2009

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

PETROLEUM (SUBMERGED LANDS) AMENDMENT REGULATIONS 2009
(No. 1)

(Circulated by authority of the Minister for Resources and Energy,
the Honourable Martin Ferguson AM, MP)
The regulations are made in accordance with section 781 of the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (the Act).

The purpose of these amendments is to increase the fees set-out in the Petroleum (Submerged Lands) Regulations 1985 for petroleum title applications and a range of fees for amending the petroleum titles register, inspecting the petroleum titles register, providing extracts from the petroleum titles register and petroleum instruments and providing documentary information and mining samples. These amendments add fees for greenhouse gas title applications and fees for amending the greenhouse gas titles register, inspecting the greenhouse gas titles register and providing extracts from the greenhouse gas titles register and greenhouse gas instruments.

The amendments also update the regulations to refer to and be consistent with the Act. The regulations currently refer to the earlier act, the Petroleum (Submerged Lands) Act 1967 (the PSLA).

The increase in fees is in line with the 13.65% increase in the consumer price index (CPI) since the fees were last adjusted on 1 January 2005. This increase has been agreed to by the Ministerial Council on Minerals and Petroleum Resources to account for rises in the costs of administering petroleum titles. The petroleum industry representative organisation, the Australian Petroleum Production and Exploration Association Limited, was advised by letter in February 2009 of proposed petroleum fee increases.

The Act is administered jointly by Commonwealth, state and Northern Territory governments. The Commonwealth repays fees received for the day-to-day administration of the offshore petroleum regime to state and Northern Territory authorities, to offset their costs. This practice is provided for under Section 76 of the Act.

The fees prescribed for greenhouse gas title applications and other fees relating to the greenhouse gas title register are set at the same amounts as comparable fees for petroleum titles and the petroleum titles register. Matters relating to greenhouse gas storage were added to the Act on 21 November 2008.

These amendments do not have any financial impact on the Australian Government budget.

These amendments do not pose any new regulatory burden on the petroleum or greenhouse gas storage industries.
NOTES ON INDIVIDUAL CLAUSES

Clause 1, Name of Regulations
This is a formal provision setting out the name of the regulations.

Clause 2, Commencement
The regulations will commence on 1 July 2009.

Clause 3, Schedule
This clause gives effect to the provisions in Schedule 1 of these regulations.

Schedule 1 - Amendments

Item 1 – Regulation 1
This item changes the name of the regulations to the Offshore Petroleum and Greenhouse Gas Storage Regulations 1985.

Item 2 – Regulation 2
This item changes the name of the relevant Act to the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (the Act).

Item 3 – Regulation 2D
This item inserts a new provision 2D relating to application fees. This regulation refers to subsection 256 (2) for petroleum application fees and subsection 427 (2) for greenhouse gas application fees. This provision replaces Regulation 5 (see Item 14).

Item 4 – Regulation 3
This item provides an updated reference to the Act replacing paragraph 78 (3) (a) with paragraphs 474 (a) and 526 (a).

Item 5 – Regulation 3A
This item inserts a new provision relating to registration fees. Registration fees were previously prescribed in Schedule 2. The fees for petroleum titles are increased to $92 and the fees for greenhouse gas titles are set at $92.

Item 6 – Regulation 4, heading
This item replaces the heading ‘Instrument under paragraph 81 (4) b of the Act’ with ‘Instrument evidencing dealing’.

Item 7 – Subregulation 4 (1)
This item provides an updated reference to the Act replacing paragraph 81 (4) (b) with subsection 489 (2) or 540 (2).

Item 8 – Paragraph 4 (1) (a)
This item provides an updated reference to the Act replacing paragraph 81 (4) (a) with subsection 489 (1) or 540 (1).

Item 9 - Paragraph 4 (1) (d)
This item provides an updated reference to the Act replacing paragraph or paragraphs of subsection 81 (1) with items in section 486 or 537.
Item 10 - Paragraph 4 (1) (f)
This item provides an updated reference to the Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006 (the Registration Fees Act) replacing paragraph 4 (5) (a) with items 1 or 3 of subsection 6 (2) or 6B (2).

Item 11 – Paragraph 4 (1) (g)
This item provides an updated reference to the Registration Fees Act replacing paragraph 4 (5) (b) with items 2 or 4 of subsection 6 (2) or 6B (2).

Item 12 – Paragraph 4 (1) (h)
This item provides an updated reference to the Registration Fees Act replacing subsection 4 (6A) with item 6 of subsection 6 (2) or 6B (2).

Item 13 – Subregulation 4 (2)
This item replaces the words ‘of the Act’ with ‘of the Petroleum (Submerged Lands) Act 1967’ to make it clear which act is being referenced.

Item 14 – Regulation 5
This item deletes regulation 5 which is replaced by Regulation 2D (see Item 3).

Item 15 – Regulations 6 and 7
This item increases the register and instrument inspection fees and document certification fees for petroleum titles and adds similar fees for greenhouse gas titles.

In regulation 6, the fees for inspecting the petroleum titles register and petroleum instruments are set at $19. In regulation 7, the fee for providing a certified copy of documents is set at $3.50 per page and the fee for issuing an evidentiary certificate is set at $45.

This item updates the reference to the Act in regulation 6 replacing subsection 86 (1) with subsection 515 (1) and (2) and subsection 564 (1) and (2).

This item updates references to the Act in regulation 7 replacing subsection 87 (2) with subsection 516 (2) and 565 (2) and replacing subsection 87 (3) with subsection 516 (4) and 565 (4).

Item 16 – Regulation 9, Heading
This item replaces the heading ‘Fees – section 118 of the Act’ with ‘Information and inspection fees’.

Item 17 – Regulation 9
This item replaces the references to subsections 118 (1B), (2) and (5A) and paragraph 118 (5) (c) of the Act with subsection 717 (2) and 741 (2).

Item 18 – Paragraphs 9 (a) and (b)
This item sets the fees payable in paragraph 9 (a) for making information available to a person at $38 per day or part day. In paragraph 9 (b) the cost of searching for information is set at $38 per hour or part of an hour. This item applies these fees to both petroleum and greenhouse gas titles.
Item 19 – Regulation 9, Note
This item replaces the note contained in regulation 9. The current note applies to section 118 of the PSLA which was removed in 2000. Matters covered under that section have since been incorporated into other provisions. The new note refers to the provisions set out in Part 6 of the Petroleum (Submerged Lands) (Data Management) Regulations 2004 controlling the release of information and samples.

Item 20 – Schedule 1
This item updates the heading in the instrument of transfer to refer to Part 4.3 or 5.3 of the Act.

Item 21 – Schedule 1
This item replaces the relevant century in the instrument of transfer.

Item 22 – Schedule 1, Note 3
This item provides an updated reference to the Act replacing section 78 with section 467 or 519 ensuring that the instrument can be used in relation to both petroleum and greenhouse gas titles.

Item 23 – Schedule 2
This item amends the prescribed fees table by removing references to specific provisions of the Act and replacing them with the different types of petroleum applications that attract fees. The earlier act, the PSLA, provided for application fees in a number of different sections whereas the Act now has only two relevant sections (see Item 3).

This item increases the fees for various petroleum applications and adds fees for greenhouse gas applications. The fees applying to greenhouse gas applications are set at amounts comparable to those for petroleum applications.

Items 1, 2, 7 and 12 are increased to $4590; items 3, 4, 5, 6, 9, 10 and 11 are increased to $1835 and items 8, 13 and 14 are increased to $920. For greenhouse gas applications, the new items 18, 19 and 20 are set at $1835 and item 22 at $4590. Items 15, 16, 17 and 21 attract nil fees.