

EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 198

Offshore Petroleum and Greenhouse Gas Storage Act 2006
Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act 2006

Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Regulations 2011 (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 Principal Act) and Section 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act 2006* (the Annual Fees Act).

The Principal Act provides the legal framework for the exploration for and recovery of petroleum and for the injection and storage of greenhouse gas substances in those parts of Australia's continental shelf and Exclusive Economic Zone which are under Commonwealth jurisdiction. The Principal Act is administered jointly by Commonwealth, state and Northern Territory governments and provides for a range of administrative decisions to be made in relation to petroleum and greenhouse gas titles. Section 4 of the Annual Fees Act provides that holders of titles must pay a fee for each year of the term of the title.

Under previous provisions of the Principal Act the Commonwealth was required to pay the states and the Northern Territory (NT) each month an amount equal to the offshore petroleum fees (registration and non-registration fees) collected by each jurisdiction in the preceding month. This arrangement provided compensation to the states and the NT for administering the day-to-day activities in Commonwealth waters.

The Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011 (the National Regulator Amendment Act) amended the Principal Act to give effect to the Government's upstream petroleum regulatory reform policy. The Amendment Act establishes a new National Offshore Petroleum Titles Administrator (NOPTA) and expands the functions of the existing National Offshore Petroleum Safety Authority to become the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).

The purpose of the Regulations is to reflect the legislative arrangements outlined above and amend the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011 and the Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Regulations 1994 to increase the non-registration fees by 13.7 per cent to ensure that the states and the NT recover their costs of administering the day-to-day activities in Commonwealth waters, pending the commencement of NOPTA and NOPSEMA. The fees for greenhouse gas storage titles will remain unchanged.

To recover the costs of establishing NOPTA and expansion to NOPSEMA, the Commonwealth will retain the registration fee amounts payable under Section 5 or 6 of the *Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006* from offshore petroleum titles currently being returned to the states and NT. The Commonwealth will retain these registration fee revenues from the first day of the month following the month of Royal Assent of the Amendment Act.

The non-registration fee amounts payable under the Principal Act and the Annual Fees Act for petroleum titles will continue to be returned to the states and NT until NOPSEMA and NOPTA commence operations.

Details of the Regulations are set out in the Attachment.

State and Northern Territory Governments and industry stakeholders including the Australian Petroleum Production and Exploration Association, have been consulted on the intended increased fees as part of the Cost Recovery Impact Statement Process which was undertaken for the establishment and expansion costs and interim regulatory arrangements costs.

The Regulations commence on the commencement of Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011*.

The Regulations are legislative instruments for the purposes of the *Legislative Instruments Act 2003*.

Authority: Section 781 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

Section 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act 2006*

ATTACHMENT

NOTES ON INDIVIDUAL CLAUSES

Regulation 1 - Name of Regulations

Regulation 1 provides for the title of the Regulations to be the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Regulations 2011(No. 1)*.

Regulation 2 - Commencement

Regulation 2 provides for the Regulations to commence on the commencement of Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011* – which is on the later of 1 July 2011 and the first day of the month following the month in which the National Regulator Amendment Act receives Royal Assent.

Regulation 3 – Amendment of Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011

Regulation 3 provides that the amendments to the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* are described in Schedule 1.

Regulation 4 – Amendment of Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Regulations 1994

Regulation 4 provides that the amendments to the *Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Regulations 1994* are described in Schedule 2.

SCHEDULE 1 Amendments of Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011

Item 1 - Subregulation 11.02(1)

Subregulation 11.02(1) increases the prescribed registration fee relating to paragraph 483(2)(b) of the Principal Act from \$92 to \$105.

Item 2 - Subregulation 11.02(2)

Subregulation 11.02(2) increases the prescribed registration fee relating to paragraph 485(2)(b) of the Principal Act from \$92 to \$105.

Item 3 - Subregulation 11.03 (1)

Subregulation 11.03 increases the prescribed register inspection fee relating to subsections 515(1) and (2) of the Principal Act from \$19 to \$20.

Item 4 – Regulations 11.04 to 11.06

This item substitutes Regulations 11.04 to 11.06 with the following:

11.04 (1), (2), (3) and (4) – Document and certification fees

This item sets out that the prescribed fees for subregulations 11.04(1) and (2) relating to sections 516(2) and 516(4) of the Principal Act are increased from \$3.50 per page and \$45 per request to \$4.00 per page and \$50 per request respectively. The fees outlined in subregulations (3) and (4) relating to sections 565(2) and (4) of the Principal remain unchanged.

11.05 Information fees

This item sets out that the prescribed fee relating to paragraph 717(2)(a) of the Principal Act is increased from \$38 to \$45. The prescribed fee relating to paragraph 741(2)(a) of the Principal Act remains unchanged.

11.06 Sample inspection fees

This item sets out that the prescribed fee relating to paragraph 717(2)(b) of the Principal Act is increased from \$38 to \$45. The prescribed fee relating to paragraph 741(2)(b) of the Principal Act remains unchanged.

Item 5 – Schedule 6, Part 1

This item substitutes the table in Part 1 Fees for petroleum applications.

The prescribed fees outlined in items 101, 102, 107 and 112 of the table are increased from \$4,590 to \$5,220. The prescribed fees for items 103, 104, 105, 106, 109, 110 and 111 outlined in the table are increased from \$1,835 to \$2,090. The prescribed fees for items 108, 113 and 114 outlined in the table are increased from \$920 to \$1,050.

**SCHEDULE 2 Amendments of Offshore Petroleum and Greenhouse Gas Storage
(Annual Fees) Regulations 1994**

Item 1 – Regulation 4

This item increases the prescribed annual fee for an Exploration Permit from \$1,135 to \$1,290 per permit or from \$55 to \$65 for each block to which the permit relates (whichever is the greater).

Item 2 – Regulation 5

This item increases the prescribed annual fee for a Retention Lease from \$6,820 to \$7,755 for each block to which the lease relates.

Item 3 – Regulation 6

This item increases the prescribed annual fee for a Production Licence from \$20,460 to \$23,265 for each block to which the licence relates.

Item 4 – Regulation 7

This item increases the prescribed annual fee for a Infrastructure Licence from \$13,640 to \$15,510 for a year of the licence term.

Item 5 – Regulation 8

This item increases the prescribed annual fee for a Pipeline Licence from \$90 to \$105 per kilometre, or part kilometre, of the length of the pipeline.