

Chapter 2

Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2007

2.1 This bill implements a policy change repealing section 327 of the *Offshore Petroleum Act 2006* which gives the Minister certain emergency powers in the Bass Strait. It also converts geodetic data references of the area descriptions in the Act from Australian Geodetic Datum to the current Geocentric Datum of Australia. Finally, the bill makes technical amendments to the Act.

Background to the Offshore Petroleum Act

2.2 The *Offshore Petroleum Act 2006* was a rewrite of the *Petroleum (Submerged Lands) Act 1967*, which has been the primary legislation for the administration of Australia's offshore petroleum resources for 40 years. The Petroleum (Submerged Lands) Act had become complex and unwieldy due to its age and amendments made to it over the years.¹ The Offshore Petroleum Act made changes to the structure and style of the Petroleum (Submerged Lands) Act but it sought to implement only a small number of minor policy adjustments from the previous framework.

2.3 The Offshore Petroleum Act received Royal Assent on 29 March 2006 but the bulk of its provisions have not yet been proclaimed. This is because the States and Northern Territory need to amend their mirror legislation before the Federal legislation can commence. The committee understands that only Western Australia and Tasmania are still to do this and proclamation is likely to occur later this year.²

The bill

2.4 This section considers the amendments in the bill — the repeal of section 327, the conversion of data references and the technical amendments.

Emergency declarations—Repeal of section 327

2.5 Part 5 of the bill repeals section 327 of the Offshore Petroleum Act. The Explanatory Memorandum describes this amendment as a 'minor policy change'. Currently section 327 allows the Minister to exercise emergency powers relating to terrorist activity in the area to be avoided,³ offshore Victoria in the Gippsland Basin.

1 Bills Digest, Parliamentary Library, Offshore Petroleum Bill 2005, 16 August 2005, no. 27, 2005–06, p. 2.

2 Telephone conversation with departmental officer from the Department of Industry, Science and Resources, 23 August 2007.

3 This area is defined in Schedule 2 of the Offshore Petroleum Act.

2.6 The Explanatory Memorandum to the bill states that the repeal of the section is because a more comprehensive and broader security regime has been implemented under the *Maritime Transport and Offshore Facilities Security Act 2003*.

Datum

2.7 Part 8 of the bill converts the geodetic data references of the area descriptions in Schedules 1 and 2 of the Offshore Petroleum Act to the current Geocentric Datum of Australia (known as GDA 94) which is more compatible with the Global Positioning System (GPS) and will more accurately reflect the positioning of coordinates.

2.8 A geodetic datum is a mathematical model of the world. The old Australian Geodetic Datum (AGD 66) was a mathematical model which has been in place since 1966 and was designed to fit well with the Australian mainland. As such, its centre was not the centre of the earth. The Geocentric Datum of Australia 1994 (GDA 94) is a coordinate reference system that best fits the shape of the earth as a whole. It has an origin that coincides with the centre of mass of the earth, hence the term 'geocentric'.

2.9 The change in datum means that the same point on the earth now has slightly different coordinates. The conversion, which is to the accuracy of 2 decimal places of a second of latitude and longitude, will have an almost negligible effect on the actual position of these points. The Explanatory Memorandum advises that, on the seabed, this would physically represent no more than a plus or minus 0.15 of a metre shift. There will also be no impact on existing titles. Timing and other factors prevented its inclusion into the original Offshore Petroleum Act.

Technical amendments

2.10 The bill makes the following technical corrections after the rewrite of the Petroleum (Submerged Lands) Act (PSLA):

- specifying the duration of certain production licences granted since 1998;
- extending the operation of amendments made to the PSLA by the 'Workchoices' amendments to the Offshore Petroleum Act (OPA);
- ensuring that sea boundaries continue to be determined on the basis agreed to in the 1979 Offshore Constitutional Settlement;
- amending subsection 142(6) of the OPA to ensure that this provision applies to both an unvaried application and a varied application;
- ensuring that section 321 of the OPA is an Occupational Health and Safety (OHS) law only to the extent that section 321 relates to conduct that affects, or has the potential to affect, the health or safety of members of the workforce at a facility (within the meaning of Schedule 3 to the OPA); and
- expanding section 48(1) to allow delegation of powers under the Regulations.

Evidence received by the Committee

2.11 The committee received one submission, from the Australian Petroleum Production & Exploration Association Limited (APPEA), in relation to this bill. APPEA supports the intent of the bill 'on the basis that [the] amendments are primarily technical'.⁴

Listed OHS laws

2.12 Section 348 of the Offshore Petroleum Act itemises the 'listed OHS laws' which are the substantive occupational health and safety laws for which the regulatory responsibility lies with the National Offshore Petroleum Safety Authority (NOPSA). The section provides a convenient means by which to refer to this group of laws within other provisions of the Act.

2.13 Item 22 of the bill replaces paragraph 348(1)(a) of the OPA to correct an inadvertent technical error whereby the phrase 'that affects, or has the potential to affect, the health or safety of members of the workforce at a facility (within the meaning of Schedule 3 of this Act)' was intended to apply to subparagraphs (i), (ii) and (iii) of paragraph 348(1)(a), but, as it currently stands, only applies to subparagraph (iii).

2.14 At the committee's hearing, Senator Webber raised concerns about the oversight of occupational health and safety issues in the offshore petroleum industry.⁵ Primarily the Senator was seeking reassurance that there would be no weakening of occupational health and safety in the offshore petroleum industry and maritime safety.

2.15 Mr Robert Pegler, General Manager, Offshore Resources Branch, Department of Industry, Tourism and Resources, told the committee that 'if anything, we will see a strengthening of the regime because it will mean that a full safety case, a full evaluation and a full audit will apply to all vessels'⁶ over which NOPSA has oversight.

2.16 Mr Pegler explained that NOPSA has responsibility for pursuing all of the occupational health and safety issues that relate both to facilities and to the operation of and activities on those facilities.⁷ Facilities are permanent structures that do not move, although the definition can also apply to vessels, for example if a vessel is a production facility such as a floating offshore production ship (FPSO). When something is not a facility, for example a transport vessel such as an oil or gas tanker, the Navigation Act applies to the related maritime activities.⁸

4 Australian Petroleum Production & Exploration Association Limited (APPEA), *Submission 1*.

5 Senator Webber, *Proof Committee Hansard*, 28 August 2007, p. 65

6 Mr Pegler, *Proof Committee Hansard*, 28 September 2006, p. 66.

7 Mr Pegler, *Proof Committee Hansard*, 28 September 2006, p. 65.

8 Mr Pegler and Ms Di Marco, *Proof Committee Hansard*, 28 September 2006, pp 65 and 66.

Conclusion

2.17 In the light of the generally technically nature of the amendments in the bill, as well as the lack of concerns raised in submissions to the inquiry, the committee recommends that the Senate pass the bill.

Recommendation

The committee recommends that the Senate pass the bill.

A handwritten signature in blue ink, appearing to read 'Michael Ronaldson', is written over a light grey rectangular background.

Senator the Hon. Michael Ronaldson

Chair