



Welcome to the General Policy Review Bulletin #10

June 2008

Offshore Petroleum Act (2006) Update

I am pleased to advise that His Excellency the Governor-General in Council approved on 24 June 2008 by Proclamation that 1 July 2008 be fixed as the day on which sections 3 to 5 of the OPA commence.

This means that the OPA and associated Acts will come into effect and the *Petroleum (Submerged Lands) Act 1967* (PSLA) and associated Acts will be repealed from 1 July 2008.

The OPA and associated Acts are:

- *Offshore Petroleum Act 2006;*
- *Offshore Petroleum (Annual Fees) Act 2006;*
- *Offshore Petroleum (Registration Fees) Act 2006;*
- *Offshore Petroleum (Royalty) Act 2006;*
- *Offshore Petroleum (Safety Levies) Amendment Act 2006;*
- *Offshore Petroleum (Repeals and Consequential Amendments) Act 2006;*
- *Offshore Petroleum Amendment (Greater Sunrise) Act 2007; and*
- *Offshore Petroleum Amendment (Miscellaneous Measures) Act 2008.*

The PSLA and associated Acts are:

- *Petroleum (Submerged Lands) Act 1967;*
- *Petroleum (Submerged Lands) Fees Act 1994;*
- *Petroleum (Submerged Lands) (Registration Fees) Act 1967;*
- *Petroleum (Submerged Lands) (Royalty) Act 1967.*

The OPA is a rewrite of the PSLA to bring its language, style and structure up to modern standards. The PSLA was rewritten to simplify the presentation of the legislation after many years of operation and amendments. This will make the Act easier to understand and aims to reduce compliance and administrative costs to

government and industry, without changing any major policies or the current management regime.

Industry, regulators and other stakeholders were extensively consulted during the re-write of the PSLA and have been awaiting proclamation of the OPA which received Royal Assent on 29 March 2006. The OPA provides changes to the structure and style of the legislation but implements only a modest number of minor policy changes from the framework set out in the PSLA.

The OPA introduces a number of incidental minor policy changes. These deal with anomalies and past drafting errors that were detected in rewriting the PSLA or update provisions that, on account of their age, were out of line with current Australian Government legislative drafting principles. These minor policy changes were spelt out in detail in the Explanatory Memorandum that was prepared at the time the Offshore Petroleum Bill was introduced into the Parliament in 2005 (refer below).

To assist with the transition from the PSLA to OPA, I draw stakeholders' attention to the following:

1. You can find the OPA and related Acts on the **COMLAW** website (www.comlaw.gov.au). The direct link is <http://agsearch.ag.gov.au/clsearch/home?query=Offshore+Petroleum+Act&new=1> Please note that the version of the OPA on this website does not currently incorporate the amendments brought in by the *Offshore Petroleum Amendment (Greater Sunrise) Act 2007* and the *Offshore Petroleum Amendment (Miscellaneous Measures) Act 2008*. However we have been advised that the OPA will be updated to include these amendments on the COMLAW website on or very shortly after 1 July 2008.

2. The Explanatory Memorandum from 2005 can also be found on the **COMLAW** website. Click on the following link to access, [http://www.comlaw.gov.au/ComLaw/Legislation/Bills1.nsf/0/2366220473A80D97CA257030000A0DAF/\\$file/05098EM.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/Bills1.nsf/0/2366220473A80D97CA257030000A0DAF/$file/05098EM.pdf). In the notes on the individual clause, each note about an individual clause is followed by an endnote titled "Equivalent provision in the PSL Act", indicating the section of the PSLA that corresponds to the provision of the Bill that was being discussed. If the clause in question contained one or more technical changes from the text of the PSLA, that fact was noted and the nature of the change(s) was summarised under the abovementioned endnote. If the clause contained one or more policy changes from the provisions of the PSLA, that fact was likewise noted and the nature of the change(s) was likewise summarised. The Explanatory Memorandum also included a concordance table (Annex B) which is a very useful tool which enables a quick comparison of equivalent provisions of the OPA and PSLA. A copy of the concordance table is attached.

Section 15AC of the *Acts Interpretation Act 1901* provides that, where an Act has expressed an idea in a particular form or words and a later Act appears to have expressed the same idea in a different form of words for the purpose of using a clearer style, the ideas shall not be taken to be different merely because different forms of words were used. This means that, unless a note in the explanatory memorandum indicates that a policy change was intended in relation to a particular clause, any difference in language between the provision in the OPA and the relevant provision of

the PSLA that it replaces should not be seen as reflecting an intention to change the policy set out in the original provision.

3. The OPA includes, in Schedule 6 (section 4), transitional provisions to ensure that old titles, eligible instruments (including regulations under the PSLA, offers of title under the PSLA or delegations of Joint Authority or Designated Authority powers under the PSLA), certain acts or things done before commencement (such as applications for titles under the PSLA), conditions of old titles, and references in documents under the PSLA continue to have effect under the OPA.

Stakeholders would also likely be aware that the Offshore Petroleum (Greenhouse Gas Storage) Amendment Bill 2008 is likely to be introduced into the Parliament later in 2008. When enacted, these amendments will result in significant amendment to the OPA and renaming to the Offshore Petroleum and Greenhouse Gas Storage Act. When these amendments are enacted, possibly later in 2008, the existing sections of the OPA will be renumbered. Stakeholders should be aware that this renumbering of the sections in the OPA is likely within the next five to twelve months and keep this in mind if they propose to update their operating manuals before the renumbering occurs. When the renumbering occurs, RET will revise the Concordance Table and circulate it to stakeholders.

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This occasional newsletter was prepared by the Resources Division, of the Department of Resources, Energy and Tourism.