

OFFSHORE PETROLEUM AMENDMENT (GREATER SUNRISE) BILL 2007

GENERAL OUTLINE

This Bill puts in place the framework necessary for Australia to meet its obligations arising under the Agreement between Australia and the Democratic Republic of Timor-Leste relating to the unitisation of the Greater Sunrise petroleum resource, when the *Offshore Petroleum Act 2006* comes into force. The Agreement, known as the Greater Sunrise unitisation agreement, was signed by Australia and Timor-Leste in Dili on 6 March 2003.

Where a petroleum resource, whether comprised of one or more pools, straddles borders, production rights or boundaries between administrative systems, sound resource management often requires the resource to be developed as a single unit. This is known as the unitisation of a petroleum resource. In the absence of unitisation, production from one part of a resource could be to the detriment of the resource as a whole or to those with an interest in the resource on the other side of the boundary.

In 2003, Australia and Timor-Leste agreed to the arrangements to govern the unitisation of the Greater Sunrise petroleum resource. This resource straddles the border of the Joint Petroleum Development Area, which is the area of shared jurisdiction between Australia and Timor-Leste established by the Timor Sea Treaty, and an area of sole Australian jurisdiction located within the Northern Territory offshore area.

The Greater Sunrise unitisation agreement will be ratified by Australia and Timor-Leste once both countries have put in place the required domestic arrangements to enable them to fulfil their obligations under the Agreement. This Bill and the Customs Tariff Amendment (Greater Sunrise) Bill 2007 do this for Australia.

Two general principles underlie the framework of this Bill.

First, Australia and Timor-Leste have agreed, in effect, that development of the Greater Sunrise resource should, to the extent necessary, be subject to consistent administrative requirements. As a result, there will be a consistent legislative regime for petroleum operations throughout the unit area in relation to safety, occupational health and environmental protection. Annex II of the Greater Sunrise unitisation agreement specifies the Australian legislation that is to apply throughout the unit area.

Second, Australia and Timor-Leste have agreed, in effect, that the essential elements of the petroleum licensing regime on each side of the boundary will be maintained. Quite different regimes are in place in the Joint Petroleum Development Area and the area of sole Australian jurisdiction. In the former, a contractual licensing regime is in place, while, in the latter, a legislated licensing regime is in place. As neither system is to prevail in relation to essential licensing issues, persons conducting petroleum activities in the unit area will have to meet the requirements of both regimes. Those persons will need to hold rights, deriving from contract, to undertake activities in the part of the unit area which is within the Joint Petroleum Development Area (labelled, in this Bill, as the Western Greater Sunrise area) and to hold licensed rights, deriving

from a legislated regime, to undertake activities in the part of the unit area within sole Australian jurisdiction (labelled, in this Bill, as the Eastern Greater Sunrise area).

Such a parallel system can work only if the administrators of the two regimes act in concert. The Greater Sunrise unitisation agreement provides for this to occur through consultation and information sharing.

Petroleum activity in the Eastern Greater Sunrise area is currently administered by the Australian and Northern Territory Governments. Petroleum activity in the Western Greater Sunrise area is administered by the Timor Sea Treaty Designated Authority which operates with the oversight of the Timor Sea Joint Commission. The Joint Commission, in turn, reports to the Ministerial Council established by the Timor Sea Treaty.

For Australia, to ensure that administrative arrangements for the Eastern Greater Sunrise area will be in concert with arrangements for the Western Greater Sunrise area, some modifications are required to the framework applying to petroleum administration in the Eastern Greater Sunrise area. This area forms a small part of the Northern Territory offshore area. When this Bill comes into force, petroleum operations in this area will be administered under the *Offshore Petroleum Act 2006*. The administration is effected through a Joint Authority (composed of the responsible Commonwealth Minister and a counterpart Northern Territory Minister) and a Designated Authority (composed of the counterpart Northern Territory Minister). As the Commonwealth Minister is the Australian member of the Timor Sea Ministerial Council which has ultimate oversight for operations in the Joint Petroleum Development Area, including the Western Greater Sunrise area, this Bill provides that the responsible Commonwealth Minister, alone, will discharge the duties of the Joint Authority and the Designated Authority in the Eastern Greater Sunrise area. As a related measure, the Bill makes provision for administrative arrangements in relation to an offshore area to be capable of being applied to a part of an offshore area.

FINANCIAL IMPACT STATEMENT

The development of the Greater Sunrise petroleum resource is expected to yield Australia around \$10 billion in upstream revenue over the life of the project.

NOTES ON INDIVIDUAL CLAUSES

Clause 1 - Short title

The short title of this Act is the *Offshore Petroleum Amendment (Greater Sunrise) Act 2007*.

Clause 2 - Commencement

The Act will commence on the same day as the *Offshore Petroleum Act 2006*.

Clause 3 - Schedules

This clause gives effect to the provisions in the Schedules to this Act.

Schedule 1 – Amendments

Part 1- General

Item 1- Section 3

This item sets out the simplified outline of the whole Bill.

Item 2- Section 6

This item refers to the definition that reads:

“Designated Authority has the meaning given by section 50 and, when used in the expression ***the Designated Authority***, means the Designated Authority of the State or Territory concerned.”

Since it is proposed that there now be a Designated Authority for the Eastern Greater Sunrise Area, this item amends the above definition to reflect the change made to the definition of 'offshore area' (items 10 and 15 refer).

Item 3- Section 6

This item defines the part of the Greater Sunrise unit area which lies within Australian jurisdiction. That part is given the label “Eastern Greater Sunrise area” and is delineated by coordinates of latitude and longitude set out under the relevant heading in the proposed Schedule 7 to the Act (item 87 refers). The coordinates refer to the Geocentric Datum of Australia 1994 data set.

Item 4- Section 6

This item defines the Greater Sunrise unit area. It is delineated by coordinates of latitude and longitude set out under the relevant heading in the proposed Schedule 7 to the Act (item 87 refers). The coordinates refer to the Geocentric Datum of Australia 1994 data set.

Item 5- Section 6

This item defines the Greater Sunrise unitisation agreement.

Item 6- Section 6

This item defines a Greater Sunrise unit reservoir production licence.

Item 7- Section 6

This item defines a Greater Sunrise unit reservoir.

Item 8- Section 6

This item defines a Greater Sunrise visiting inspector.

Item 9- Section 6

This item refers to the definition that reads:

"**Joint Authority** has the meaning given by section 38 and, when used in the expression *the Joint Authority*, means the Joint Authority of the State or Territory concerned."

Since it is proposed that there now be a Joint Authority for the Eastern Greater Sunrise Area, this item amends the above definition to reflect the change made to the definition of 'offshore area' (items 10 and 15 refer).

Item 10- Section 6

Under the *Petroleum (Submerged Lands) Act 1967* the 'adjacent area' of the NT is divided into the Principal Northern Territory Area and the Eastern Greater Sunrise area. Those areas are administered separately.

The Bill provides that those areas are to be called the 'Principal Northern Territory offshore area' and 'Eastern Greater Sunrise offshore area'. Under the new definition of and an 'offshore area', those areas will be offshore areas in their own right. To assist readers, the new definition of offshore area lists each of the offshore areas. Under the Act each offshore area is separately administered with its own Joint Authority and Designated Authority.

The term 'offshore area' is to be distinguished from the concept of to an 'offshore area of a state or territory' (item 15 refers). This is because the 'offshore area' of the Northern Territory has been divided into two separate 'offshore areas' for the purposes of the administration of the Act.

Items 3 and 11, respectively, insert definitions of the Eastern Greater Sunrise offshore area and Principal Northern Territory offshore area.

Item 11- Section 6

For ease of reference, this item gives the name of “Principal Northern Territory offshore area” to the part of the Northern Territory adjacent area that does not encompass the Eastern Greater Sunrise area.

Item 12- Section 6

This item defines the Timor Sea Treaty.

Item 13- Section 6

This item defines the Timor Sea Designated Authority as having the same meaning as in the *Petroleum (Timor Sea Treaty) Act 2003*. That Act reflects Article 6 of the Timor Sea Treaty, which, among other things, provides that there is a Timor Sea Designated Authority responsible for carrying out the day-to-day regulation and management of petroleum activities in the Joint Petroleum Development Area.

Item 14- Section 6

This item defines the part of the Greater Sunrise unit area which lies within the Joint Petroleum Development Area. That part is given the label “Western Greater Sunrise area”. It is delineated by coordinates of latitude and longitude set out under the relevant heading in the proposed Schedule 7 to the Act (item 87 refers). The coordinates refer to the Geocentric Datum of Australia 1994 data set.

Item 15- Subsection 7(1) note

This item amends a note explaining that the term 'offshore area of a State or Territory' corresponds to the term 'adjacent area' under the *Petroleum (Submerged Lands) Act 1967* (see clause 14 of schedule 6). This is to be distinguished from the term 'offshore area' (items 10 and 15 refer).

Item 16- at the end of section 22

This item incorporates Geocentric Datum of Australia (GDA) as the datum for describing the areas in Schedule 7.

The lines and points in the schedule area descriptions in Schedule 1 and Schedule 2 and their conversions to a GDA will be subject of future legislative amendments.

Item 17- at the end of section 35

This item adds a note referring to the definition of an 'offshore area of a State or Territory' (items 10 and 15 refer).

Item 18- at the end of section 36

This item adds a note referring to the definition of an 'offshore area of a State or Territory' (items 10 and 15 refer).

Item 19- after subsection 38(2)

This item clarifies that where the term 'the Joint Authority for an offshore area of a State' is used, that is the Joint Authority for the state.

Item 20- Subsection 38(3)

This item repeals the current subsection 8A(3) which reads:

Northern Territory

- (3) The Joint Authority for the offshore area of the Northern Territory is constituted by:
 - (a) the responsible Northern Territory Minister; and
 - (b) the responsible Commonwealth Minister;and is to be known as the Commonwealth-Northern Territory Offshore Petroleum Joint Authority.

Repealing and replacing this means that, whereas the whole Northern Territory offshore area is currently managed by the one Joint Authority, this item continues that Joint Authority in existence but over a smaller area, ie the Principal Northern Territory offshore area, and creates a second Joint Authority in the offshore area for the Eastern Greater Sunrise area.

Although the latter entity is called a "Joint Authority", all its powers are to be vested in the responsible Commonwealth Minister. The proposal that the Commonwealth Minister be nonetheless called the "Joint Authority" is merely a legislative drafting device adopted with a view to avoiding a proliferation of terms for entities with essentially identical functions.

Item 21- At the end of section 38

This item clarifies that where the term 'the Joint Authority for an external territory of a State' is used, that is the Joint Authority for the external territory.

Item 22, 23 and 24- Section 39

Items 22 and 23 are required to insert numbering into section 39 and enable the operation of item 24.

Item 24 refers to section 39, which reads:

"A Joint Authority for a State or Territory has, in relation to the offshore area for that State or Territory, the functions and powers that this Act confers on a Joint Authority."

Since it is proposed that there now be a Joint Authority for the Eastern Greater Sunrise area, ie for only part of an offshore area of a State or Territory, this item amends the above section to reflect this new provision.

Item 25- After subsection 46(1)

This item inserts a new section 46(1A) which requires a court to take judicial notice of signatures and facts relating to membership or being a delegate of a Joint Authority for the Eastern Greater Sunrise offshore area.

Judicial notice is a finding by a court of the existence of a fact which has not been established by evidence. Once judicial notice is taken of a matter, it is prima facie proved and evidence is not required to prove it. However, evidence may be led to rebut the fact noticed or the consequences of it.

A court to which this clause refers could be a Commonwealth, State or Territory court. Subclause (3) extends the provisions of this clause to persons authorised to receive evidence. This would include, for example, a tribunal or arbitrator who is authorised to receive evidence.

Item 26- Subsection 48(1)

These items refer to subsection 48(1), which reads:

"A Joint Authority for a State or the Northern Territory may, by written instrument, delegate any or all of the functions or powers of the Joint Authority under this Act to 2 persons together."

Item 26 introduces into subsection 48(1) a new requirement for the purpose of due accountability (and not strictly related to the establishment of the Eastern Greater Sunrise area Joint Authority), that the two delegates of the Joint Authority must be an Australian government employee and a State or Northern Territory government employee or two Australian government employees or two State or Northern Territory government employees. If an Australian government employee is to be appointed, that person must be an APS (Australian Public Service) officer at the SES (Senior Executive Service) level, defined in sections 34 and 35 of the *Public Service Act 1999*.

Since the rank profiles in State and Northern Territory Public Service structures may vary from one jurisdiction to the next, no attempt is being made to include any analogous requirement about the rank of a State or Northern Territory government employee who receives a Joint Authority delegation.

In other respects, the provisions of the *Acts Interpretation Act 1901* apply to delegations of Joint Authority powers. Section 34AA of the *Acts Interpretation Act* provides:

“Where an Act confers power to delegate a function or power, then, unless the contrary intention appears, the power of delegation shall not be construed as being limited to delegating the function or power to a specified person but shall be

construed as including a power to delegate the function or power to any person from time to time holding, occupying, or performing the duties of, a specified office or position, even if the office or position does not come into existence until after the delegation is given.”

Section 34AB of the Acts Interpretation Act provides:

“Where an Act confers power on a person or body (in this section called the *authority*) to delegate a function or power:

- (a) the delegation may be made either generally or as otherwise provided by the instrument of delegation;
- (b) the powers that may be delegated do not include that power to delegate;
- (c) a function or power so delegated, when performed or exercised by the delegate, shall, for the purposes of the Act, be deemed to have been performed or exercised by the authority;
- (d) a delegation by the authority does not prevent the performance or exercise of a function or power by the authority; and
- (e) if the authority is not a person, section 34A applies as if it were.”

Section 34A of the Acts Interpretation Act provides:

“Where, under any Act, the exercise of a power or function by a person is dependent upon the opinion, belief or state of mind of that person in relation to a matter and that power or function has been delegated in pursuance of that or any other Act, that power or function may be exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.”

Items 27 and 28- subsection 48(8); after Section 48

Item 28 inserts the new section 48A providing for delegation of the Greater Sunrise Offshore Petroleum Joint Authority powers. The stipulation explained under item 26 requiring a delegate of a Joint Authority to be a government employee and the provisions of the Acts Interpretation Act that are quoted under item 26 apply also in relation to a delegation under section 48A. The proposed new subsection 48A(2) addresses the situation that occurs from time to time of the responsible Commonwealth Minister being replaced. It also addresses the less common situation of the Ministerial position falling vacant. For efficient administration, this sub-item ensures that, in either case, any existing delegation continues to have effect.

Subsection 33(3) of the Acts Interpretation Act provides that where an Act confers a power to make, grant or issue any instrument (including rules, regulations or by-laws) the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Item 29- At the end of Division 1 of Part 1.3

This item inserts a new section 49A which will enable adherence to the terms of the Greater Sunrise unitisation agreement which requires Australia and Timor-Leste to act in concert on matters to do with the development of the Greater Sunrise unit area.

Article 25 of that agreement provides for the free flow of information between Australia and Timor-Leste concerning petroleum exploration and exploitation in the Greater Sunrise unit area.

Item 30- After subsection 50(2)

This item clarifies that where the term 'the Designated Authority for an offshore area of a State' is used, that is the Designated Authority for the state.

Items 31 and 32- Subsection 50(3)

This item means that, whereas the whole Northern Territory offshore area is currently administered by one Designated Authority, the proposed new section 50(3A), continues that Designated Authority in existence but over a smaller area, ie the Principal Northern Territory offshore area.

The proposed sections 50 (3B) and (3C) provide that the Commonwealth Minister, or his or her delegate, will be the Designated Authority for the Eastern Greater Sunrise area.

Item 33- At the end of section 50

This item clarifies that where the term 'the Designated Authority for an external territory' is used, that is the Designated Authority for the external territory.

Item 34- Subsection 51(2)

This item means that, whereas the whole Northern Territory offshore area is currently administered by one Designated Authority, this continues that arrangement but over a smaller area, ie the Principal Northern Territory offshore area. The powers conferred on a designated authority are exercised by two separate Designated Authorities, one for the Principal Northern Territory offshore area and one for the Eastern Greater Sunrise offshore area.

Items 35 and 36- Subsection 52(1) and 52 (5)

This item inserts an amended subsection 52(1) providing for delegation of Designated Authority powers, including the powers of the Designated Authority for the Eastern Greater Sunrise area. The purpose of the amended subsection is so that the stipulation explained under item 26 requiring a delegate of a Joint Authority to be a government employee applies also in relation to Designated Authority delegations.

Item 37- After section 52

Item 37 also inserts the new section 52A which will enable adherence to the terms of the Greater Sunrise unitisation agreement which requires Australia and Timor-Leste to act in concert on matters to do with the development of the Greater Sunrise unit area. Article 25 of that agreement provides for the free flow of information between Australia and Timor-Leste concerning petroleum exploration and exploitation in the Greater Sunrise unit area.

Item 38- At the end of subsection 55(1)

This item adds a note referring to the definition of an 'offshore area of a State or Territory' (items 10 and 15 refer).

Items 39 and 40- Subsection 59(1) note

This item adds a note referring to the definition of an 'offshore area of a State or Territory' (items 10 and 15 refer).

Item 41- Section 61

This item refers to the section which reads:

"Section 59 does not give to the provisions of a law of a State or the Northern Territory an operation, as a law of the Commonwealth, that they would not have, as a law of the State or the Northern Territory, if it were assumed that the offshore area were within the part of the scheduled area for the State or the Northern Territory that is on the landward side of the offshore area".

The proposed amendment ensures that the section operates only in offshore areas for the State or the Northern Territory and not in relation to the Greater Sunrise unit area.

Item 42, 43 and 44- At the end of subsections 68(1), (3), (4) and (6); At the end of subsection 71(1) and At the end of subsection 72(1)

These items adds a note referring to the definition of an 'offshore area of a State or Territory' (items 10 and 15 refer).

Items 45 and 46- After subsection 142(6) and 144(3) (before the notes)

This item provides for requirements to be placed on a licence applicant to ensure consistency of these requirements with those of the Timor Sea Designated Authority, which is responsible for administration in the Joint Petroleum Development Area.

Items 47 and 48- At the end of paragraph 145(b); After paragraph 145(b)

This item is required to enable the operation of item 49 (below).

Item 49- After section 145

This item provides that the Joint Authority must not offer to grant a production licence to an applicant in respect of the Eastern Greater Sunrise area unless the Joint Authority has given the Timor Sea Designated Authority notice that it is considering such action. In the notice, the Joint Authority must identify the unit operator and, with it, the Joint Authority must also provide the Timor Sea Designated Authority with copies of the documents which, under the Greater Sunrise unitisation agreement, require regulatory approval, ie the Joint Venturers' Agreements for the exploitation of the unit reservoirs and the proposed Development Plan.

This item also provides that, before the offer is made, the Joint Authority must approve the unit operator, each Joint Venturers' Agreement and the Development Plan in respect of the development (all or any of which may have been varied and re-submitted for approval since an application was made) and must be satisfied that the Timor Sea Treaty Designated Authority has approved the same unit operator, Joint Venturers' Agreements and Development Plan. In addition, the Joint Authority cannot advise the applicant that it is prepared to grant a production licence unless the Joint Authority has determined the conditions subject to which the licence is to be granted. These conditions must be advised to the applicant as provided by paragraph 223(2)(a) of the Act.

Item 50- After subsection 146(4)

This item introduces a requirement for the Joint Authority to notify the applicant in writing of any decision to refuse the application on the grounds that the Joint Authority is not satisfied that the Timor Sea Designated Authority has given the approvals mentioned in paragraph 145A(c).

Item 51- Paragraph 163(1)(a)

This item excludes the operation of section 163 of the Act in respect of either of the Greater Sunrise reservoirs. Section 163 makes general provisions in relation to the unit development of a field. For the Greater Sunrise petroleum resource, these provisions are overridden by the specific provisions of the Greater Sunrise unitisation agreement.

Item 52- At the end of subsection 163(11)

This item adds a note referring to the definition of an 'offshore area of a State or Territory' (items 10 and 15 refer).

Item 53- At the end of section 191

This item refers to section 191 which reads:

" Recovery of cost of complying with direction

(6) If:

(a) the Joint Authority gives a direction to a person under subsection (1) in relation to a pipeline in an offshore area; and

(b) the person complies with the direction;

the person may bring an action in:

(c) the Federal Court; or

(d) the Supreme Court of, or having jurisdiction in, the State or Territory to which the offshore area relates;

against the Minister or body who made the request under subsection (4)."

The proposed amendment provides that if such a direction is issued under section 191(1) to a pipeline licensee in the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area, it is taken to relate to the Northern Territory for the purposes of recovering compliance costs.

Items 54 and 55- At the end of subsections 246(1) and (3); Subsection 246(6) (at the end of State/Territory title)

These items add a note referring to the definition of an 'offshore area of a State or Territory' (items 10 and 15 refer).

Items 56- Subsection 248(1)

This item refers to section 248 of the Act which establishes property rights in relation to petroleum recovered by a permittee, lessee or licensee in the permit area, lease area or licence area.

This item disappplies the current provisions of section 248 in relation to petroleum recovered from the Greater Sunrise unit reservoirs so that ownership can be apportioned in accordance the Greater Sunrise unitisation agreement and the Timor Sea Treaty.

Item 57- After section 248

This item inserts new section 248A, which specifies the property rights applicable for petroleum recovered from one of the Greater Sunrise unit reservoirs by a relevant titleholder.

Subsection 248A(4), which makes provision for subsection 248A(2) to automatically reflect the result of any change in the ratio of petroleum apportioned to the Joint Petroleum Development Area and Australia pursuant to Article 8 of the Greater Sunrise unitisation agreement.

Item 58- At the end of section 287

This item refers to section 287(1) which reads:

"Application for rectification

- (1) If a person is aggrieved by any of the following:
 - (a) the omission of an entry from a Register;
 - (b) an entry made in a Register without sufficient cause;
 - (c) an entry wrongly existing in a Register;
 - (d) an error or defect in an entry in a Register;
the person may apply to:
 - (e) the Federal Court; or
 - (f) the Supreme Court of, or having jurisdiction in, the State or Territory to which the relevant offshore area relates;
for the rectification of the Register."

This proposed amendment provides that if a person is aggrieved by any of subparagraphs (a)-(d), the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area, are taken to relate to the Northern Territory for the purpose of applying to rectify the register.

Item 59- At the end of section 298

This item refers to section 298(3)(b), which relate to fee determination, and read:

"(3) A person dissatisfied with a determination of the Designated Authority under subsection (1) or (2) may appeal against the determination to:

- (a) the Federal Court; or
- (b) the Supreme Court of, or having jurisdiction in, the State or Territory to which the relevant offshore area relates."

This proposed amendment provides that if a person is aggrieved by a fee determination, the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area, are taken to relate to the Northern Territory for the purpose of appealing the determination.

Item 60- Subsection 308(2)

This item refers to subsection 308(2) of the Act which constrains a Designated Authority from taking action under subsection 308(1) of the Act without the approval of the Joint Authority where a direction was given to a person by the Joint Authority. The item amends this provision to disapply it in relation to a Joint Authority consisting of one member as, in such a case, the Joint Authority is also the Designated Authority and consultations will not be required.

Item 61- After subsection 318(2)

This item provides that the Designated Authority of the Eastern Greater Sunrise area may specify in the identity card issued to an inspector that the inspector is a Greater Sunrise visiting inspector. The powers of such inspectors are provided for in item 64 (below).

Items 62- Subsections 319(1) and (2)

This item amends subsection 319(1) and (2) of the Act so that the general powers available to an inspector throughout an entire offshore area are not available to a Greater Sunrise visiting inspector.

Item 63- After subsection 319(2)

This item refers to section 319(2) which reads:

"(2) The powers a project inspector may exercise under this section are as follows:

- (a) to have access to any part of the offshore area specified in the card;
- (b) to have access to any structure, vessel, aircraft or building in the offshore area that the project inspector has reasonable grounds to believe has been, is being or is to be used in connection with any of the following operations in the offshore area:
 - (i) petroleum exploration operations;
 - (ii) petroleum recovery operations;
 - (iii) operations relating to the processing or storage of petroleum;
 - (iv) operations relating to the preparation of petroleum for transport;

- (v) operations connected with the construction or operation of a pipeline;
- (c) to inspect and test any equipment that the project inspector has reasonable grounds to believe has been, is being or is to be used in the offshore area in connection with any of those operations;
- (d) to enter any structure, vessel, aircraft, building or place that is in:
 - (i) the offshore area; or
 - (ii) the State or Territory to which the offshore area relates;
 and in which the project inspector has reasonable grounds to believe there are any documents relating to any of those operations, and to inspect, take extracts from and make copies of any of those documents."

This item inserts subsection 319(2A) which provides that, for the purposes of paragraph (2)(d)(ii), the Eastern Greater Sunrise area is taken to be specified as being an offshore area in respect of the Northern Territory. Paragraph (2)(d) concerns the entry rights of inspectors in the offshore area to a State or the Northern Territory. As the Eastern Greater Sunrise area is not an offshore area, ie is not adjacent to a State or the Northern Territory, this item will enable non-visiting inspectors appointed by the Designated Authority for the Eastern Greater Sunrise area to exercise all the standard powers of inspectors

Item 64- After subsection 319(6)

This item inserts subsection 319(6). This subsection specifies the powers of a Greater Sunrise visiting inspector so as to give effect to the provisions of Article 24 of the Greater Sunrise unitisation agreement. In accordance with this Article, subsection 319(6) will enable Timor-Leste to satisfy itself that its fundamental interests in regard to measurement of unit petroleum are met.

Item 65 - After subsection 319(7);

This item inserts a new subsection 319 (7A) so that Greater Sunrise visiting inspectors are entitled to all reasonable facilities and assistance for the exercise of powers conferred by the section.

Item 66- Paragraph 319(8)(a)

This item refers to item 65 and extends application of the penalty for failing to provide all reasonable facilities and assistance for the exercise of powers conferred by section 7 to Eastern Greater Sunrise inspectors under section 7A.

Items 67 and 68- Subsection 350(1)(note); At the end of subsection 350(1)

These items add a note referring to the definition of an 'offshore area of a State or Territory' (items 10 and 15 refer).

Item 69- Section 353 (at the end of the definition of Commonwealth waters)

This item adds a note referring to the definition of an 'offshore area of a State or Territory' (items 10 and 15 refer).

Item 70, 71 and 72- Paragraph 442(1)(b)

Item 72 inserts section 442A which enables Gazette notices required to be published for the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area to be published in the Northern Territory Gazette.

Item 73 and 74- Section 447; At the end of section 447

This item refers to section 447 of the Act which currently reads as follows:

"447 Exercise of Australia's rights under international law—continental shelf

The regulations may, to the extent to which this Act does not do so, provide for the exercise of Australia's rights under international law in relation to:

(a) exploring for; and

(b) exploiting;

petroleum as a natural resource of the continental shelf."

The item amends this provision so that the regulation making power is not restricted to exercising Australia's rights but also encompasses complying with Australia's obligations under international law.

Item 75- Paragraph 7(1)(e) of Schedule 6

This item adds a note referring to the definition of an 'offshore area of a State or Territory' (items 10 and 15 refer).

Item 76- Paragraph 7(1)(e) of Schedule 6

This item extends the operation of Paragraph 7(1)(e) to any documents created under the *Petroleum (Submerged Lands) Act 1967* (PSLA) relating to the Eastern Greater Sunrise Area or Principal Northern Territory Offshore Area. This clause sets out a series of provisions for dealing, after the repeal of the PSLA, with the more unusual or complex issues that may arise in interpreting the various kinds of documents that have been prepared to serve a purpose under that Act. Use of this power could be required to ensure the documents continue to have effect despite the transition to the new Act.

Items 77 and 78- Subclause 9(1) of Schedule 6

Item 77 excludes the Joint Authority for the Principal Northern Territory PSL area and the Joint Authority for the Eastern Greater Sunrise area from the operation of clause 9(1). This is because the Principal Northern Territory offshore area and Eastern Greater Sunrise offshore area are new Joint Authorities and their powers will not have been exercised prior to the commencement of this Act.

Item 78 means that if the Joint Authority for the Principal Northern Territory PSL area or the Joint Authority for the Eastern Greater Sunrise area, for example, a week before the repeal of the Petroleum (Submerged Lands) Act, made a recorded decision to approve the Designated Authority giving a direction of a standing or permanent nature to a titleholder, then that decision will be valid to authorise the Designated Authority to give such a direction under the new Act if this is not done before the repeal of the PSLA.

Items 79, 80 and 81- Clause 11 of Schedule 6

Item 80 excludes the Designated Authority for the Principal Northern Territory offshore area and the Designated Authority for the Eastern Greater Sunrise offshore area from the operation of clause 11. This is because the Principal Northern Territory offshore area and Eastern Greater Sunrise offshore area are new Designated Authorities and their powers will not have been exercised prior to the commencement of this Act.

Item 81 ensures that, after the date of repeal of the PSLA, the for the Principal Northern Territory PSL area and the Designated Authority for the Eastern Greater Sunrise area is able to continue to function seamlessly as the Designated Authority under the new Act. Thus, for example, if a person, as Designated Authority, has been considering any matter of relevance under the PSLA, the same person may continue that consideration as Designated Authority under the new Act without repeating any step in the process.

Items 82 and 83- Clause 13 of Schedule 6

These items ensure that, after the date of repeal of the PSLA, an Greater Sunrise project inspector appointed under section 125 of that Act is able to continue to function seamlessly as a project inspector under the new Act.

Item 84- At the end of clause 14 of Schedule 6

This item adds a note referring to the definition of an 'offshore area of a State or Territory' (items 10 and 15 refer).

Items 85 and 86- sub-clause 15(1) of Schedule 6

Item 85 excludes the register for the Principal Northern Territory offshore area and the register for the Eastern Greater Sunrise offshore area from the operation of sub-clause 15(1). This is because the Principal Northern Territory offshore area and Eastern Greater Sunrise offshore area will have new registers.

This clause ensures that, after the date of repeal of the PSLA, the Register's for the Principal Northern Territory PSL area and the Eastern Greater Sunrise area under the new Act may continue to be relied upon for all purposes, including as prima facie evidence in court of matters about which a record was made in the Register under the PSLA. Certified copies and extracts and evidentiary certificates made under the PSLA will likewise continue to be valid after the new Act comes into effect.

The Register is essentially a collection of memorials or entries about specified events and facts. It can include copies of documents rather than memorials or entries detailing information in them.

Item 87- At the end of the Act

This item adds Schedule 7 to the Act, which prescribes the coordinates of latitude and longitude for the Greater Sunrise unit area, the Eastern Greater Sunrise area and the Western Greater Sunrise area. The geographic coordinates refer to the Geocentric Datum of Australia data set (item 16 refers)

Items 88-96- *Petroleum Resources Rent Tax Assessment Act 1987* and *Radiocommunications Act 1992*

For most of these items, consequential amendments have been made to the relevant sections of the *Petroleum Resources Rent Tax Assessment Act 1987* (PRRTA) and *Radio Communications Act 1992* where the PSLA is mentioned. These are updated and replaced with the Offshore Petroleum Act 2006.

Items 90 and 91 repeal and replace definitions as a result of this proposed amendment.

Part 2- Regulations

Item 97- Regulations

Subsection 4(2) allows regulations making provision (including provision by way of modification or adaptation of any Act) for or in relation to matters consequential on amendments made by this Act.

This provision allows regulations to deal with consequential matters, such as the way other laws apply now that the PPRTA applies to petroleum apportioned to Australia recovered anywhere in the Greater Sunrise unit area. Regulations under this provision may modify or adapt the provisions of an Act. This facility is necessary to deal with any unforeseen consequences of the amendments made by this Act.

In particular, many other Acts refer to an ‘offshore area’ under the *Offshore Petroleum Act 2006*. Prior to this amending Act, there was only ever one Joint Authority and one Designated Authority in respect of each offshore area. The amendments made by this Act alter that approach by providing that there are two of each type of Authority that together cover the whole of the Northern Territory offshore area (that is, the Authorities for the Principal Northern Territory offshore area and the Eastern Greater Sunrise area). No changes to other Acts have been identified as necessary as a consequence of this change. But if it is later discovered that modifications, or adaptations, of an Act are required consequential on this change (or any other change made by this Act), this regulation-making power will allow those modifications or adaptations to be made. As usual, such regulations will be able to be disallowed by either House of the Parliament, under the *Acts Interpretation Act 1901*.

Giving effect to the Greater Sunrise unitisation agreement

Subsection (4) allows regulations that, in the Minister's opinion, are necessary or convenient for giving effect to any provision of the Greater Sunrise unitisation agreement that is not inconsistent with any amendment made by this Act.

The main provisions of the Greater Sunrise unitisation agreement are implemented by the amendments of Acts made by this Act. Some other implementing measures will be done by amending regulations (for example, those mentioned in Annex II of the agreement, that need to be extended into the Western Greater Sunrise area). Other provisions still may be implemented by the exercise of existing powers under legislation (in particular, the *Offshore Petroleum Act 2006*).

This approach to implementation, in contrast to wholesale application of the agreement as Australian law, ensures that the implementation is integrated with existing statutory provisions. However, this approach does lead to a risk that further provisions may be needed to implement the agreement. Should there be a need for such further provisions, this regulation making-power will allow regulations to be made. Any such regulations must not be inconsistent with amendments made by this proposed amending Act.

Definition of Greater Sunrise unitisation agreement

The term 'Greater Sunrise unitisation agreement' is defined to mean the Agreement between the Government of Australia and the Government of the Democratic Republic of Timor-Leste relating to the Unitisation of the Sunrise and Troubadour Fields done at Dili on 6 March 2003.