





# **Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Act 2009**

**No. 102, 2009**

**An Act to amend the *Offshore Petroleum and  
Greenhouse Gas Storage Act 2006*, and for other  
purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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## Contents

1	Short title .....	1
2	Commencement .....	2
3	Schedule(s) .....	2
<b>Schedule 1—Amendments</b>		<b>3</b>
Part 1—Access authorities		3
	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	3
Part 2—Locations		4
	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	4
Part 3—Petroleum scientific investigation consents		7
	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	7
Part 4—Occupational health and safety prosecutions		8
	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	8
Part 5—Notification of discovery of petroleum		9
	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	9
Part 6—Datum		11
	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	11
Part 7—Pipeline safety management plan levy		16
	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	16
Part 8—Consent to operate a pipeline		17
	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	17
Part 9—Data management plans		18
	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	18
Part 10—Occupational health and safety duties		19
	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	19
Part 11—Maps		22
	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	22
Part 12—Judicial review of administrative decisions		24
	<i>Administrative Decisions (Judicial Review) Act 1977</i>	24

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Part 13—Greenhouse gas storage	25
<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	25
Part 13A—Inquiries into significant offshore incidents	27
Division 1—Amendment of the Offshore Petroleum and Greenhouse Gas Storage Act 2006	27
<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	27
Division 2—Other amendments	33
<i>Archives Act 1983</i>	33
<i>Freedom of Information Act 1982</i>	34
<i>Privacy Act 1988</i>	35
Part 14—Technical corrections	36
<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	36
<i>Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act     2006</i>	36
<i>Offshore Petroleum and Greenhouse Gas Storage (Registration Fees)     Act 2006</i>	36
<i>Offshore Petroleum (Royalty) Act 2006</i>	36
<i>Petroleum Resource Rent Tax Assessment Act 1987</i>	37
Part 15—Registration of transfers of, and dealings in, petroleum titles	38
<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	38



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**An Act to amend the *Offshore Petroleum and  
Greenhouse Gas Storage Act 2006*, and for other  
purposes**

*[Assented to 8 October 2009]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Offshore Petroleum and Greenhouse  
Gas Storage Legislation Amendment Act 2009*.

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## 2 Commencement

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

<b>Commencement information</b>		
<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 on which this Act receives the Royal Assent.	8 October 2009
2. Schedule 1, Parts 1 to 6	The day after this Act receives the Royal Assent.	9 October 2009
3. Schedule 1, Parts 7 and 8	1 January 2010.	1 January 2010
4. Schedule 1, Parts 9 to 14	The day after this Act receives the Royal Assent.	9 October 2009
5. Schedule 1, Part 15	Immediately after the commencement of Part 1 of Schedule 4 to the <i>Offshore Petroleum Amendment (Greenhouse Gas Storage) Act 2008</i> .	22 November 2008

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

## 3 Schedule(s)

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

## **Schedule 1—Amendments**

### **Part 1—Access authorities**

#### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

##### **1 At the end of subsection 245(1)**

Add:

; and (d) the registered holder of the petroleum exploration permit, petroleum retention lease, petroleum production licence or petroleum special prospecting authority has not given written consent to the grant of the petroleum access authority.

##### **2 Application of amendment**

The amendment made by this Part applies in relation to an application for a petroleum access authority if the application was made after the commencement of this item.

## Part 2—Locations

### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

#### 3 Section 95

Omit:

- If a petroleum pool is identified in a petroleum exploration permit area, the Designated Authority may declare a location over the blocks to which the petroleum pool extends.

substitute:

- If a petroleum pool is identified in a petroleum exploration permit area, the Joint Authority may declare a location over the blocks to which the petroleum pool extends.

#### 4 Section 96

Omit:

- If a petroleum pool is identified in a petroleum exploration permit area, the Designated Authority may declare a location over the blocks to which the petroleum pool extends.

substitute:

- If a petroleum pool is identified in a petroleum exploration permit area, the Joint Authority may declare a location over the blocks to which the petroleum pool extends.

#### 5 Section 128

Omit:

- If a petroleum pool is identified in a petroleum exploration permit area, the Designated Authority may declare a location over the blocks to which the petroleum pool extends.

substitute:

- If a petroleum pool is identified in a petroleum exploration permit area, the Joint Authority may declare a location over the blocks to which the petroleum pool extends.

## **6 Section 128**

Omit:

- The Designated Authority may require the permittee to nominate the blocks.

substitute:

- The Joint Authority may require the permittee to nominate the blocks.

## **7 Paragraph 129(5)(b)**

Omit “Designated Authority”, substitute “Joint Authority”.

## **8 Subsections 130(1), (2) and (3)**

Omit “Designated Authority” (wherever occurring), substitute “Joint Authority”.

## **9 Subsections 131(1), (3) and (4)**

Omit “Designated Authority” (wherever occurring), substitute “Joint Authority”.

Note: The heading to subsection 131(4) is altered by omitting “*Designated Authority*” and substituting “*Joint Authority*”.

## **10 Subsections 132(1), (3), (6), (7) and (8)**

Omit “Designated Authority” (wherever occurring), substitute “Joint Authority”.

### **11 Subsections 133(1), (3) and (5)**

Omit “Designated Authority” (wherever occurring), substitute “Joint Authority”.

### **12 Transitional—decisions of Designated Authority etc.**

- (1) This item applies to an act or thing that was done before the commencement of this item:
- (a) by, or in relation to, the Designated Authority for an offshore area; and
  - (b) under, or for the purposes of, a provision of Division 6 of Part 2.2 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Note: See also clauses 4 and 5 of Schedule 6 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

- (2) The act or thing has effect, after the commencement of this item, as if it had been done:
- (a) by, or in relation to, the Joint Authority for the offshore area; and
  - (b) under, or for the purposes of, the corresponding provision of that Act as amended by this Part.

## **Part 3—Petroleum scientific investigation consents**

### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

#### **13 Subsection 253(1)**

Omit “Designated Authority” (wherever occurring), substitute “Joint Authority”.

#### **14 Subsection 254(1)**

Omit “Designated Authority”, substitute “Joint Authority”.

#### **15 Transitional—decisions of Designated Authority**

- (1) This item applies to an act or thing that was done before the commencement of this item:
  - (a) by the Designated Authority for an offshore area; and
  - (b) under subsection 253(1) or 254(1) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.
- (2) The act or thing has effect, after the commencement of this item, as if it had been done:
  - (a) by the Joint Authority for the offshore area; and
  - (b) under the corresponding provision of that Act as amended by this Part.

## **Part 4—Occupational health and safety prosecutions**

### ***Offshore Petroleum and Greenhouse Gas Storage Act 2006***

#### **16 At the end of clause 41 of Schedule 6**

Add:

; and (c) regulations set out in or prescribed for the purposes of subsection 140H(2) of the repealed *Petroleum (Submerged Lands) Act 1967*, to the extent that those regulations were in force before the commencement of this clause.

## **Part 5—Notification of discovery of petroleum**

### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

#### **17 Subsection 284(1)**

Omit “or a petroleum retention lease area”, substitute “, a petroleum retention lease area or a petroleum production licence area”.

Note: The heading to section 284 is altered by omitting “**or petroleum retention lease area**” and substituting “, **petroleum retention lease area or petroleum production licence area**”.

#### **18 Subsections 284(2) and (3)**

Repeal the subsections, substitute:

*Notification*

- (2) The permittee, lessee or licensee must inform the Designated Authority of the discovery before the end of the 30-day period that began on the day of completion of the well that resulted in the discovery.

#### **19 Subsection 284(4)**

Omit “Subsections (2) and (3) do”, substitute “Subsection (2) does”.

#### **20 Paragraph 284(5)(a)**

Omit “or (3)”.

#### **21 Subsections 452(2) and (3)**

Repeal the subsections, substitute:

*Notification*

- (2) The permittee, lessee or licensee must inform the responsible Commonwealth Minister of the discovery before the end of the 30-day period that began on the day of completion of the well that resulted in the discovery.

#### **22 Subsection 452(4)**

**Schedule 1** Amendments

**Part 5** Notification of discovery of petroleum

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Omit “Subsections (2) and (3) do”, substitute “Subsection (2) does”.

**23 Paragraph 452(5)(a)**

Omit “or (3)”.

## **Part 6—Datum**

### ***Offshore Petroleum and Greenhouse Gas Storage Act 2006***

#### **24 Section 42 (table item 8)**

Repeal the item, substitute:

8	a greenhouse gas assessment permit	the permit area of a greenhouse gas assessment permit granted after the changeover time
9	a greenhouse gas holding lease	the lease area of a greenhouse gas holding lease granted after the changeover time
10	a greenhouse gas injection licence	the licence area of a greenhouse gas injection licence granted after the changeover time
11	a greenhouse gas search authority	the authority area of a greenhouse gas search authority granted after the changeover time
12	a greenhouse gas special authority	the authority area of a greenhouse gas special authority granted after the changeover time
13	any other instrument under this Act	a point, line or area set out in any other instrument made under this Act made after the changeover time

#### **25 Section 42 (note)**

After “Note”, insert “1”.

#### **26 At the end of section 42 (after the note)**

Add:

Note 2: A grant of a greenhouse gas holding lease may be a grant by way of renewal—see section 11.

#### **27 Subsection 43(1) (table item 8)**

Repeal the item, substitute:

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## Schedule 1 Amendments

### Part 6 Datum

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8	a greenhouse gas assessment permit	the permit area of a greenhouse gas assessment permit that was in force immediately before the changeover time
9	a greenhouse gas holding lease	the lease area of a greenhouse gas holding lease that was in force immediately before the changeover time
10	a greenhouse gas injection licence	the licence area of a greenhouse gas injection licence that was in force immediately before the changeover time
11	a greenhouse gas search authority	the authority area of a greenhouse gas search authority that was in force immediately before the changeover time
12	a greenhouse gas special authority	the authority area of a greenhouse gas special authority that was in force immediately before the changeover time
13	any other instrument under this Act	a point, line or area set out in any other instrument under this Act that was in force immediately before the changeover time

## 28 Sections 44 and 45

Repeal the sections, substitute:

### 44 Variation of titles and instruments

#### *Petroleum titles and instruments*

(1) The table has effect:

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<b>Variation of titles and instruments</b>		
<b>Item</b>	<b>The Designated Authority may issue an instrument varying...</b>	<b>for the sole purpose of...</b>
1	a petroleum exploration permit that was in force immediately before the changeover time	relabelling the permit area using geographic coordinates based on the current datum.

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<b>Variation of titles and instruments</b>		
<b>Item</b>	<b>The Designated Authority may issue an instrument varying...</b>	<b>for the sole purpose of...</b>
2	a petroleum retention lease that was in force immediately before the changeover time	relabelling the lease area using geographic coordinates based on the current datum.
3	a petroleum production licence that was in force immediately before the changeover time	relabelling the licence area using geographic coordinates based on the current datum.
4	an infrastructure licence that was in force immediately before the changeover time	relabelling the licence area using geographic coordinates based on the current datum.
5	a petroleum special prospecting authority or a petroleum access authority that was in force immediately before the changeover time	relabelling the authority area using geographic coordinates based on the current datum.
6	a pipeline licence that was in force immediately before the changeover time	relabelling the route of the pipeline using geographic coordinates based on the current datum.
7	any other instrument under this Act that: (a) sets out a point, line or area; and (b) was in force immediately before the changeover time	relabelling the point, line or area using geographic coordinates based on the current datum.
8	a petroleum title or other instrument under this Act	inserting an annotation about the applicable datum.

Note: For publication in the *Gazette* of notice of the variation, see section 708.

*Greenhouse gas titles and instruments*

(2) The table has effect:

<b>Variation of titles and instruments</b>		
<b>Item</b>	<b>The responsible Commonwealth Minister may issue an instrument varying...</b>	<b>for the sole purpose of...</b>
1	a greenhouse gas assessment permit that was in force immediately before	relabelling the permit area using geographic coordinates based on the

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<b>Variation of titles and instruments</b>		
<b>Item</b>	<b>The responsible Commonwealth Minister may issue an instrument varying...</b>	<b>for the sole purpose of...</b>
	the changeover time	current datum.
2	a greenhouse gas holding lease that was in force immediately before the changeover time	relabelling the lease area using geographic coordinates based on the current datum.
3	a greenhouse gas injection licence that was in force immediately before the changeover time	relabelling the licence area using geographic coordinates based on the current datum.
4	a greenhouse gas search authority that was in force immediately before the changeover time	relabelling the authority area using geographic coordinates based on the current datum.
5	a greenhouse gas special authority that was in force immediately before the changeover time	relabelling the authority area using geographic coordinates based on the current datum.
6	any other instrument under this Act that: (a) sets out a point, line or area; and (b) was in force immediately before the changeover time	relabelling the point, line or area using geographic coordinates based on the current datum.
7	a greenhouse gas title or other instrument under this Act	inserting an annotation about the applicable datum.

Note: For publication in the *Gazette* of notice of the variation, see section 708.

## 45 Variation of applications for titles

### *Petroleum titles*

- (1) The Designated Authority may issue an instrument varying an application for a petroleum title for the sole purpose of relabelling a point, line or area by reference to geographic coordinates based on the current datum.

### *Greenhouse gas titles*

- (2) The responsible Commonwealth Minister may issue an instrument varying an application for a greenhouse gas title for the sole

purpose of relabelling a point, line or area by reference to geographic coordinates based on the current datum.

**29 At the end of Part 4.2**

Add:

**471A Notation in Register—applicable datum**

The Designated Authority may make a notation in the Register about the applicable datum for a title, petroleum special prospecting authority, notice or instrument.

**30 At the end of Part 5.2**

Add:

**523A Notation in Register—applicable datum**

The responsible Commonwealth Minister may make a notation in the Register about the applicable datum for a title, greenhouse gas search authority, notice or instrument.

**31 Transitional—pre-commencement variations**

The amendments made by this Part do not affect the validity of a variation made before the commencement of this item.

## **Part 7—Pipeline safety management plan levy**

### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

#### **32 Paragraph 683(d)**

Repeal the paragraph.

#### **33 Section 688**

Repeal the section.

#### **34 Application of amendments**

Despite the amendments made by this Part, paragraph 683(d) and section 688 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* continue to apply, after the commencement of this item, in relation to:

- (a) pipeline safety management plan levy imposed by repealed Part 4 of the *Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Act 2003*; and
- (b) late payment penalty in relation to pipeline safety management plan levy covered by paragraph (a);

as if those amendments has not been made.

## **Part 8—Consent to operate a pipeline**

### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

#### **35 Subsections 210(3), (4), (5) and (6)**

Repeal the subsections.

#### **36 Subsections 210(7) and (8)**

Omit “Subsections (1), (3) and (5) do not apply”, substitute  
“Subsection (1) does not apply”.

#### **37 Subsection 210(9)**

Repeal the subsection.

## **Part 9—Data management plans**

### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

#### **38 Subsections 698(2), (3) and (4)**

Repeal the subsections.

#### **39 Subsections 724(2), (3) and (4)**

Repeal the subsections.

#### **40 Transitional—data management plans**

- (1) This item applies to a data management plan if, immediately before the commencement of this item, the plan was in force under regulations made for the purposes of subsection 698(2) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.
- (2) Despite the repeal of subsection 698(2) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* by this Act:
  - (a) the plan continues to have effect; and
  - (b) the regulations, to the extent that they relate to:
    - (i) the contents of the plan; or
    - (ii) the variation of the plan; or
    - (iii) the duration of the plan; or
    - (iv) compliance with the plan;continue to apply in relation to the plan;as if the repeal had not happened.

## **Part 10—Occupational health and safety duties**

### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

#### **41 After subclause 9(4) of Schedule 3**

Insert:

(4A) Absolute liability applies to paragraph (4)(a).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

(4B) The fault element for paragraphs (4)(b) and (c) is negligence.

#### **42 Subclause 10(4) of Schedule 3 (penalty)**

Omit “for contravention of this subclause”.

#### **43 At the end of clause 10 of Schedule 3**

Add:

(5) Absolute liability applies to paragraph (4)(a).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

(6) The fault element for paragraphs (4)(b) and (c) is negligence.

#### **44 After subclause 11(5) of Schedule 3**

Insert:

(5A) Absolute liability applies to paragraph (5)(a).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

(5B) The fault element for paragraphs (5)(b) and (c) is negligence.

#### **45 After subclause 12(3) of Schedule 3**

Insert:

(3A) Absolute liability applies to paragraph (3)(a).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

(3B) The fault element for paragraphs (3)(b) and (c) is negligence.

**46 After subclause 13(2) of Schedule 3**

Insert:

(2A) Absolute liability applies to paragraph (2)(a).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

(2B) The fault element for paragraphs (2)(b) and (c) is negligence.

**47 After clause 13 of Schedule 3**

Insert:

**13A Duties of titleholders in relation to the design of facilities**

*Duties of petroleum titleholder*

(1) If a proposed facility is for use in connection with operations authorised by:

- (a) a petroleum exploration permit; or
- (b) a petroleum retention lease; or
- (c) a petroleum production licence; or
- (d) an infrastructure licence; or
- (e) a pipeline licence;

the permittee, lessee or licensee must take all reasonably practicable steps to ensure that the facility is so designed as to be, when properly used, safe and without risk to health.

*Greenhouse gas titleholder*

(2) If a proposed facility is for use in connection with operations authorised by:

- (a) a greenhouse gas assessment permit; or
- (b) a greenhouse gas holding lease; or
- (c) a greenhouse gas injection licence;

the permittee, lessee or licensee must take all reasonably practicable steps to ensure that the facility is so designed as to be, when properly used, safe and without risk to health.

*Offence*

(3) A person commits an offence if:

- (a) the person is subject to a requirement under subclause (1) or (2); and
- (b) the person omits to do an act; and
- (c) the omission breaches the requirement.

Penalty: 200 penalty units.

- (4) Absolute liability applies to paragraph (3)(a).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

- (5) The fault element for paragraphs (3)(b) and (c) is negligence.

#### **48 After subclause 14(2) of Schedule 3**

Insert:

- (2A) Absolute liability applies to paragraph (2)(a).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

- (2B) The fault element for paragraphs (2)(b) and (c) is negligence.

#### **49 After subclause 15(2) of Schedule 3**

Insert:

- (2A) Absolute liability applies to paragraph (2)(a).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

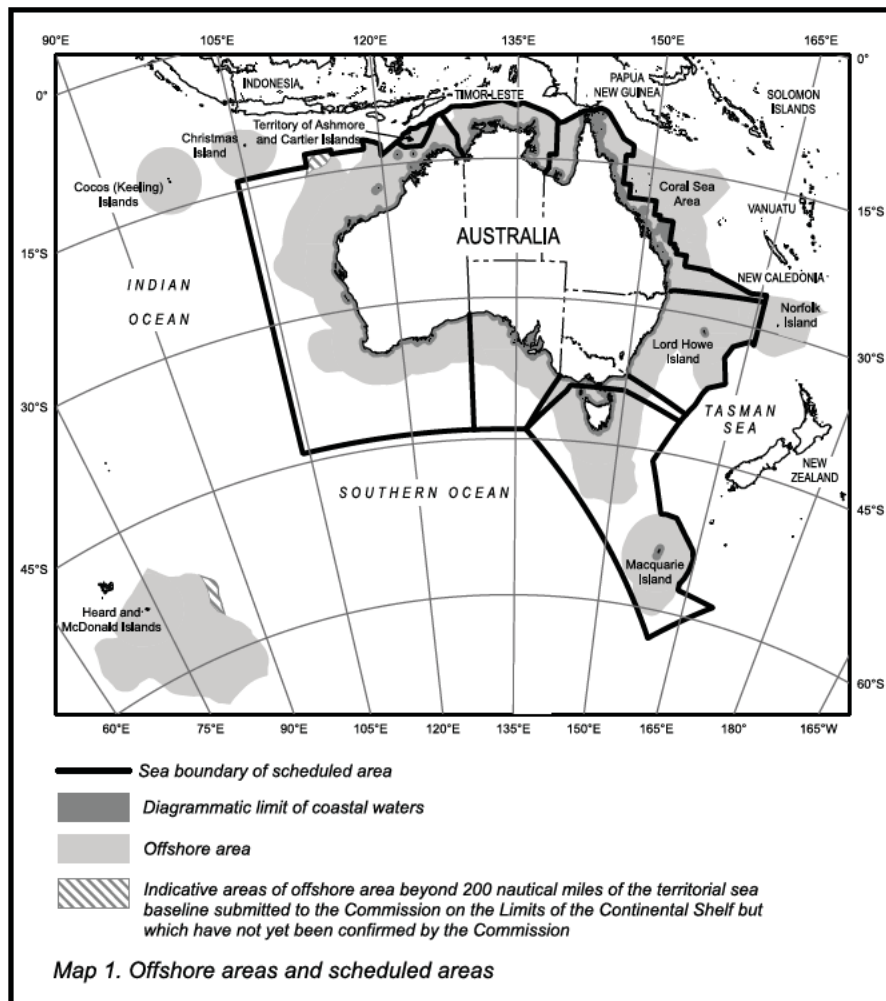
- (2B) The fault element for paragraphs (2)(b) and (c) is negligence.

## Part 11—Maps

### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

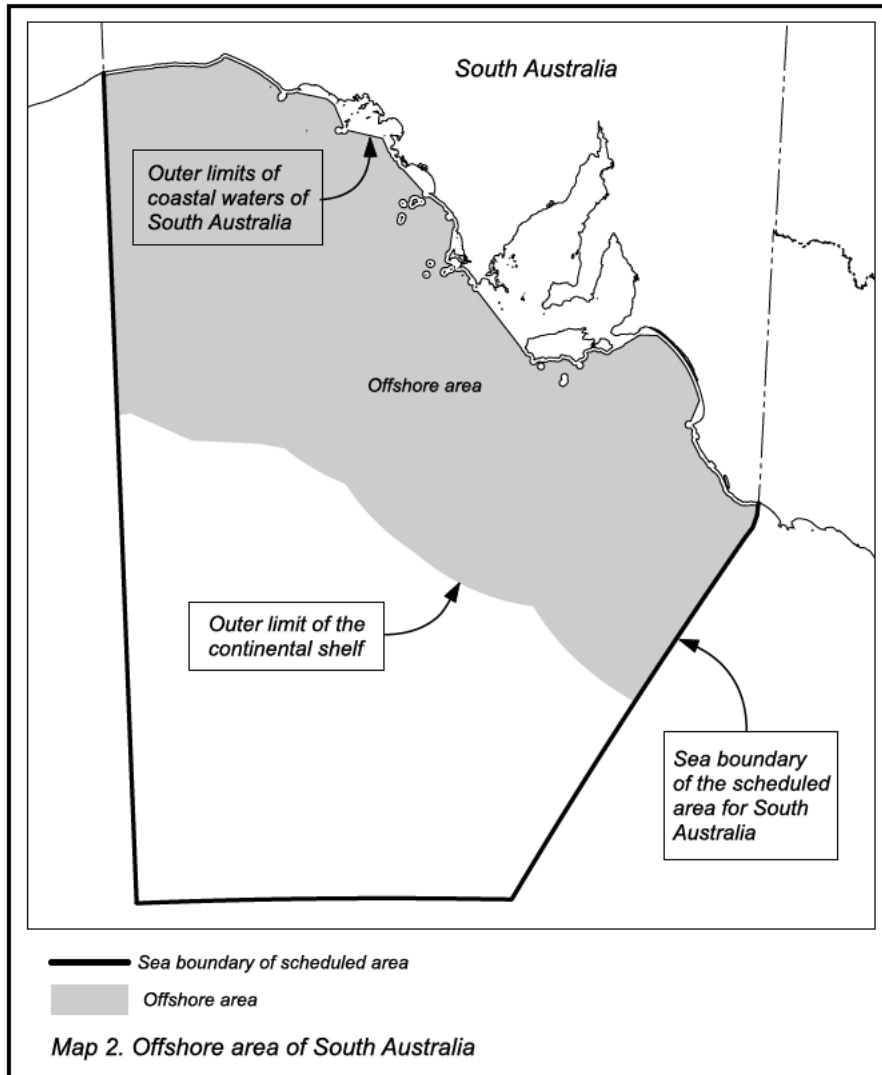
#### 50 Subsection 6(3) (map)

Repeal the map, substitute:



**51 Subsection 6(4) (map)**

Repeal the map, substitute:



## **Part 12—Judicial review of administrative decisions**

### *Administrative Decisions (Judicial Review) Act 1977*

#### **52 After paragraph 2(h) of Schedule 3**

Insert:

(ha) the *Petroleum (Submerged Lands) Act 1982* of Western Australia;

## **Part 13—Greenhouse gas storage**

### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

#### **53 After subsection 21(7)**

Insert:

(7A) In making an estimate under paragraph (6)(e) or (7)(f), disregard subsection 388(8).

#### **54 Paragraph 297(1)(b)**

Omit “greenhouse gas holding lease over the block”, substitute “greenhouse gas holding lease, or a greenhouse gas injection licence, over the block”.

#### **55 Paragraph 297(3)(b)**

Omit “day”, substitute “day before the day”.

#### **56 Paragraph 297(3)(d)**

After “lessee”, insert “or licensee”.

#### **57 Paragraph 304(1)(b)**

Omit “greenhouse gas holding lease or a greenhouse gas injection licence over the block”, substitute “greenhouse gas holding lease, or a greenhouse gas injection licence, over the block”.

#### **58 Paragraph 304(3)(b)**

Omit “day”, substitute “day before the day”.

#### **59 Paragraph 304(3)(d)**

After “lessee”, insert “or licensee”.

#### **60 Subsection 358(8)**

After “a petroleum production licence”, insert “on the basis that the responsible Commonwealth Minister is satisfied of the matter set out in subparagraph 370(c)(i)”.

**61 After subsection 358(8)**

Insert:

- (8A) If a greenhouse gas injection licence is granted under section 372 to the registered holder of a petroleum production licence on the basis that the responsible Commonwealth Minister is satisfied of the matter set out in subparagraph 370(c)(ii), the specified origin or origins of some or all of the greenhouse gas substance must be situated in:
- (a) the licence area of a petroleum production licence; or
  - (b) the licence areas of petroleum production licences.

**62 After subsection 374(4)**

Insert:

- (4A) If:
- (a) the licence was granted under section 372 to the registered holder of a petroleum production licence on the basis that the responsible Commonwealth Minister was satisfied of the matter set out in subparagraph 370(c)(i); and
  - (b) the responsible Commonwealth Minister is satisfied that it is in the public interest to do so;
- the responsible Commonwealth Minister may exercise the power of variation conferred by subsection (3) as if the licence had been granted on the basis that the responsible Commonwealth Minister had been satisfied of the matter set out in subparagraph 370(c)(ii).

## **Part 13A—Inquiries into significant offshore incidents**

### **Division 1—Amendment of the Offshore Petroleum and Greenhouse Gas Storage Act 2006**

#### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

##### **62A Section 7**

Insert:

*Commissioner* means a person appointed under section 780A.

##### **62B Section 7**

Insert:

*Commission of inquiry* means an inquiry conducted, or to be conducted, by a person appointed under section 780A.

##### **62C Section 7**

Insert:

*Royal Commission* has the same meaning as in the *Royal Commissions Act 1902*.

##### **62D After Part 9.10**

Insert:

## **Part 9.10A—Inquiries into significant offshore incidents**

### **780A Appointment of Commissioner**

- (1) The responsible Commonwealth Minister may, in writing, appoint a person to:

- (a) conduct a Commission of inquiry into matters specified in the instrument of appointment relating to any or all of the following:
    - (i) a significant offshore petroleum incident;
    - (ii) any matters incidental to a significant offshore petroleum incident;
    - (iii) a significant offshore greenhouse gas incident;
    - (iv) any matters incidental to a significant offshore greenhouse gas incident; and
  - (b) report to the responsible Commonwealth Minister on the matters (including any recommendations relating to the matters) on or before a day specified in the instrument of appointment.
- (2) The appointment takes effect on the day of effect specified in the instrument of appointment. The day of effect must not be earlier than the day on which the instrument is made.
- (3) A copy of the instrument must be published in the *Gazette*.
- (4) The Commissioner's report is not a legislative instrument.
- (5) For the purposes of this section, a ***significant offshore petroleum incident*** is a significant incident or occurrence that relates to any or all of the following operations in an offshore area:
  - (a) petroleum exploration operations;
  - (b) petroleum recovery operations;
  - (c) operations relating to the processing or storage of petroleum;
  - (d) operations relating to the preparation of petroleum for transport;
  - (e) operations connected with the construction or operation of a pipeline;
  - (f) operations relating to the decommissioning or removal of structures, equipment or other items of property that have been brought into an offshore area for or in connection with any of the operations mentioned in paragraph (a), (b), (c), (d) or (e).
- (6) Paragraph (5)(f) does not, by implication, limit paragraph (5)(a), (b), (c), (d) or (e).
-

- (7) For the purposes of this section, a ***significant offshore greenhouse gas incident*** is a significant incident or occurrence that relates to any or all of the following operations in an offshore area:
- (a) operations relating to exploration for a potential greenhouse gas storage formation or a potential greenhouse gas injection site;
  - (b) operations relating to the injection of a greenhouse gas substance into the seabed or subsoil;
  - (c) operations relating to the storage of a greenhouse gas substance in the seabed or subsoil;
  - (d) operations relating to the processing, compression or pre-injection storage of a greenhouse gas substance;
  - (e) operations relating to the preparation of a greenhouse gas substance for transport;
  - (f) operations relating to the decommissioning or removal of structures, equipment or other items of property that have been brought into an offshore area for or in connection with any of the operations mentioned in paragraph (a), (b), (c), (d) or (e).
- (8) Paragraph (7)(f) does not, by implication, limit paragraph (7)(a), (b), (c), (d) or (e).
- (9) For the purposes of this section, a ***significant incident or occurrence*** includes circumstances in which a significant incident or occurrence nearly happened.

### **780B Hearings**

- (1) A Commissioner may hold hearings for the purposes of a Commission of inquiry.
- (2) The hearings may be held at such places, whether within or outside Australia, as the Commissioner determines.
- (3) Subject to this Act, the procedure at a hearing is to be such as the Commissioner determines.

### **780C Commissioner not bound by the rules of evidence**

A Commissioner is not bound by the rules of evidence and may inform himself or herself on any matter in such manner as he or she thinks fit.

### **780D Departmental officers**

- (1) The Secretary of the Department may enter into an arrangement with the Commissioner of a Commission of inquiry to make APS employees in the Department available, for a period not exceeding the duration of the Commission of inquiry, to assist with the conduct of the Commission of inquiry.
- (2) In performing functions and exercising powers to the extent reasonably necessary to assist with the conduct of a Commission of inquiry, an APS employee made available under such an arrangement:
  - (a) is subject to the directions of the Commissioner; and
  - (b) is not subject to the directions of the Secretary of the Department.

### **780E Application of the *Royal Commissions Act 1902***

- (1) Subject to this section, the *Royal Commissions Act 1902*, other than sections 4 and 5, applies in relation to a Commission of inquiry, and to the Commissioner conducting it, as if:
    - (a) the Commission of inquiry were a Royal Commission; and
    - (b) the Commissioner were a member of a Royal Commission; and
    - (c) that Act bound the Crown in each of its capacities.
  - (2) This section does not make the Crown liable to be prosecuted for an offence.
  - (3) The regulations may, for the purposes of the application of section 9 of the *Royal Commissions Act 1902* in accordance with subsection (1) of this section, provide for or specify matters of the kind referred to in subsection 9(2) of that Act.
  - (4) Section 9 of the *Royal Commissions Act 1902*, in its application in accordance with subsection (1) of this section, has effect as if those
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regulations were regulations made for the purposes of subsection 9(2) of that Act.

- (5) Sections 10 and 15 of the *Royal Commissions Act 1902*, in their application in accordance with subsection (1) of this section, have effect as if references in those sections to offences against that Act included references to such offences as apply in accordance with subsection (1) of this section.

### **780F Conferral of inspection powers**

- (1) The Secretary of the Department may, in writing, determine that a specified person, or a person included in a specified class of persons, who is engaged by the Commonwealth to assist with the conduct of a Commission of inquiry has all the functions and powers of, or specified functions and/or powers of:
- (a) a petroleum project inspector (other than a Greater Sunrise visiting inspector); and
  - (b) a Greater Sunrise visiting inspector; and
  - (c) a greenhouse gas project inspector; and
  - (d) an OHS inspector;
- under this Act and the regulations.
- (2) The person is taken, for the purposes of this Act and the regulations, to be:
- (a) a petroleum project inspector (other than a Greater Sunrise visiting inspector); or
  - (b) a Greater Sunrise visiting inspector; or
  - (c) a greenhouse gas project inspector; or
  - (d) an OHS inspector;
- as the case may be, in connection with the performance of those functions and the exercise of those powers.
- (3) In performing those functions and exercising those powers, the person:
- (a) is subject to the directions of the Commissioner; and
  - (b) is not subject to the directions of:
    - (i) the Secretary of the Department; or
    - (ii) a Designated Authority; or
    - (iii) the responsible Commonwealth Minister; or

(iv) the Safety Authority.

*Identity cards*

- (4) The Secretary of the Department must issue an identity card to the person. The identity card must:
- (a) specify the Commission of inquiry concerned; and
  - (b) contain a recent photograph of the person.
- (5) A person commits an offence if:
- (a) the person has been issued with an identity card; and
  - (b) the person ceases to be subject to a determination under subsection (1); and
  - (c) the person does not immediately return the identity card to:
    - (i) the Secretary of the Department; or
    - (ii) if the Secretary of the Department, by written notice given to the person, specifies another person to whom the card is to be returned—that other person.

Penalty: 5 penalty units.

- (6) Subsection (5) does not apply if the identity card was lost or destroyed.

Note: The defendant bears an evidential burden in relation to the matter in this subsection—see subsection 13.3(3) of the *Criminal Code*.

- (7) A person who is subject to a determination under subsection (1) must carry the identity card at all times when exercising powers, or performing functions, under this Act or the regulations as:
- (a) a petroleum project inspector (other than a Greater Sunrise visiting inspector); or
  - (b) a Greater Sunrise visiting inspector; or
  - (c) a greenhouse gas project inspector; or
  - (d) an OHS inspector.
- (8) Subsections 600(6), 606(5) and 681(5) do not apply to a person who is subject to a determination under subsection (1) if the person is exercising powers, or performing functions, under this Act or the regulations as:
- (a) a petroleum project inspector (other than a Greater Sunrise visiting inspector); or
  - (b) a Greater Sunrise visiting inspector; or
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- (c) a greenhouse gas project inspector; or
  - (d) an OHS inspector.
- (9) This Act has effect, in relation to a person who is subject to a determination under subsection (1), as if the identity card were the identity card of each of the following:
- (a) a petroleum project inspector (other than a Greater Sunrise visiting inspector);
  - (b) a Greater Sunrise visiting inspector;
  - (c) a greenhouse gas project inspector;
  - (d) an OHS inspector.
- (10) A determination made under subsection (1) is not a legislative instrument.

### **780G Application of laws relating to disclosure**

A law of the Commonwealth that relates to the disclosure of information applies in relation to disclosure of information to a Commission of inquiry in the same way that it would apply to disclosure of the information to a Royal Commission.

## **Division 2—Other amendments**

### ***Archives Act 1983***

#### **62E Subsection 3(1) (definition of *Commission of inquiry*)**

Repeal the definition, substitute:

***Commission of inquiry*** means:

- (a) the Commission of inquiry within the meaning of the *Quarantine Act 1908*; or
- (b) a Commission of inquiry within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

#### **62F Paragraph 22(1)(b)**

Omit “the Commission of inquiry”, substitute “a Commission of inquiry”.

#### **62G Subsections 22(2) and (4)**

Omit “the Commission of inquiry”, substitute “a Commission of inquiry”.

**62H Paragraph 22(5)(b)**

Repeal the paragraph, substitute:

- (b) the Minister administering the *Quarantine Act 1908* is taken to be the responsible Minister in relation to the records of the Commission of inquiry within the meaning of that Act; and
- (c) the Minister administering the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* is taken to be the responsible Minister in relation to the records of a Commission of inquiry within the meaning of that Act.

***Freedom of Information Act 1982***

**62J Subsection 4(1) (definition of *Commission of inquiry*)**

Repeal the definition, substitute:

***Commission of inquiry*** means:

- (a) the Commission of inquiry within the meaning of the *Quarantine Act 1908*; or
- (b) a Commission of inquiry within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

**62K Subsection 4(1) (subparagraph (a)(vii) of the definition of *prescribed authority*)**

Omit “the Commission of inquiry”, substitute “a Commission of inquiry”.

**62L Paragraph 13(3)(b)**

Repeal the paragraph, substitute:

- (b) records of the Commission of inquiry (within the meaning of the *Quarantine Act 1908*) that are in the custody of the Australian Archives are, for the purposes of this Act, taken to be documents of an agency and to be in the possession of the Department administered by the Minister administering the *Quarantine Act 1908*; and
  - (c) records of a Commission of inquiry (within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*) that are in the custody of the Australian Archives are,
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for the purposes of this Act, taken to be documents of an agency and to be in the possession of the Department administered by the Minister administering the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

***Privacy Act 1988***

**62M Subsection 6(1) (definition of *Commission of inquiry*)**

Repeal the definition, substitute:

***Commission of inquiry*** means:

- (a) the Commission of inquiry within the meaning of the *Quarantine Act 1908*; or
- (b) a Commission of inquiry within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

**62N Subparagraph 7(1)(a)(vi)**

Omit “the Commission of inquiry”, substitute “a Commission of inquiry”.

## Part 14—Technical corrections

### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

#### **63 Subsections 222(2) and (5)**

Omit “gave”, substitute “give”.

Note 1: The heading to subsection 132(1) is altered by omitting “*an exploration permittee*” and substituting “*a petroleum exploration permittee*”.

Note 2: The heading to section 297 is altered by omitting “**Retention lessee or production licensee**” and substituting “**Petroleum retention lessee or petroleum production licensee**”.

Note 3: The heading to section 304 is altered by omitting “**Retention lessee or production licensee**” and substituting “**Petroleum retention lessee or petroleum production licensee**”.

Note 4: The heading to section 346 is altered by omitting “**Retention lease**” and substituting “**Petroleum retention lease**”.

#### **64 Subclauses 36(2) and (4) of Schedule 6**

Omit “Subsection”, substitute “Subclause”.

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

#### **65 Section 3 (note)**

Omit “section 6”, substitute “section 7”.

### *Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006*

#### **66 Section 3 (note)**

Omit “section 6”, substitute “section 7”.

### *Offshore Petroleum (Royalty) Act 2006*

#### **67 Section 3 (note)**

Omit “section 6”, substitute “section 7”.

***Petroleum Resource Rent Tax Assessment Act 1987***

**68 Section 2 (definition of *infrastructure licence*)**

Omit “section 6”, substitute “section 7”.

## **Part 15—Registration of transfers of, and dealings in, petroleum titles**

### *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

#### **69 Section 7**

Insert:

*referable title*, when used in Chapter 4, has the meaning given by section 467.

#### **70 Section 467**

Insert:

*referable title*: a title over a block or blocks is a *referable title* if the block, or any of the blocks, is the subject of:

- (a) a greenhouse gas assessment permit; or
- (b) a greenhouse gas holding lease; or
- (c) a greenhouse gas injection licence.

#### **71 Paragraph 474(c)**

Before “2 copies”, insert “if the title is a referable title—”.

#### **72 At the end of section 474**

Add:

- ; or (d) if the title is not a referable title—a copy of each of the following:
- (i) the application;
  - (ii) the instrument referred to in paragraph (a);
  - (iii) the document referred to in paragraph (b).

#### **73 At the end of subsection 475(1)**

Add “of a referable title”.

#### **74 Subsection 478(6)**

After “under subsection (2)”, insert “in relation to the transfer of a referable title”.

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**75 Subsection 478(7)**

Omit “The responsible Commonwealth Minister”, substitute “If the application is for approval of a transfer of a referable title, the responsible Commonwealth Minister”.

**76 Subsection 489(4)**

Omit “An application for approval of a dealing”, substitute “If a dealing relates to a referable title, an application for approval of the dealing”.

**77 At the end of paragraphs 489(4)(a) and (b)**

Add “and”.

**78 After subsection 489(4)**

Insert:

- (4A) If a dealing does not relate to a referable title, an application for approval of the dealing must be accompanied by:
- (a) a copy of the application; and
  - (b) a copy, or an additional copy, of the instrument referred to in subsection (1); and
  - (c) a copy of any supplementary instrument.

**79 After paragraph 489(5)(a)**

Insert:

- (aa) the dealing relates to a referable title; and

**80 At the end of section 489**

Add:

- (6) If:
- (a) a dealing (including a dealing referred to in section 468) creates a charge over some or all of the assets of a body corporate; and
  - (b) the dealing does not relate to a referable title; and
  - (c) a person applies for approval of the dealing; and

- (d) the application is accompanied by 2 copies of each document required to be lodged with the Australian Securities and Investments Commission under section 263 of the *Corporations Act 2001* in relation to the creation of the charge;

the person is taken to have complied with:

- (e) subsection (1); and
- (f) subsection (4A) in so far as that subsection requires a copy, or an additional copy, of the instrument referred to in subsection (1) to accompany the application.

**81 Subsection 490(1)**

After “particular”, insert “referable”.

**82 Subsection 493(6)**

Omit “The Designated Authority must not”, substitute “If that title is a referable title, the Designated Authority must not”.

**83 Subsection 493(7)**

Omit “The responsible Commonwealth Minister”, substitute “If that title is a referable title, the responsible Commonwealth Minister”.

**84 Subsection 499(4)**

Omit “A provisional application for approval of a dealing”, substitute “If a dealing relates to a referable title, a provisional application for approval of the dealing”.

**85 After subsection 499(4)**

Insert:

- (4A) If a dealing does not relate to a referable title, a provisional application for approval of the dealing must be accompanied by:
  - (a) a copy of the provisional application; and
  - (b) a copy, or an additional copy, of the instrument referred to in subsection (1); and
  - (c) a copy of any supplementary instrument.

**86 After paragraph 499(5)(a)**

Insert:

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(aa) the dealing relates to a referable title; and

### **87 At the end of section 499**

Add:

(6) If:

- (a) a dealing (including a dealing referred to in section 468) creates a charge over some or all of the assets of a body corporate; and
- (b) the dealing does not relate to a referable title; and
- (c) a person makes a provisional application for approval of the dealing; and
- (d) the provisional application is accompanied by 2 copies of each document required to be lodged with the Australian Securities and Investments Commission under section 263 of the *Corporations Act 2001* in relation to the creation of the charge;

the person is taken to have complied with:

- (e) subsection (1); and
- (f) subsection (4A) in so far as that subsection requires a copy, or an additional copy, of the instrument referred to in subsection (1) to accompany the provisional application.

### **88 Subsection 500(1)**

After “particular”, insert “referable”.

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*[Minister’s second reading speech made in—  
House of Representatives on 19 March 2009  
Senate on 15 September 2009]*