

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Resources, the Hon Madeleine King MP

*Offshore Petroleum and Greenhouse Gas Storage Act 2006*

*Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003*

*Offshore Petroleum and Greenhouse Gas Storage Legislation (Repeal and Other Measures)  
Regulations 2022*

### **Purpose and Operation**

The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act) provides the legal framework for the exploration for and recovery of petroleum, and for the injection and storage of greenhouse gas substances, in offshore areas. This includes provision for regulations to specify when levies imposed under the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (the Levies Act) are due and payable, along with other matters in relation to levies.

The *Offshore Petroleum and Greenhouse Gas Storage Legislation (Repeal and Other Measures) Regulations 2022* (the Principal Regulations) repeals the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (the 2004 Levies Regulations) and makes consequential amendments to the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (the Environment Regulations) and the *Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009* (the Safety Regulations) to ensure that *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2022* (the 2022 Levies Regulations) are able to be fully implemented.

The 2004 Levies Regulations, which were due to sunset on 1 April 2024, provided for matters relating to levies imposed by the Levies Act, including the amounts of levies and when levies are due and payable, along with other matters in relation to levies.

The 2022 Levies Regulations remake the 2004 Levies Regulations in substantially the same form, with minor amendments to ensure consistency with current drafting practices, simplify language, update references where necessary and remove provisions that are superfluous or redundant.

The Principal Regulations also make a minor technical amendment to Part 11A of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (the RMA Regulations) in relation to the receipt of documents by the responsible Commonwealth Minister, and consequential amendments to Part 11B to fully implement Schedule 6 to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Titles Administration and Other Measures) Act 2021* (the Titles Administration Act).

Sections 1 to 4 of the Principal Regulations commence on the day after registration. Schedule 1 to the Principal Regulations, which repeals the 2004 Levies Regulations commences at the same time as the 2022 Levies Regulations commence (1 January 2023). Schedule 2, Part 1 to the Principal Regulations, which makes an amendment to the RMA Regulations commences on the day after registration. Schedule 2, Part 2 to the Principal Regulations which makes consequential amendments to the Environment Regulations and the Safety Regulations commences at the same time as the 2022 Levies Regulations commence (1 January 2023). Schedule 2, Part 3 to the Principal Regulations which implement Schedule 6 to the Titles Administration Act, commences at the same time as Schedule 6 to the Titles Administration Act (2 March 2023).

Details of the Principal Regulations are set out in Attachment A.

### **Background**

The 2022 Levies Regulations replace the 2004 Levies Regulations and the Principal Regulations ensure that the 2004 Levies Regulations are repealed and the consequential amendments required in other Regulations to reflect this are made. The Principal Regulations also include a technical amendment to the RMA Regulations and a consequential amendment to fully implement the Titles Administration Act.

### **Authority**

Section 781 of the OPGGS Act provides that the Governor-General may make regulations prescribing matters required or permitted by the OPGGS Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the OPGGS Act.

The Environment Regulations provide for the regulation of environmental management of petroleum and greenhouse gas activities in offshore areas.

The Safety Regulations, along with Schedule 3 to the OPGGS Act, regulate occupational health and safety of persons at or near facilities located in Commonwealth waters that are being used for offshore petroleum or greenhouse gas storage operations.

Part 11A of the RMA Regulations makes provision for giving and receiving documents required or permitted to be given under the OPGGS Act or any legislative instrument made under the OPGGS Act. Part 11B of the RMA Regulations prescribes the name of regulations, or provisions of regulations, for the purposes of the OPGGS Act.

The Levies Act provides for the imposition of levies in relation to offshore petroleum and greenhouse gas activities, facilities or titles. The levies are collected by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) and the National Offshore Petroleum Titles Administrator (the Titles Administrator) to fund their operations on a cost-recovered basis.

Section 11 of the Levies Act provides that the Governor-General may make regulations for the purposes of sections 5 and 6 (safety investigation levies), 7 and 8 (safety case levies), 9 and 10 (well investigation levies), 10A and 10B (annual well levies), 10C and 10D (well activity levies), 10E (annual titles administration levy) and 10F and 10G (environment plan levies).

### **Consultation**

The department consulted with NOPSEMA and the Titles Administrator during the development of the remake of the 2004 Levies Regulations. Broader consultation was not undertaken because the 2022 Levies Regulations remake the 2004 Levies Regulations without substantive change. The Department has not consulted specifically on the Principal Regulations as they make technical and consequential amendments only which are required to fully implement the 2022 Levies Regulations and Schedule 6 to the Titles Administration Act.

### **Regulatory Impact**

The Department consulted with the Office of Best Practice Regulation (OBPR) on the proposal to remake the 2004 Levies Regulations and was advised that a Regulatory Impact Statement was not required (OBPR reference ID 44023).

### **Statement of Compatibility with Human Rights**

A Statement of Compatibility with Human Rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at **Attachment B**.

**Details of the *Offshore Petroleum and Greenhouse Gas Storage Legislation (Repeal and Other Measures) Regulations 2022***

**Section 1 – Name**

This section provides that the name of this instrument is the *Offshore Petroleum and Greenhouse Gas Storage Legislation (Repeal and Other Measures) Regulations 2022* (the Principal Regulations).

**Section 2 – Commencement**

This section provides for the commencement of provisions of the Principal Regulations.

Sections 1 to 4 of the Principal Regulations commence on the day after registration.

Schedule 1 to the Principal Regulations, which repeals the 2004 Levies Regulations commences at the same time as the 2022 Levies Regulations commence (1 January 2023).

Schedule 2, Part 1 to the Principal Regulations, which makes an amendment to the RMA Regulations commences on the day after registration.

Schedule 2, Part 2 to the Principal Regulations which makes consequential amendments to Environment Regulations and the Safety Regulations commences at the same time as the 2022 Levies Regulations commence (1 January 2023).

Schedule 2, Part 3 to the Principal Regulations which implement Schedule 6 to the Titles Administration Act, commences at the same time as Schedule 6 to the Titles Administration Act (2 March 2023).

**Section 3 – Authority**

This section provides that this instrument is made under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003*.

**Section 4 – Schedules**

This section is a machinery clause that provides that the instruments specified in the Schedules to this instrument are amended or repealed as set out in the applicable items in the relevant Schedule, and any other item in a Schedule has effect according to its terms.

## **Schedule 1 – Repeals**

*Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004*

### **Item 1 – The whole of the instrument**

This item repeals the 2004 Levies Regulations. The 2004 Levies Regulations were scheduled to sunset on 1 April 2024 and are replaced by the 2022 Levies Regulations, which remake the 2004 Levies Regulations without substantive change.

## **Schedule 2 – Amendments**

### **Part 1 – Amendments commencing the day after registration**

*Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*

#### **Item 1 – Subregulation 11A.03**

This item amends regulation 11A.03 of the RMA Regulations, and provides that a document required or permitted by the OPGGS Act, or any legislative instrument made under the OPGGS Act, to be given to the responsible Commonwealth Minister is taken to have been given to the Minister if it is given to the Titles Administrator or a delegate of the Titles Administrator.

This provides for consistency with regulations 11A.02 and 11A.02A, which respectively provide for the giving of documents to the Joint Authority or the Cross-boundary Authority. It is also more consistent with section 695R of the OPGGS Act, which provides that all communications to the Minister under or for the purposes of the OPGGS Act or the regulations are to be made through the Titles Administrator. It provides administrative efficiency by ensuring that documents are taken to be validly provided to the Minister by a person if the person provides the documents to the Titles Administrator.

## **Part 2 - Amendments commencing 1 January 2023**

### *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009*

#### **Item 2 – Subregulation 11B(7)**

This item omits the reference to the year “2004” in the title of the 2004 Levies Regulations in subregulation 11B(7) of the Environment Regulations and substitutes it with the year “2022”. This amendment updates the title to reflect that the 2004 Levies Regulations have been repealed and replaced by the 2022 Levies Regulations.

### *Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009*

#### **Items 3 to 6 – Subregulation 1.5(1); Subregulation 1.5(1) (definition of *in force*); Subregulation 1.5(1); Subregulation 1.5(2)**

These items repeal the definition of *in force* and the former definition of *safety case in force in relation to a facility*, and insert a new definition of *safety case in force in relation to a facility*, in regulation 1.5 of the Safety Regulations to combine and clarify the definitions. There is no substantive change to the definition.

Safety case levy is imposed by sections 7 and 8 of the Levies Act on a safety case in respect of a year if the safety case is in force in relation to a facility at any time during the year. The 2022 Levies Regulation also use the term “safety case in force in relation to a facility”. The term is defined in section 4 of the 2022 Levies Regulations as having the same meaning as in subsection 7(8) or 8(8) of the Levies Act. These subsections in turn refer to the term as defined in the Safety Regulations or regulations of a State or Territory that substantially correspond to the Safety Regulations.

#### **Item 7 – Subregulation 2.41(2) (note)**

This item omits the reference to former subregulation 1.5(1) in the note to subregulation 2.41(2), and replaces it with a reference to regulation 1.5, given the effect of items 2 to 5 which means that regulation 1.5 no longer contains subregulations.

### **Part 3 – Amendments commencing later**

*Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*

#### **Item 8 Regulation 11B.01 (after table item 20A)**

This item prescribes the name of regulations for the purposes of section 790C and subsections 790D(1), (2) and (3) of the OPGGS Act.

Sections 790C and 790D contained specific references to the name of the Environment Regulations. To future-proof references to the name of the Regulations, Schedule 6 to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Titles Administration and Other Measures) Act 2021* amended sections 790C and 790D to remove the specific references, and instead provide an ability to prescribe the name of the regulations in regulations made under the OPGGS Act. The intent of this amendment is to ensure that, when the Environment Regulations sunset and are remade with a different name, the references to the Environment Regulations in sections 790C and 790D of the OPGGS Act can be updated through regulatory amendments, rather than requiring amendments to the OPGGS Act.

This item amends the table in regulation 11B.01 of the RMA Regulations to prescribe the Environment Regulations for the purposes of sections 790C and subsections 790D(1), (2) and (3) of the OPGGS Act.



## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*  
*Offshore Petroleum and Greenhouse Gas Storage Legislation (Repeal and Other Measures)*  
*Regulations 2022*

These Regulations are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Legislative Instrument**

The *Offshore Petroleum and Greenhouse Gas Storage Legislation (Repeal and Other Measures) Regulations 2022* (the Regulations) are a legislative instrument for the purposes of the *Legislation Act 2003*.

The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (the 2004 Levies Regulations), which were due to sunset on 1 April 2024, provided for matters relating to levies imposed by the Levies Act, including the amounts of levies and when levies are due and payable. The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2022* (the 2022 Levies Regulations) remake the 2004 Levies Regulations in substantially the same form, with minor amendments to ensure consistency with current drafting practices, simplify language, update references where necessary and remove provisions that are superfluous or redundant.

The Regulations repeal the 2004 Levies Regulations and make consequential amendments to the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* and the *Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009* to ensure that the 2022 Levies Regulations are able to be fully implemented.

The Regulations also make a minor technical amendment to Part 11A of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* in relation to the receipt of documents by the responsible Commonwealth Minister, and consequential amendments to Part 11B to fully implement Schedule 6 to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Titles Administration and Other Measures) Act 2021*.

### **Human rights implications**

The Regulations do not engage any of the applicable rights or freedoms.

## **Conclusion**

The Regulations are compatible with human rights as they do not raise any human rights issues.

**The Hon Madeleine King MP**

**Minister for Resources**