



## Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2008

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## Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2008

**Date introduced:** 13 February 2008

**House:** House of Representatives

**Portfolio:** Minister for Resources, Energy and Tourism

**Commencement:** Sections 1-3 - on Royal Assent.

Schedule 1 Parts 1-7, items 24-31, 33-41 – immediately after commencement of section 3 of the *Offshore Petroleum Act 2006*.<sup>1</sup>

Schedule 1 item 32 – immediately after commencement of subsections 22(3) and (4) of the *Offshore Petroleum Act 2006*.<sup>2</sup>

**Links:** The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed, they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

## Introduction

The Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2008 (the Bill) is being reintroduced by the new Federal government.

The Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2007 (the 2007 Bill) had been introduced into the Senate on 15 August 2007 and was passed by the Senate on 13 September 2007. However, the 2007 Bill did not progress further before Parliament was prorogued on 15 October 2007.

## Purpose

The Bill has three primary objects, which are to:<sup>3</sup>

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1. Section 3 of the *Offshore Petroleum Act 2006* will commence on proclamation: *Offshore Petroleum Act 2006*, section 2.
  2. Subsections 22(3) and (4) of the *Offshore Petroleum Act 2006* will commence on proclamation: *ibid*.
  3. See Explanatory Memorandum, 'Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2008, p. 2.

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- correct technical errors in the *Offshore Petroleum Act 2006* (the Offshore Petroleum Act)
- implement a policy change by repealing section 327 of the Offshore Petroleum Act, which relates to declarations of emergency by the Commonwealth Minister, and
- convert geodetic data references of area descriptions in Schedules 1 and 2 of the Bill to the Geocentric Datum of Australia (GDA 94).

Please refer below for meanings of technical terms.

## Background

### History

The Offshore Petroleum Act is intended to replace the long-standing *Petroleum (Submerged Lands) Act 1967* (the Petroleum (Submerged Lands) Act). It is essentially a revamp of the Petroleum (Submerged Lands) Act and does not introduce any major policy changes. The Petroleum (Submerged Lands) Act has been the primary legislation for the administration of Australia's offshore petroleum resources for 40 years and, through age and many amendments, it has become complex and unwieldy.

The Offshore Petroleum Act was assented to on 29 March 2006. However, the main provisions of the Offshore Petroleum Act have not yet come into force and are not expected to do so before this Bill comes into force.<sup>4</sup> Further background on both Acts, including Commonwealth, State and Territory cooperative arrangements, can be found in the [Bills Digest](#) for the Offshore Petroleum Act.

### Explanation of 'geodetic datum'

According to the explanatory memorandum, a 'geodetic datum' is a

mathematical model of the world.<sup>5</sup>

The previous geodetic datum was designed for the mainland and its centre was not the centre of the earth.<sup>6</sup>

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4. For commencement details of the Bill, see Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2008 item 2. See also Standing Committee on Economics, *Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2007*, report to the Senate, Senate, Parliament House, Canberra, September 2007, paragraph 2.2.
  5. Explanatory Memorandum, op cit.

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However, new global positioning systems are more suited to an earth centred or *geocentric* datum.<sup>7</sup>

The conversion to the geocentric datum means that the same point on the earth now has different coordinates.<sup>8</sup> These are built into the amendments.

## Senate Standing Committee on Economics

The 2007 Bill was referred to the Senate Standing Committee on Economics (the Committee) by the Senate on 16 August 2007.

The Committee received one submission in relation to the 2007 — from the Australian Petroleum Production & Exploration Association Limited (APPEA). APPEA supported the ‘intent’ of the 2007 Bill on the basis that the amendments were mainly of a technical nature.<sup>9</sup>

The Committee recommended that the Senate pass the Bill largely due to the amendments being essentially technical in nature and the lack of concerns raised in submissions.<sup>10</sup>

## Financial implications

According to the Explanatory Memorandum, there are no financial implications to the Government as most of the amendments are purely technical.<sup>11</sup>

The Explanatory Memorandum to the Bill submitted that the conversion to geocentric datum will have no impact on existing titles as it represents a shift of not more than plus or minus 0.15 metre.<sup>12</sup> It is noted that the Committee accepted this information.<sup>13</sup>

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6. *ibid.*

7. *ibid.*

8. *ibid.*

9. Standing Committee on Economics, *op cit.*, p. 5; APPEA, *Submission – Inquiry into the Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2007*, 24 August 2007.

10. Standing Committee on Economics, *op cit.*, p. 6.

11. Explanatory Memorandum, *op cit.*, p. 3.

12. *ibid.*, p. 2.

13. Standing Committee on Economics, *op cit.*, p. 4.

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## Regulatory implications

According to the Explanatory Memorandum, there will be no new regulatory burdens on the petroleum industry imposed by the Bill.<sup>14</sup>

## Main provisions

This digest will focus on key amendments proposed by the Bill.

### Schedule 1

#### Part 1

**Items 1, 2 and 4** set out three amendments to **section 6**, as well as **subsections 139(1) (table item 3) and 139(3)** of the Offshore Petroleum Act that deal with the duration of production licences.

**Item 3** inserts a **new subsection 139(1) (table item 3A)**.

It was government policy that production licences be renewed under these provisions (and their equivalent in the Petroleum (Submerged Lands) Act) and that first renewals of production licences be for 21 years.<sup>15</sup> However, due to drafting ambiguity in the Petroleum (Submerged Lands) Act, production licences due for their first renewal were entitled to be renewed for an indefinite duration instead of 21 years.<sup>16</sup> The amendments will ensure that, once the Offshore Petroleum Act replaces the Petroleum (Submerged Lands) Act, those production licences that were renewed for an indefinite duration at first renewal are preserved, but any subsequent renewals will only be granted for a 21 year term.

#### Part 3

**Items 7-18** propose amendments to correct technical errors in relation to the terms ‘territorial sea’ and ‘coastal waters’, thereby ensuring that sea boundaries continue to be determined as agreed to in the Offshore Constitutional Settlement 1979.<sup>17</sup>

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14. Explanatory Memorandum, op cit., p. 3.

15. *ibid.*, p. 4.

16. *ibid.*

17. *ibid.*, p. 5.

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These amendments relate to the accepted territorial sea baseline that applies to the Offshore Petroleum Act. It is proposed that the definition of coastal waters would include that for the purposes of the Offshore Petroleum Act, the breadth of the territorial sea of Australia is three, not 12, nautical miles.<sup>18</sup>

#### Part 4

**Item 19** proposes to correct a technical error in **subsection 142(6)** of the Offshore Petroleum Act, to the effect that the requirement that applications for either production licences, or variations to such applications, must both be accompanied by work and expenditure proposals. Existing subsection 142(6) implies the requirement only applies to varied applications.

#### Part 5

**Items 20 and 21** propose to repeal **section 327** and a preceding **note** (referring to section 327) in **section 326** of the Offshore Petroleum Act.

**Section 327** relates to states of emergency and declarations of a state of emergency by the Commonwealth Minister (the Minister for Resources, Energy and Tourism). Such declarations can be made in respect of prescribed safety zones in certain circumstances where there is a likely threat of terrorist activity. It is stated that the Minister has never had to make such a declaration and that this situation is better covered by the *Maritime Transport and Offshore Facilities Security Act 2003*.<sup>19</sup>

#### Part 8

**Items 24-37** propose amendments to **sections 20-23**, as well as **Schedules 1 and 2** of the Offshore Petroleum Act relating to converting the datum from the Australian Geodetic Datum to the Geocentric Datum of Australia (as explained earlier).

#### Part 9

**Item 41** proposes that when the CEO of the National Offshore Petroleum Safety Authority delegates functions or powers under **section 385** of the Offshore Petroleum Act, the delegate must comply with the CEO's directions when performing functions, as well as exercising powers.

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18. *ibid.*, p. 5.

19. *ibid.*

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## Concluding comments

This Bill appears to propose largely technical corrections, as well as a policy change, that do not obviously affect rights and entitlements of holders of permits.

In certain cases, the proposals would clarify existing rights.

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