



Offshore Petroleum (Registration Fees) Amendment (Greenhouse Gas Storage) Bill 2008

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Contents

Purpose.	2
Background.	2
The Register of Petroleum Titles	2
The Register of Greenhouse Gas Titles.	3
Fees are imposed as a Tax	3
Financial implications	4
Main provisions.	4

Offshore Petroleum (Registration Fees) Amendment (Greenhouse Gas Storage) Bill 2008

Date introduced: 18 June 2008

House: Representatives

Portfolio: Resources, Energy and Tourism

Commencement: Sections 1 to 3, on the day of the Royal Assent; Schedules 1-3, in accordance with the commencement of various schedules of the *Offshore Petroleum Amendment (Greenhouse Gas Storage) Act 2008*.

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/>.

Purpose

To amend the *Offshore Petroleum (Registration Fees) Act 2006* (OP (Registration Fees) Act) to include references to greenhouse gas titles; and to impose fees for:

- registration of the transfer of a greenhouse gas title, and
- registration of an approval of a dealing in relation to a greenhouse gas title.

Background

The register for the transfers of and dealings in greenhouse gas titles is created by provisions contained in Chapter 3A of the *Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008*.

This bill imposes a fee in the following circumstances:

- when the transfer of a greenhouse gas title is registered, and
- when an approval by the responsible Commonwealth Minister of a dealing in relation to a greenhouse gas title is registered.

The Register of Petroleum Titles

The provisions about registration of greenhouse gas titles mirror provisions in the *Offshore Petroleum Act 2006* (OPA) dealing with petroleum titles which are contained in Chapter 3

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of the OPA. In the case of petroleum titles, the transfer of and dealings in petroleum titles, are entered on the register of titles which is kept by the Designated Authority.¹ A transfer of a petroleum title must be approved by the Designated Authority and the instrument of transfer registered. Similarly, a dealing relating to a petroleum title must be approved by the Designated Authority and that approval entered in the Register. A fee is imposed for the registration of the transfer of a petroleum title and the approval of a dealing in relation to a petroleum title. Both of these fees are imposed as a tax.

The Register of Greenhouse Gas Titles

By contrast, the responsible Commonwealth Minister keeps the Register for greenhouse gas titles. The transfer of a greenhouse gas title must be approved by the responsible Commonwealth Minister and an instrument of transfer registered under Part 3A.1 of the Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008. A dealing in a greenhouse gas title must also be approved by the responsible Commonwealth Minister and the approval must be entered in the register.

An example of ‘a dealing’ is to be found in **proposed section 298-252** Dealing-series of debentures. For example ‘for the purposes of Chapter 3A, if a dealing forms a part of the issue of a series of debentures, all of the dealings constituting the issue of that series of debentures are taken to be one dealing.’² **Proposed section 298-269**³ lists the effects of dealings.

Fees are imposed as a Tax

The imposition of a fee for the transfer of a greenhouse gas title and the imposition of a fee for the approval of a dealing relating to a greenhouse gas title are both imposed as a tax.

Section 51(ii) of the Constitution gives the Commonwealth the power to legislate with respect to taxation. Section 55 of the Constitution requires that laws imposing a tax deal with only one subject of taxation. For this reason, the matters relating to the imposition of the taxes are contained in this Bill and not the Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008.

1 Designated Authority is defined in section 50 of the *Offshore Petroleum Act 2006*. In the case of a State, the designated authority is the responsible State Minister.

2 Proposed section 298-252, Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008, p. 263.

3 *ibid*, p. 271.

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Financial implications

No mention is made about any financial implications for this Bill in the Explanatory Memorandum or the Second reading speech of the Minister. There may be some possible increase in costs relating to the maintenance of the Register depending on numbers of transactions to be recorded.

Main provisions

The Bill contains three schedules.

Items 1-16 of Schedule 1 contain general amendments so that the words ‘and Greenhouse Gas Storage’ are added to existing references to ‘Offshore Petroleum’ in the *Offshore Petroleum (Registration Fees) Act 2006*.

Item 17 of Schedule 1 inserts **proposed sections 6A and 6B** into the OP (Registration of Fees) Act. **Proposed section 6A** imposes a fee to make an entry in the Register for a transfer of a greenhouse gas title. The amount of the fee is worked out using the table in **proposed subsection 6A(2)**. The fee in respect of **item 1** in the table is calculated as a percentage of the value of the consideration for the transfer or the value of the title transferred. The fees in respect of **items 2-4** of the table are amounts prescribed by regulations. The fee is imposed as a tax (**proposed subsection 6A(4)**).

Proposed section 6B imposes a fee to register the approval of a dealing where the entry is made under section 298-276 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.⁴ The amount of the fee is worked out using the table in **proposed subsection 6B(2)**. For **items 1-4** of the table provide for fees which are calculated as a percentage of the value of the consideration for the dealing or the value of the interest. The fees in respect of **items 5 and 6** of the table are amounts prescribed by regulations.

Items 1-3 of Schedule 2 of the Bill contain amendments which omit references to the term ‘production licence’ and insert the term ‘petroleum production licence’ in the OP (Registration of Fees) Act.

Items 1-12 of Schedule 3 of the Bill contain amendments to the OP (Registration of Fees) Act which change references to renumbered provisions.

4. This title of the Act will apply once the Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008 has passed.

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