



Offshore Electricity Infrastructure Legislation Amendment Act 2022

No. 71, 2022

**An Act to amend the law relating to offshore
electricity infrastructure, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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No. 71, 2022

An Act to amend the law relating to offshore electricity infrastructure, and for related purposes

[Assented to 30 November 2022]

The Parliament of Australia enacts:

1 Short title

This Act is the *Offshore Electricity Infrastructure Legislation
Amendment Act 2022*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	1 December 2022

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendment of the Customs Act 1901

Customs Act 1901

1 Subsection 4(1)

Insert:

Australian offshore electricity installation means an *offshore electricity installation* that is deemed to be part of Australia because of the operation of section 5C.

Commonwealth offshore area has the same meaning as in the *Offshore Electricity Infrastructure Act 2021*.

2 Subsection 4(1) (definition of *Country*)

Omit “include an Australian resources installation or an Australian sea installation.”, substitute “include:”.

3 Subsection 4(1) (at the end of the definition of *Country*)

Add:

- (a) an Australian resources installation; or
- (b) an Australian sea installation; or
- (c) an Australian offshore electricity installation.

4 Subsection 4(1) (at the end of the definition of *Installation*)

Add:

; or (c) an offshore electricity installation.

5 Subsection 4(1)

Insert:

offshore electricity installation means infrastructure, a structure or an installation that:

- (a) is *offshore renewable energy infrastructure* within the meaning of the *Offshore Electricity Infrastructure Act 2021*;
or

- (b) is *offshore electricity transmission infrastructure* within the meaning of that Act.

overseas offshore electricity installation means an *offshore electricity installation* that:

- (a) is in the Commonwealth offshore area; and
 - (b) has been brought into the Commonwealth offshore area from a place outside the outer limits of the area;
- but does not include an Australian offshore electricity installation.

6 After subsection 4(18)

Insert:

- (18A) An offshore electricity installation is taken to be installed in the Commonwealth offshore area if the installation:
 - (a) rests on the seabed in the Commonwealth offshore area; or
 - (b) is fixed or connected to the seabed in the Commonwealth offshore area (whether or not the installation is floating); or
 - (c) is attached or tethered to any other offshore electricity installation (including any other offshore electricity installation covered by this paragraph);but does not include a vessel that is temporarily moored or anchored to the seabed in the Commonwealth offshore area.
- (18B) An offshore electricity installation is not taken to be installed in the Commonwealth offshore area for the purposes of this Act unless it is taken to be so installed under subsection (18A).

7 After section 5B

Insert:

5BA Installation of overseas offshore electricity installations

- (1) A person commits an offence if:
 - (a) the person causes an overseas offshore electricity installation to be installed; and
 - (b) the installation is installed in the Commonwealth offshore area.

Penalty: 500 penalty units.

- (2) Subsection (1) does not apply if the person has permission in force under subsection (4).
- (3) A person may apply to the Comptroller-General of Customs for permission to cause an overseas offshore electricity installation to be installed in the Commonwealth offshore area.
- (4) The Comptroller-General of Customs may, by notice in writing given to the applicant, grant the permission, subject to such conditions (if any) as are specified in the notice.
- (5) A person commits an offence if:
 - (a) the person has permission in force under subsection (4); and
 - (b) the permission is subject to one or more conditions (including a condition imposed or varied under subsection (6)); and
 - (c) the person fails to comply with any of those conditions.

Penalty: 100 penalty units.

- (6) If the Comptroller-General of Customs has granted a person permission under subsection (4), the Comptroller-General of Customs may, at any time before the installation is installed, by notice in writing given to the person:
 - (a) revoke the permission; or
 - (b) revoke or vary a condition to which the permission is subject; or
 - (c) impose new conditions to which the permission is to be subject.
- (7) Without limiting the generality of subsection (4), conditions to which a permission given under that subsection in relation to an offshore electricity installation may be subject include:
 - (a) conditions relating to biosecurity risks (within the meaning of the *Biosecurity Act 2015*); and
 - (b) conditions requiring the owner of the installation, to bring the installation to a place specified by the Comptroller-General of Customs for examination for purposes relating to biosecurity risks (within the meaning of the *Biosecurity Act 2015*) before the installation is installed in the Commonwealth offshore area.

8 After paragraph 5C(1)(b)

Insert:

- or (c) an offshore electricity installation that becomes installed in, or that is, at the commencement of this paragraph, installed in, the Commonwealth offshore area;

9 Subsection 5C(1)

Omit “subsections (2) and (3)”, substitute “subsections (2), (3) and (4)”.

10 At the end of section 5C

Add:

- (4) An offshore electricity installation that is deemed to be part of Australia because of the operation of this section ceases to be part of Australia for the purposes of the Customs Acts if:
 - (a) the installation is uninstalled from its location for the purpose of being taken to a place outside the outer limits of the Commonwealth offshore area; or
 - (b) after having been uninstalled from its location otherwise than for the purpose referred to in paragraph (a), the installation is moved for the purpose of being taken to a place outside the outer limits of the Commonwealth offshore area.

11 After section 33B

Insert:

33BA Offshore electricity installations subject to customs control

- (1) A person commits an offence of strict liability if:
 - (a) the person uses an Australian offshore electricity installation; and
 - (b) the Australian offshore electricity installation is subject to customs control.

Penalty: 500 penalty units.

- (2) Subsection (1) does not apply if the person has permission in force under subsection (4).

- (3) A person may apply to the Comptroller-General of Customs for permission to engage in specified activities in relation to the use of an Australian offshore electricity installation that is subject to customs control.
- (4) The Comptroller-General of Customs may, by notice in writing given to the applicant, grant the permission, subject to such conditions (if any) as are specified in the notice.
- (5) A person commits an offence if:
 - (a) the person has permission in force under subsection (4); and
 - (b) the permission is subject to one or more conditions (including a condition imposed or varied under subsection (6)); and
 - (c) the person fails to comply with any of those conditions.

Penalty: 100 penalty units.

- (6) If the Comptroller-General of Customs has, under subsection (4), granted a person permission to engage in any activities in relation to an Australian offshore electricity installation, the Comptroller-General of Customs may, while that installation remains subject to customs control, by notice in writing served on the person:
 - (a) suspend or revoke the permission; or
 - (b) revoke or vary a condition to which the permission is subject; or
 - (c) impose new conditions to which the permission is to be subject.

12 Subsection 49A(9)

Repeal the subsection, substitute:

- (9) A reference in this section to a ship is not to be read as including a reference to:
 - (a) an overseas resources installation; or
 - (b) an overseas sea installation; or
 - (c) an overseas offshore electricity installation.

13 After paragraph 49B(1)(b)

Insert:

- or (c) an overseas offshore electricity installation (not being an installation referred to in subsection (2)) becomes installed in the Commonwealth offshore area;

14 After paragraph 49B(2)(b)

Insert:

- or (c) an overseas offshore electricity installation is brought to a place in Australia and is to be taken from that place into the Commonwealth offshore area for the purposes of being installed in that area;

15 Subsection 58(6)

Repeal the subsection, substitute:

- (6) A reference in this section to a ship or aircraft entering, or being brought to, a place other than a port or airport is to be read as including a reference to the ship or aircraft being brought to a ship that is at:
 - (a) an overseas resources installation; or
 - (b) an overseas sea installation; or
 - (c) an overseas offshore electricity installation.

16 After subparagraphs 58A(2)(a)(ii), (3)(a)(ii), (4)(a)(ii) and (5)(a)(ii)

Insert:

- or (iii) an offshore electricity installation installed in the Commonwealth offshore area;

17 Subsection 61(1)

Repeal the subsection, substitute:

- (1) A person commits an offence if:
 - (a) the person is:
 - (i) the master of a ship who permits the ship to be boarded;
 - or

- (ii) the pilot of an aircraft who permits the aircraft to be boarded; or
 - (iii) the master of a resources installation; or
 - (iv) the owner of a sea installation; or
 - (v) the owner of an offshore electricity installation; and
- (b) the person does not, by all reasonable means, facilitate the boarding of the ship, aircraft or installation by a person who is authorised under this Act to board the ship, aircraft or installation.

Penalty: 60 penalty units.

18 After paragraph 126A(2)(b)

Insert:

- or (c) an offshore electricity installation is taken from a place in Australia into the Commonwealth offshore area for the purpose of being installed in that area;

19 Paragraph 175(3B)(d)

Repeal the paragraph, substitute:

- (d) 500 metres of:
 - (i) an Australian resources installation; or
 - (ii) an Australian sea installation; or
 - (iii) an Australian offshore electricity installation.

20 Subsection 183UA(1) (subparagraph (a)(i) of the definition of *forfeited goods*)

After “228B,” insert “228C,”.

21 At the end of paragraph 187(a)

Add “or”.

22 At the end of subparagraphs 187(b)(i) and (iii)

Add “or”.

23 At the end of paragraph 187(c)

Add “or”.

24 At the end of subparagraphs 187(d)(i) and (iii)

Add “or”.

25 At the end of paragraph 187(e)

Add “or”.

26 After paragraph 187(e)

Insert:

- (ea) board any Australian offshore electricity installation:
 - (i) that is subject to customs control; or
 - (ii) at which there is a ship or aircraft that has come to the installation from a place outside Australia; or
 - (iii) on which an officer has reasonable grounds to believe there are goods that are subject to customs control; or
- (eb) board an overseas offshore electricity installation in respect of which permission under section 5BA has been granted; or

27 Paragraph 187(f)

Omit “or (e)”, substitute “, (e), (ea) or (eb)”.

28 Paragraph 187(g)

Omit “or (e)”, substitute “, (e), (ea) or (eb)”.

29 Paragraph 195(1)(a)

Omit “or (e)”, substitute “, (e), (ea) or (eb)”.

30 After section 228B

Insert:

228C Forfeited offshore electricity installations

An offshore electricity installation is forfeited to the Crown if the installation:

- (a) was an overseas offshore electricity installation immediately prior to being installed in the Commonwealth offshore area; and

(b) is installed in that area without the permission of the Comptroller-General of Customs granted under subsection 5BA(4).

31 Subsection 269T(1) (paragraph (a) of the definition of *importer*)

Omit “(b) or (d)”, substitute “(b), (d) or (f)”.

32 Subsection 269T(1) (at the end of the definition of *importer*)

Add:

- ; or (f) if the goods are taken from parts beyond the seas to an Australian offshore electricity installation or are goods on board an overseas offshore electricity installation at the time when it is installed in the Commonwealth offshore area—the beneficial owner of the goods at the time when they are imported into Australia; or
- (g) if the goods are an overseas offshore electricity installation that becomes installed in the Commonwealth offshore area—the beneficial owner of the installation at the time when it is imported into Australia.

33 Application provision

The amendments made by this Schedule apply after the commencement of this item to an offshore electricity installation that was constructed, installed or decommissioned before or after that commencement.

Schedule 2—Amendment of the Offshore Electricity Infrastructure Act 2021

Offshore Electricity Infrastructure Act 2021

1 Section 8

Insert:

Registrar’s Department means the Department of State of the Commonwealth that the Registrar is an SES employee in.

2 After paragraphs 10(3)(d) and 11(3)(d)

Insert:

; (e) any infrastructure, structure or installation of a kind prescribed by the regulations for the purposes of this paragraph.

3 Subparagraph 72(1)(c)(ii)

Omit “notice”, substitute “licence”.

4 After paragraph 114(2)(d)

Insert:

(da) procedures for the Regulator to assess and provide feedback on a design referred to in paragraph (d);

5 At the end of Division 2 of Part 1 of Chapter 4

Add:

115A Publication of summaries of plans and management plans

The Regulator may publish, on the Regulator’s website, a summary of the following:

- (a) a plan submitted to the Regulator for approval under the licensing scheme for a licence;
- (b) a management plan for a licence.

6 At the end of Division 3 of Part 1 of Chapter 4

Add:

116A Notification of offshore infrastructure activities

The regulations may prescribe requirements for a licence holder to notify the Regulator in relation to the following:

- (a) the commencement of an offshore infrastructure activity in the licence area;
- (b) the completion of an offshore infrastructure activity in the licence area.

7 Paragraphs 117(3)(a) and (3)(c) and (4)(d)

Omit “the Regulator”, substitute “the Minister”.

8 Section 152

Omit “the Department”, substitute “a Department of State of the Commonwealth and is”.

9 Paragraph 153(2)(a)

Omit “the Department”, substitute “any Department of State of the Commonwealth”.

10 Paragraphs 156(1)(a) and (b)

Omit “the Department”, substitute “any Department of State of the Commonwealth”.

11 Section 158 (heading)

Omit “**in the Department**”, substitute “**made available**”.

12 Section 158

Omit “the Department who are made available for the purpose by the Secretary”, substitute “any Department of State of the Commonwealth who are made available for the purpose by the Secretary of that Department”.

13 At the end of section 171

Add:

- (3) The Secretary of the Registrar's Department is responsible for the Offshore Infrastructure Registrar Special Account.

14 At the end of section 189

Add:

- (6) The regulations may provide for the remittal or refund of all or part of a fee referred to in subsection (1).

15 Paragraph 215(3)(b)

After "Secretary", insert "of the Registrar's Department".

16 Subsection 215(5)

Repeal the subsection, substitute:

- (5) The Secretary of the Registrar's Department may delegate the relevant chief executive's powers and functions under Part 5 of the Regulatory Powers Act in relation to the provisions for which that Secretary is the relevant chief executive to an SES employee, or acting SES employee, in the Registrar's Department.

17 Subsection 219(3)

Omit "Department's website", substitute "website of the Registrar's Department".

18 Section 290

After "the Secretary,", insert "the Secretary of the Registrar's Department,".

19 After paragraph 293(1)(b)

Insert:

- (ba) the Secretary of the Registrar's Department;

20 Paragraph 303(1)(c)

After "the Department", insert "or the Registrar's Department".

*[Minister's second reading speech made in—
House of Representatives on 28 September 2022
Senate on 27 October 2022]*

(97/22)