

2016-2017-2018

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**TIMOR SEA MARITIME BOUNDARIES TREATY CONSEQUENTIAL
AMENDMENTS BILL 2018**

**PASSENGER MOVEMENT CHARGE AMENDMENT (TIMOR SEA MARITIME
BOUNDARIES) TREATY BILL 2018**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Resources and Northern Australia,
Senator the Honourable Matthew Canavan)

**TIMOR SEA MARITIME BOUNDARIES TREATY CONSEQUENTIAL
AMENDMENTS BILL 2018**

**PASSENGER MOVEMENT CHARGE AMENDMENT (TIMOR SEA MARITIME
BOUNDARIES TREATY) BILL 2018**

OUTLINE

The Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2018 (the Bill) is the first tranche of legislation which amends Commonwealth legislation to partially implement the *Treaty Between Australia and the Democratic Republic of Timor-Leste Establishing Their Maritime Boundaries in the Timor Sea* (New York, 6 March 2018) [2018] ATNIF 4 (the Treaty). The Government intends to introduce a second tranche of legislation to give effect to the remaining provisions of the Treaty in 2019. All legislation required to implement the Treaty must pass before the Treaty can enter into force. The Treaty establishes permanent maritime boundaries between Australia and Timor-Leste and a regulatory framework for petroleum development in the Timor Sea. When it enters into force, the Treaty will supersede and replace the provisional arrangements agreed in the *Timor Sea Treaty Between the Government of East Timor and Government of Australia* (Dili, 20 May 2002) [2003] ATS 13 (the Timor Sea Treaty) and the *Agreement between the Government of Australia and the Government of the Democratic Republic of Timor-Leste relating to the Unitisation of the Sunrise and Troubadour Fields* (Dili, 6 March 2003) [2007] ATS 11 (the Greater Sunrise unitisation agreement).

The Passenger Movement Charge Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2018 (the PMC Amendment Bill) makes consequential amendments to the *Passenger Movement Charge Act 1978*.

Permanent maritime boundaries

The Treaty permanently delimits the continental shelf boundary and the exclusive economic zone boundary between Australia and Timor-Leste, and allows for a future adjustment of the lateral continental shelf boundaries subject to specific conditions being met. The Bill makes consequential amendments to Commonwealth legislation to reflect the new permanent boundaries and the fact that certain oil and gas fields in the Timor Sea will transition from Australian or shared jurisdiction to exclusive Timorese jurisdiction.

Greater Sunrise Special Regime

A significant aspect of the Treaty is the establishment of the Greater Sunrise Special Regime in the Special Regime Area. The Special Regime Area is an area extending over the Sunrise and Troubadour gas and condensate fields, collectively known as the Greater Sunrise fields. The objective of the Greater Sunrise Special Regime is the joint development, exploitation and management of petroleum in the Greater Sunrise fields for the benefit of both States. The Bill gives effect to part of these arrangements in Australian law.

The Treaty provides that in the Special Regime Area, Australia and Timor-Leste jointly exercise their sovereign rights as coastal states under Article 77 of the *United Nations Convention on the Law of the Sea* (Montego Bay, 10 December 1982) [1994] ATS 31.

Australia and Timor-Leste will cooperatively exercise jurisdiction in the Special Regime Area in accordance with the Greater Sunrise Special Regime set out in Annex B of the Treaty. The Bill domestically implements this Special Regime Area by amending the *Seas and Submerged Lands Act 1973* to establish and define the *Greater Sunrise special regime area* as an area over which Australia will exercise its rights as a coastal state jointly with Timor-Leste.

The Bill also gives domestic effect to Articles 6, 7 and 8 of Annex B to the Treaty, which establishes a two-tiered administrative and governance structure involving Australia and Timor-Leste to govern the joint development, exploitation and management of petroleum in the Special Regime Area for the benefit of both Parties.

The Timor-Leste statutory authority responsible for the petroleum sector will act as the Designated Authority to carry out the day-to-day regulation and management of petroleum activities on behalf of Australia and Timor-Leste.

The Governance Board will comprise one representative appointed by Australia and two representatives appointed by Timor-Leste. The Governance Board will provide strategic oversight over the Greater Sunrise Special Regime and establish and oversee an assurance and audit framework for revenue verification and offshore petroleum regulation and administration.

A Dispute Resolution Committee will be an independent board mandated to hear matters referred to it by the Designated Authority, the Governance Board or the Greater Sunrise Contractor (being the person authorised to undertake exploitation activities in the Special Regime Area). The Bill provides that as a matter of domestic law, these entities exercise Australia's rights and responsibilities relating to Petroleum Activities as defined in the Treaty, in accordance with the terms of the Treaty.

The Treaty provides that the Greater Sunrise Special Regime will remain in force until 'commercial depletion' of the Greater Sunrise fields. The Bill amends the *Seas and Submerged Lands Act 1973* to provide for the cessation of the Division establishing the *Greater Sunrise special regime area* when that the Greater Sunrise Special Regime ceases.

FINANCIAL IMPACT STATEMENT

In terms of financial costs, Australia and Timor-Leste have agreed that, from the date the Treaty enters into force, Timor-Leste will receive all future upstream revenue derived from petroleum activities from Kitan oil field and Bayu-Undan gas fields.¹ Previously, both Australia and Timor-Leste received benefits from revenue derived from petroleum activities in the JPDA including these two fields. In addition, Australia and Timor-Leste have agreed that the Buffalo oil field, which previously fell within the continental shelf of Australia, will fall within the continental shelf of Timor-Leste. Accordingly, Timor-Leste will receive all future revenue from the Buffalo oil field.

¹ Estimated amount not to be disclosed for commercial-in-confidence reasons.

The development of the Greater Sunrise fields is expected to yield Australia an estimated US\$2 to 8 billion in revenue over the life of the project. The revenue is dependent on the terms of the development concept that is to be agreed between Australia, Timor-Leste and the Greater Sunrise Joint Venture for the development of the Greater Sunrise fields. The exact financial benefit to Australia will depend on a range of factors, including the chosen development concept, economics of the project and prevailing market prices for oil and gas.

The Designated Authority responsible for the day-to-day regulation and management of Petroleum Activities in the Special Regime Area will be self-funded by fees collected under the applicable Petroleum Mining Code and the Greater Sunrise Production Sharing Contract (to be entered into between the Designated Authority and the Greater Sunrise Contractor for the production of petroleum from the Greater Sunrise fields).

The domestic implementation of the Treaty benefits Australia and provides certainty and stability for investors in establishing an international legal basis for the continued development of major oil and gas deposits in the Timor Sea.

CONSULTATION

In developing this Bill and the PMC Amendment Bill, consultation was undertaken with relevant Departments and agencies across the Commonwealth, including:

- Australian Federal Police
- Australian Maritime Safety Authority
- Geoscience Australia
- National Offshore Petroleum Safety and Environmental Management Authority
- National Offshore Petroleum Titles Administrator
- Parks Australia
- The Attorney-General's Department
- The Australian Fisheries Management Authority
- The Department of Agriculture and Water Resources
- The Department of Communications and the Arts
- The Department of Defence
- The Department of the Environment and Energy
- The Department of Foreign Affairs and Trade
- The Department of Home Affairs
- The Department of Infrastructure, Regional Development and Cities
- The Department of Jobs and Small Business
- The Department of Prime Minister and Cabinet
- The Treasury

The State and Territory Governments were consulted on the proposed legislative approach to implement the Treaty through the Commonwealth-State-Territory Upstream Petroleum Resources Working Group.

Australia and Timor-Leste have jointly engaged with the companies and joint ventures undertaking petroleum operations in the Timor Sea to develop transitional arrangements to

provide stability and certainty in accordance with Annex D of the Treaty. Confidential negotiations with these companies and joint ventures have taken place in Brisbane (July 2018), Darwin (August and September 2018), Dili (October 2018) and Perth (November 2018). Legislation to give effect to the transitional arrangements, once agreed, will be implemented in the second tranche of legislation to commence when the Treaty enters into force.

Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries

Regulatory Impact Statement

Department of Foreign Affairs and Trade (OBPR Reference Number: 21507)

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Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries

Regulatory Impact Statement

What is the policy problem?

Since Timor-Leste's re-emergence as an independent State on 20 May 2002, Australia and Timor-Leste have not been able to reach agreement on a permanent maritime boundary through negotiations. The existing Timor Sea Treaty regime between Australia and Timor-Leste is a provisional arrangement of a practical nature allowing for the joint development of resources in the Timor Sea pending agreement on the final delimitation of permanent maritime boundaries. Should provisional arrangements continue, Australia and Timor-Leste will not have permanent maritime boundaries delineated, exacerbating a long-standing irritant in our bilateral relationship.

Compulsory Conciliation

On 11 April 2016, Timor-Leste commenced compulsory conciliation proceedings under Article 298 and Annex V of the *United Nations Convention on the Law of the Sea* (UNCLOS) to resolve differences with Australia on maritime boundaries in the Timor Sea. Australia engaged in the conciliation in good faith in accordance with our international obligations, and worked under the auspices of the Conciliation Commission to agree with Timor-Leste a treaty to delimit our maritime boundaries.

On 30 August 2017, on the basis of a proposal made by the Commission, Australia and Timor-Leste reached agreement on a comprehensive package of measures. This included:

- a maritime boundary;
- a mechanism that would enable the possible adjustment of certain segments of that boundary, following the establishment by Timor-Leste and Indonesia of a boundary between their respective maritime zones;
- a special regime for the joint development, exploitation, and management of the largest known resource, the Sunrise and Troubadour gas fields (collectively, "Greater Sunrise"), and the sharing of the resulting revenue;
- a process to formalize the Parties' agreement in the form of a treaty; and
- a process of intensive engagement between the Parties and the Greater Sunrise Joint Venture, the private holder of the commercial licence to Greater Sunrise (the "Joint Venture"), with the objective of reaching agreement on the overall approach, or development concept, to be taken for the development of the resource.

Maritime Boundaries Treaty

The *Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries* (the Treaty) will define Australia's permanent maritime boundaries with Timor-Leste. The Treaty would terminate the existing Timor Sea Treaty and International Unitisation Agreement upon entry into force.

A Treaty will:

- establish permanent maritime boundaries between Australia and Timor-Leste in the Timor Sea;
- address the legal status of the Greater Sunrise Fields and provide for the joint development, exploitation and management of the resource as well as the sharing of revenue through the establishment of the Greater Sunrise Special Regime.
- expand Timor-Leste's areas of exclusive maritime jurisdiction, with certain oil and gas fields transferring to Timor-Leste's exclusive jurisdiction;
- put in place transitional arrangements to ensure certainty and security for affected offshore petroleum operations in the Timor Sea.

The Government needs to act to implement the conciliation outcome and to facilitate with Timor-Leste the sustainable exploitation of resources the Timor Sea. Should the status quo prevail, Australia and Timor-Leste will not establish permanent maritime boundaries and the provisional arrangements will continue to apply, which would continue to exacerbate a major irritant in our bilateral relationship. If Australia does not act in good faith in relation to the conciliation process, there will be significant reputational costs to Australia. In particular, a decision not to sign and ratify a treaty developed between the parties is very likely to affect the bilateral relationship between Australia and Timor-Leste negatively, as well as Australia's international standing. It also means that the Greater Sunrise resource will not be able to be developed.

Why is government action needed?

Australia and Timor-Leste reached agreement on permanent maritime boundaries under a compulsory international process under UNCLOS. Our long-running dispute over maritime boundaries has been a significant bilateral irritant in Australia's relationship with Timor-Leste, which has prevented Australia from deepening our relationship with one of our closest neighbours. A Treaty would demonstrate Australia's commitment to international law and reinforce peaceful dispute resolution norms. It would establish Australia's maritime boundaries and affect regulatory arrangements for companies that currently operate in the Joint Petroleum Development Area (JPDA) under the Timor Sea Treaty, which would transition to Timorese jurisdiction under the Treaty. Australian Government action is required to

bring the Treaty into force, fulfil our international law obligations, and to facilitate the continued sustainable exploitation of resources in the Timor Sea.

Implementation of the Treaty will require Australia to amend existing regulatory arrangements to reflect our new agreed boundaries, including in relation to:

- dissolution of the Joint Petroleum Development Area (JPDA),
- creation of the Greater Sunrise Special Regime (GSSR), and
- areas of seabed currently administered for the purpose of offshore petroleum operations under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

In addition, Australia and Timor-Leste would need to finalise arrangements to transition the companies operating in affected areas prior to entry into force.

Implementing Legislation

Before entry into force can take place, Australia would need to pass implementing legislation through the Parliament. Australia needs to give effect in Australian law to the GSSR Area that would be established by the Treaty and remove references in legislation to the JPDA, which would cease upon entry into force of the Treaty. In addition, consequential amendments are required to a number of Acts to reflect our new maritime boundaries, including but not limited to, the areas of seabed currently administered for the purpose of offshore petroleum operations under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Transitional Arrangement Negotiations

Arrangements to transition the Bayu-Undan and Kitan projects into exclusively Timor-Leste jurisdiction must be agreed between Timor-Leste and the affected petroleum companies for these two projects. Similarly, a Treaty would provide for transitional arrangements for Greater Sunrise and the JPDA 11-106 project. Pursuant to the terms of the existing Article 22 of the Timor Sea Treaty and Article 27 of the International Unitisation Agreement, under a Treaty these projects would continue under conditions or terms equivalent to those in place under those agreements.

In relation to the Buffalo project, a Treaty would stipulate that security of title and any other rights held by the titleholder would be preserved through conditions equivalent to those in place under Australian domestic law and as determined by agreement between Australia, Timor-Leste and the titleholder.

Greater Sunrise Special Regime (GSSR)

A Treaty would recognise Australia and Timor-Leste's shared sovereign rights over the Sunrise and Troubadour (Greater Sunrise) Fields. A Treaty would establish the

GSSR to jointly develop, exploit and manage the Greater Sunrise resource and share revenue.

Entry into force

Once domestic processes are completed, including amendments to relevant legislation and regulatory changes, Australia and Timor will exchange diplomatic notes advising that they have completed the ratification process. Both Parties are aiming for entry into force as soon as practicable.

Policy options considered to achieve this objective

No action

Taking no action, including in relation to implementation of the Treaty, will risk Australia's international reputation and risk severe damage to the relationship with Timor-Leste. The Conciliation process was a compulsory process aimed at resolving the issue of delimiting permanent maritime boundaries between Australia and Timor-Leste. Australia's engagement in the conciliation in good faith in accordance with our international obligations would be undermined by taking no action.

A Treaty

The Treaty represents the only policy option for establishing Australia's permanent maritime boundaries with Timor-Leste. This is the case for two reasons: first, the existing Timor Sea Treaty regime between Australia and Timor-Leste is a provisional arrangement. This regime only allows for the joint development of resources in the Timor Sea pending agreement on the final delimitation of permanent maritime boundaries. Second, the Treaty has come about through a compulsory international process (the Timor Conciliation).

The Treaty is an historic agreement for Australia and Timor-Leste as it will allow us to settle a long-running dispute, delimit our maritime boundaries, and lay the foundation for a new chapter in our relationship with one of our closest neighbours. Moreover, the Treaty will benefit both countries. Australia recognises the significance of the Treaty for Timor-Leste. Australia was committed to finding an outcome that would best support Timor-Leste's future.

The provisions of the Treaty will facilitate the continued commercial development and exploitation of resources in the Timor Sea within a clear and certain regulatory framework. It will also ensure Australia continues to meet its national security, environmental management, industry best practice and international legal requirements with respect to those areas of seabed that would fall within Australian exclusive jurisdiction or joint Australian and Timorese jurisdiction.

Impact analysis

In the absence of quantitative data in relation to the potential costs of a treaty, this impact analysis is based on a qualitative assessment.

Diplomatic Benefits

The issue of disputed boundaries and resource-sharing in the Timor Sea has dominated our bilateral relationship with Timor-Leste and has been a long-standing sensitivity. Implementation of the Treaty, and its required regulatory changes, would open a new chapter in relations between Australia and Timor-Leste. The Treaty facilitates cooperation and will contribute to a strong and prosperous Timor-Leste.

The conciliation that led to our treaty under UNCLOS' dispute resolution procedures was the first of its kind. As two democratic nations and close neighbours, Australia and Timor-Leste have highlighted the value of international law, and particularly UNCLOS, in the international rules-based system. Our joint success through the conciliation sets a positive example for the region and the international community. Our participation in the process and implementation of the Treaty will highlight Australia's commitment to international law and to the peaceful settlement of disputes.

Commercial Benefits

A treaty would enable commercial benefits to flow to Australia, Timor-Leste and companies operating in the area. A treaty would also unlock the development of the Greater Sunrise gas fields. Under the Treaty concluded under the auspices of the conciliation commission, Australia would receive either 20% or 30% of the upstream revenue from the Greater Sunrise fields, depending on the development option chosen (i.e. either a pipeline to a liquefied natural gas processing plant in Australia, or in Timor-Leste).

A treaty would provide for Australia and Timor-Leste to develop the Greater Sunrise gas fields together and share in the benefits. A treaty would support Timor-Leste's economic development by providing significant new opportunities for income and commercial and industrial development. Seventy or eighty per cent of revenue from Greater Sunrise will flow to Timor-Leste, depending on how the resource is developed.

Successful completion of transitional arrangement negotiations will ensure the transition from shared or exclusively Australian jurisdiction to Timorese jurisdiction for the affected companies, and will facilitate the continued commercial development and exploitation of resources in the Timor Sea within a clear and certain regulatory framework. Transitional arrangements, including the provision of conditions equivalent to the Timor Sea Treaty, reflects both Australia and Timor-Leste's interest in ensuring that existing petroleum operations continue with minimal impact and is an

obligation under our existing treaty obligations. More broadly, the benefits of greater regulatory certainty would flow down to supply chains, contractors and employees in both Australia and Timor-Leste.

Impact on business

A Treaty would require Australia and Timor-Leste to provide companies operating in the Timor Sea with conditions equivalent. In this respect, compliance with the Treaty ought not to create additional regulatory burden on business. In order to achieve this, whole-of-government transitional arrangement negotiations would be required with Timor-Leste and the petroleum companies that operate currently in the Timor Sea (including those operating in the JPDA), whose operations would transition to Timorese jurisdiction. The Department of Industry, Innovation, and Science (DIIS) would lead these whole-of-government transitional arrangement negotiations.

Given the differences between the JPDA petroleum regime and the Timor-Leste petroleum regime over issues such as taxation, migration, employment and environmental management, negotiations are expected to be lengthy and complex. Further complicating matters would be that each of these projects are different and require, to some degree, an individualised approach.

Regulatory burden

By providing conditions equivalent to operating businesses, compliance with the Treaty ought not to create additional regulatory burden on business in their transition to Timorese jurisdiction.

There are likely administrative costs for the affected petroleum companies related to attendance at transitional arrangement negotiations, for example, travel and representation, professional services, record-keeping and document drafting, intersessional consultations, and providing information. These negotiations are ongoing and will continue for an unspecified period. Therefore, an accurate general estimate cannot be given for regulatory costs related to transitional arrangements negotiations, particularly as they vary for each business involved, and this commercial-in-confidence information is not available to the Government.

The costs related to transitional arrangements are one-off costs, rather than ongoing regulatory costs related to compliance. These costs are time-limited and associated with the transition to Timorese jurisdiction. There are also confidentiality limitations, particularly commercial-in-confidence obligations, which prevent a full description of the content of these negotiations. At the conclusion of negotiations, additional Australian legislative and regulatory amendments may be required to ensure conditions or terms equivalent. Companies may also face costs after they transition to exclusive Timorese jurisdiction. Any costs companies incur after transition to Timor-Leste's jurisdiction will constitute the costs of doing business, not regulatory costs.

Under the Treaty, Australia and Timor-Leste will jointly exercise sovereign rights within the GSSR. The Treaty's treatment of the Greater Sunrise resource provides a pathway to agreement on a development concept and the certainty required for commercial entities to invest in and develop the resource. Once operationalised, this would result in commercial benefits for both Australia and Timor-Leste. Costs associated with implementing the development concept are the cost of doing business, rather than regulatory burden associated with compliance with the Treaty, which would exist in any case.

Australia is a committed partner in Timor-Leste's effort to diversify its economy and facilitate private sector growth, and views the Treaty as representing a new chapter in Australia-Timor-Leste relations that would energise our economic partnership. The development of Greater Sunrise is crucial to Timor-Leste's development and prosperity, and Australia would collaborate with Timor-Leste and the Greater Sunrise Joint Venture to find a pathway to develop Greater Sunrise that maximises the benefits for Timor-Leste.

Cost/Benefit Analysis

Option 1 – No action

There are significant net costs and no net benefits for Australia should we choose to not to take any action. As discussed above, taking no action would damage Australia's international reputation and risk severe damage to our bilateral relationship with Timor-Leste.

The conciliation was a compulsory process aimed at resolving the issue of delimiting permanent maritime boundaries between Australia and Timor-Leste. Taking no action would undermine Australia's good faith engagement in the conciliation and Australia would very likely face considerable criticism for walking away from a mutually agreed treaty text developed in an international process under UNCLOS. As such, Australia's international reputation would be damaged and our role as a leader in dispute resolution and an upholder of the rules-based international order would be negatively affected.

From the perspective of our bilateral relationship, Timor-Leste expects Australia to act in good faith and take action to implement a treaty permanently establishing our shared maritime boundaries. Given that the delimitation of maritime boundaries between Australia and Timor-Leste has been a source of tension for many years, a decision not to take action to sign a treaty would exacerbate those tensions and prevent further positive development of our bilateral relationship.

Option 2 – A treaty

The diplomatic and commercial benefits that flow from a treaty between Australia and Timor-Leste offer a significant net benefit to the community and will secure Australia's national interest. A treaty is an opportunity to finalise our permanent

maritime boundaries with Timor-Leste. Permanency in our maritime boundaries will create certainty and stability for resource development in the Timor Sea.

A further net benefit of a treaty would be its contribution to strengthening the bilateral relationship between Australia and Timor-Leste, and its support for Timor-Leste's economic development. Australia is Timor-Leste's largest development and security partner, and the relationship has great potential for further positive expansion. A treaty would also provide new opportunities for commercial and industrial development for Timor-Leste through its expanded maritime jurisdiction, and a stable and prosperous Timor-Leste is in Australia's interest.

Under a treaty Timor-Leste would receive all future revenue from the Bayu-Undan gas and condensate field, which would transition to Timor-Leste's exclusive jurisdiction. While a net cost of this option would be that Australia would receive a smaller share of the oil and gas revenue from currently developed projects in the Timor Sea, a treaty would provide a pathway for the development of the Greater Sunrise gas fields, which in the long term would provide a greater net benefit to Australia. It would also provide significant commercial and developmental benefits for Timor-Leste. The exact benefit that will flow to each country will depend on the development model for the project and future market prices.

Under this option, Australia's good faith involvement in international dispute resolution mechanisms and its reputation as a reliable partner that contributes to stability in the region are important benefits.

Best option

The best option is to sign the treaty concluded under the auspices of the conciliation process with Timor-Leste. This option would deliver the greatest net benefit to the community and would serve Australia's national interests. A treaty would provide stability through a permanent maritime boundary and would therefore enable companies to operate with certainty in the Timor Sea. It would provide for the Greater Sunrise fields to be developed and for those resources to be exploited, bringing commercial benefits to companies, Timor-Leste and Australia. A treaty would strengthen Australia's relationship with Timor-Leste and bring a number of economic, commercial and developmental benefits to Timor-Leste, which is ultimately in Australia's interest.

Consultation process

Over the 20 month period that the conciliation occurred, petroleum companies operating in the JPDA were consulted and kept aware of the process, consistent with the information and statements that were made public.

At the request of the Conciliation Commission, the Sunrise Joint Venture was also consulted in an effort to agree a development concept for the Greater Sunrise gas fields for inclusion in the Treaty. This included a series of preliminary discussions by videoconference and face-to-face trilateral meetings with Australia and Timor-Leste. Australia and Timor-Leste also concluded an Information-Sharing Agreement.

All other affected companies have been informed of the impacts of the Treaty to their individual projects. Australia and Timor-Leste will also publicise the Treaty and its new boundaries, providing business with clarity around the changes.

Consultation on transitional arrangements would be undertaken should the preferred option be adopted. This consultation would likely be extensive and protracted.

Implementation and evaluation

This policy of establishing permanent maritime boundaries between Australia and Timor-Leste will be implemented through:

- a *Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries*;
- amendments to legislation;
- development and finalisation of transitional arrangements, including new production sharing contracts; and
- DIIS's management of Australia's offshore oil and petroleum arrangements, including management of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, and its ongoing role in establishment and management of the GSSR.

Evaluation will be ongoing. In particular, evaluation will occur through:

- ongoing bilateral engagement with Timor-Leste. The Department of Foreign Affairs and Trade would lead Australia's engagement with Timor-Leste;
- governance and regulatory arrangements established under the Treaty for the GSSR, including its management bodies (for example, the Governance Board); and
- the Department of Industry, Innovation and Science leading ongoing industry consultation and feedback over time.

The full text of the Treaty will be released publicly and following signature, the text will be tabled in Parliament and examined by the Joint Standing Committee on Treaties.

Conclusion

It is in Australia's interest to sign and ratify the Treaty with Timor-Leste. The Treaty achieves: a permanently delineated maritime boundary with Timor-Leste; ensures regulatory continuity, provides stability and certainty to business, and limits the impact of the boundary changes on petroleum companies that will transition from Australian or joint jurisdiction to sole Timorese jurisdiction under the Treaty. It delivers a number of diplomatic and commercial benefits to both Australia and Timor-Leste and facilitates exploitation of the Greater Sunrise gas fields.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2018

and

Passenger Movement Charge Amendment (Timor Sea Maritime Boundaries Treaty)
Bill 2018 (the Bills)

The Bills are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bills

The purpose of the Bills are to give effect to certain parts of the Treaty. The Bills will give effect to the maritime boundary changes by amending the offshore areas under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*. Through amendments to the *Seas and Submerged Lands Act 1973* the Bills establish and define the *Greater Sunrise special regime area* as an area over which Australia will exercise its rights as a coastal state jointly with Timor-Leste. The Bills implement the special arrangements for regulating petroleum pipelines in areas of foreign continental shelf jurisdiction and petroleum activities in the *Greater Sunrise special regime area*.

The Bills also make consequential amendments to the *Passenger Movement Charge Act 1978* (the PMC Act) by removing references to Joint Petroleum Development Area (JPDA). The JPDA will cease to exist upon entry into force of the Treaty. The amendments maintain the same imposition of passenger movement charge in relation to the *Greater Sunrise special regime area*, which previously applied in relation to the JPDA, under the PMC Act.

Human rights implications

The amendment in item 74 of Schedule 1 of the Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2018 engages the protection against arbitrary interference with privacy and reputation.

Article 17 of the International Convention on Civil and Political Rights prohibits arbitrary or unlawful interference with an individual's privacy, family, home or correspondence, and protects a person's honour and reputation from unlawful attacks. This right may be subject to permissible limitations where those limitations are provided by law and are non-arbitrary. In order for limitations not to be arbitrary, they must be aimed at a legitimate objective and be reasonable, necessary and proportionate to that objective.

Item 74 of Schedule 1 amends the OPGGS Act to insert new section 695XA, which will enable the Chief Executive Officer (CEO) of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) to share offshore information (as defined in subsection 695U(1) of the OPGGS Act) or a thing with the Timorese Statutory

Authority, for the purposes of the exercise of the latter's powers or the performance of its functions.

Under the terms of the Treaty, the Timorese Designated Authority will carry out the day-to-day regulation and management of petroleum activities on behalf of Australia and Timor-Leste with respect to the Greater Sunrise fields. The Timorese Designated Authority will also have exclusive jurisdiction to regulate the Bayu-Undan gas field. However, Australia will have exclusive jurisdiction over the Bayu-Undan pipeline, including the part of the pipeline located over an area of Timor-Leste's continental shelf. In addition, if it is agreed that the future Greater Sunrise pipeline will land in Australia, then Australia will have jurisdiction over that pipeline. In practice, information or a thing would therefore be shared in relation to matters relevant to the Bayu-Undan pipeline and, if applicable, the Greater Sunrise pipeline. The Treaty imposes an obligation upon the Party exercising exclusive jurisdiction over a pipeline to cooperate with the relevant Timorese authority responsible for regulating the Bayu-Undan gas field and the Greater Sunrise gas field, but does not otherwise specify how and what information should be shared. However the Bayu-Undan and Greater Sunrise offshore petroleum projects are integrated projects and it is envisaged that information or a thing, relating to the pipeline(s), may need to be shared with the Timor-Leste authority to ensure that the project(s) are managed effectively and to ensure Australia discharges its obligation to cooperate.

Offshore information may be or include personal information, within the meaning of the *Privacy Act 1988* (the Privacy Act). This power therefore constitutes a potential interference with privacy. In addition to new section 695XA, the use or disclosure of personal information is regulated under the Privacy Act. The interference with privacy is therefore lawful.

New section 695XA is reasonable, necessary and proportionate. The sharing of offshore information or things is discretionary. The CEO of NOPSEMA therefore has the ability to specifically consider the type of information to be shared and the rationale for sharing that information in each particular case before making a decision to share the information. The sharing of information must be directed at facilitating the relevant Timorese Authority in the exercise of its powers or the performance of its functions.

As an additional safeguard to protect personal information, section 695Y of the OPGGS Act applies to offshore information to the extent that it is personal information. Before information is made available under new section 695XA, the CEO of NOPSEMA is required to take reasonable steps to ensure the information is de-identified.

The remainder of the amendments made by the Bills do not abridge or otherwise engage with applicable human rights or freedoms. The amendments are largely mechanical or technical in nature, as they make consequential amendments to Commonwealth legislation in relation to the implementation of permanent maritime boundaries in the Timor Sea, and provide for the exploitation of petroleum resources in the Greater Sunrise fields, as agreed in the Treaty.

Conclusion

The Bills are compatible with human rights as, to the extent that they may limit human rights or freedoms, those limitations are reasonable, necessary and proportionate.

**Minister for Resources and Northern Australia,
Senator the Honourable Matthew Canavan**

**TIMOR SEA MARITIME BOUNDARIES TREATY CONSEQUENTIAL
AMENDMENTS BILL 2018**

NOTES ON CLAUSES

Clause 1: Short title

1. This is a formal provision specifying the short title of the Act.

Clause 2: Commencement

2. The table in this clause provides for the commencement of provisions in the Bill.
3. Sections 1 to 3 of the Bill commence on the day the Bill receives Royal Assent.
4. Schedule 1 of the Bill commences when the *Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea* (New York, 6 March 2018) [2018] ATNIF 4 (the Treaty) enters into force. The Treaty enters into force when Australia and Timor-Leste have notified each other in writing through diplomatic channels that their respective requirements for entry into force of this Treaty have been fulfilled. The Minister will announce the day that the Treaty enters into force by notifiable instrument. There is no default commencement if the Treaty has not entered into force within a certain amount of time after Royal Assent. Schedule 1 of the Bill gives effect to the Treaty, and therefore is dependent on the entering into force of the Treaty. As the date of entry into force is not wholly within the control of the Government and the exact timing is uncertain, a default commencement has not been included, to avoid a situation where Schedule 1 of the Bill commences and the Treaty has not entered into force.
5. Schedule 2 of the Bill commences on a day to be fixed by Proclamation. That day should not occur before the Greater Sunrise Production Sharing Contract (GSPSC (within the meaning of the Treaty)) commences. Article 4 of Annex B of the Treaty requires the Designated Authority to enter into the GSPSC as soon as practicable. As the execution of the GSPSC requires coordination with Timor-Leste and the Greater Sunrise Contractor, the date is not wholly within the control of the Government and the exact timing is uncertain. The Proclamation day does not have a default commencement if the Proclamation is not made within a certain amount of time because Australia is required to maintain the current arrangements for the petroleum activities currently being undertaken in the Eastern Greater Sunrise offshore area until the GSPSC commences.
6. Schedule 3 of the Bill commences when the Treaty enters into force.

Clause 3: Schedules

7. This is a machinery clause that gives effect to the provisions in the Schedules to the Bill according to their terms.

Schedule 1—Provisions commencing when new treaty comes into force

Part 1—Amendment of the Admiralty Act 1988

Admiralty Act 1988

Item 1: Subsection 22(5) (note to the definition of *innocent passage*)

8. Item 1 is consequential to amendments to the *Seas and Submerged Lands Act 1973* set out in Part 17 of the Bill, and discussed below. As the Bill will insert a new Schedule into the *Seas and Submerged Lands Act 1973*, this amendment updates the note to the definition of *innocent passage* in the *Admiralty Act 1988* by replacing the reference to “the Schedule” of the *Seas and Submerged Lands Act 1973* with “Schedule 1” to that Act.

Part 2—Amendment of the Building and Construction Industry (Improving Productivity) Act 2016

Building and Construction Industry (Improving Productivity) Act 2016

Item 2: Section 5

9. This item inserts a definition of *Greater Sunrise special regime area*, which has the same meaning as in the *Seas and Submerged Lands Act 1973*.

Item 3: At the end of Section 11

10. This item amends section 11 of the *Building and Construction Industry (Improving Productivity) Act 2016* (the BCIIIP Act) (Extension of Act to EEZ and waters above the continental shelf) to include new subsections 11(3) to (5).
11. New subsections 11(3) and (4) provide that the application of the BCIIIP Act in the *Greater Sunrise special regime area* is subject to any modifications prescribed by rules.
12. This will enable rules to be made to adapt the application of the BCIIIP Act in the *Greater Sunrise special regime area*, as necessary, to ensure it applies in a manner consistent with Australia’s obligations under the Treaty and to facilitate the cooperative exercise of jurisdiction in the *Greater Sunrise special regime area*.
13. Section 13AB of the *Seas and Submerged Lands Act 1973* provides that a law of the Commonwealth does not apply in relation to an act, omission, matter or thing directly or indirectly connected with the exploration of, or exploitation of the natural resources of, the continental shelf in the *Greater Sunrise special regime area*, subject to a contrary intention. New subsection 11(5) establishes a contrary intention, and ensures that the sections of the BCIIIP Act that apply to the waters above the continental shelf will, subject to any modifications prescribed by rules, apply in the *Greater Sunrise special regime area*.

Part 3—Amendment of the Clean Energy Regulator Act 2011

Clean Energy Regulator Act 2011

Item 4: Section 4 (definition of *Joint Petroleum Development Area*)

14. This item repeals the definition of *Joint Petroleum Development Area* because that area will cease to exist upon entry into force of the Treaty.

Item 5: Section 9

15. This item inserts a new section 9 to indicate a contrary intention to subsection 13AB(1) of the *Seas and Submerged Lands Act 1973* so that the Clean Energy Regulator’s jurisdiction extends to the *Greater Sunrise special regime area*, consistent with the reporting obligations in the *National Greenhouse and Energy Reporting Act 2007* (the NGER Act), which is administered by the Clean Energy Regulator. It repeals the existing section 9 as the Clean Energy Regulator no longer needs functions in relation to the JPDA because that area will cease to exist upon entry into force of the Treaty.

Part 4—Amendment of the Climate Change Authority Act 2011

Climate Change Authority Act 2011

Item 6: Section 4 (definition of *Joint Petroleum Development Area*)

16. This item repeals the definition of *Joint Petroleum Development Area* because that area will cease to exist upon entry into force of the Treaty.

Item 7: Section 9

17. This item inserts a new section 9 to indicate a contrary intention to subsection 13AB(1) of the *Seas and Submerged Lands Act 1973* so that the Climate Change Authority’s jurisdiction extends to the *Greater Sunrise special regime area*, consistent with the reporting obligations in the NGER Act and the Authority’s obligation to review the operation of that Act (see sections 76A and 76B of the NGER Act). It repeals the existing section 9 as the Climate Change Authority no longer needs functions in relation to the JPDA as that area will cease to exist upon entry into force of the Treaty.

Part 5—Amendment of the Customs Act 1901

Customs Act 1901

Item 8: Subsection 4(1) (definition of *Australian seabed*)

18. This item omits from the definition of *Australian seabed* in subsection 4(1) of the Customs Act the reference to “other than the seabed within the Joint Petroleum Development Area”. The effect of this amendment is to repeal redundant references to the “Joint Petroleum Development Area” in that definition.

Item 9: Subsection 4(1)

19. This item inserts into subsection 4(1) of the Customs Act the definition of the *Greater Sunrise special regime area*. The *Greater Sunrise special regime area* has the same meaning as in the *Seas and Submerged Lands Act 1973*.

Item 10: Subsection 4(1) (definition of *Joint Petroleum Development Area*)

20. This item repeals the definition of *Joint Petroleum Development Area* from subsection 4(1) of the Customs Act. As the JPDA will no longer exist the definition is redundant and therefore repealed.

Item 11: Subsection 4(1) (paragraphs (a) and (b) of the definition of *place outside Australia*)

21. This item omits from the definition of *place outside Australia* in paragraphs 4(1)(a) and 4(1)(b) of the Customs Act, references to “Joint Petroleum Development Area” and substitutes “Greater Sunrise special regime area”. The effect of this amendment is to repeal redundant reference to the “Joint Petroleum Development Area”, which will cease to exist, and replace it with the reference to the “Greater Sunrise special regime area”.

Item 12: Subsection 4(1)

22. This item inserts into subsection 4(1) of the Customs Act the new definition of *resources installation in the Greater Sunrise special regime area*. *Resources installation in the Greater Sunrise special regime area* means a resources installation that is attached to the seabed in the *Greater Sunrise special regime area*.

Item 13: Subsection 4(1) (definition of *resources installation in the Joint Petroleum Development Area*)

23. This item repeals the definition of *resources installation in the Joint Petroleum Development Area* from subsection 4(1) of the Customs Act. The effect of this amendment is to repeal redundant references to the *resources installation in the Joint Petroleum Development Area*. As the JPDA will no longer exist, the definition is redundant and therefore repealed.

Item 14: Subsection 4(1)

24. This item inserts into subsection 4(1) of the Customs Act the definition of the *Timor Sea Maritime Boundaries Treaty*. The *Timor Sea Maritime Boundaries Treaty* means the Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea done at New York on 6 March 2018, as in force from time to time.
25. This item also inserts into subsection 4(1) of the Customs Act the definition of *Timor Sea petroleum activities purpose*. *Timor Sea petroleum activities purpose*, in relation to goods, means the purpose of the goods being taken to a resources installation that is attached to the seabed.
26. Under subparagraph (a)(i) of the definition of *Timor Sea petroleum activities purpose*, in relation to goods, means the purpose of the goods being taken to a resources

installation that is attached to the seabed in the *Greater Sunrise special regime area* used at the resources installation for a purpose related to Petroleum Activities within the meaning of the Timor Sea Maritime Boundaries Treaty under paragraph (b) of the definition of *Timor Sea petroleum activities purpose*. The effect of this amendment is to ensure that goods taken to the *Greater Sunrise special regime area* are not subject to customs duty in accordance with amended section 131AA of the Customs Act.

27. Under subparagraph (a)(ii) of the definition of *Timor Sea petroleum activities purpose*, in relation to goods, means the purpose of the goods being taken to a resources installation that is attached to the seabed above the Bayu Undan Gas Field within the meaning of the *Timor Sea Maritime Boundaries Treaty* used at the resources installation for a purpose related to Petroleum Activities within the meaning of the Timor Sea Maritime Boundaries Treaty under paragraph (b) of the definition of *Timor Sea petroleum activities purpose*. The effect of this amendment is to ensure that goods taken to the Bayu Undan Gas Field are not subject to customs duty in accordance with amended section 131AA of the Customs Act.
28. Under subparagraph (a)(iii) of the definition of *Timor Sea petroleum activities purpose*, in relation to goods, means the purpose of the goods being taken to a resources installation that is attached to the seabed above the Kitan Oil Field within the meaning of the Timor Sea Maritime Boundaries Treaty used at the resources installation for a purpose related to Petroleum Activities within the meaning of the Timor Sea Maritime Boundaries Treaty under paragraph (b) of the definition of *Timor Sea petroleum activities purpose*. The effect of this amendment is to ensure that goods taken to the Kitan Oil Field are not subject to customs duty in accordance with amended section 131AA of the Customs Act (see item 25).

Item 15: Subsection 4(9A)

29. Item 15 repeals and substitutes subsection 4(9A), which provides if it is necessary to determine whether a resources installation is attached to the seabed (the *relevant seabed*) in the *Greater Sunrise special regime area*; or above the Bayu-Undan Gas Field within the meaning of the Timor Sea Maritime Boundaries Treaty; or in the Bayu-Undan pipeline international offshore area within the meaning of the OPGGS Act; or above the Kitan Oil Field within the meaning of the Timor Sea Maritime Boundaries Treaty; subsection 4(9) of the Customs Act has effect as if a reference in that subsection to the Australian seabed were a reference to the relevant seabed. Subsection 4(9) sets out the circumstances in which a resources installation shall be taken to be attached to the Australian seabed.
30. This amendment is a consequential amendment because of item 14 above, which inserts the definition of *Timor Sea petroleum activities purpose* in subsection 4(1) of the Customs Act. The effect of this amendment is to provide a mechanism for determining whether a resources installation is attached to the seabed.

Item 16: Subsection 58B(1) (definition of *external place*)

31. This item omits from the definition of *external place* in subsection 58B(1) reference to “East Timor” and substitutes reference to “Timor-Leste”, to align subsection 58B(1) with the language used throughout the Treaty. This amendment is a technical amendment.

Item 17: Subsection 58B(2)

32. This item omits from subsection 58B(2) of the Customs Act reference to “Joint Petroleum Development Area” and substitutes “*Greater Sunrise special regime area*”. This amendment ensures that the prohibition on direct journeys from an external place to the JPDA, which will cease to exist, is replicated in relation to the *Greater Sunrise special regime area*.

Item 18: Subsection 58B(2)

33. This item omits from subsection 58B(2) of the Customs Act reference to “East Timor” and substitutes “Timor-Leste”, to align subsection 58B(2) with the language used throughout the Treaty. This amendment is a technical amendment.

Item 19: Subsection 58B(3)

34. This item omits from subsection 58B(3) of the Customs Act reference to “Joint Petroleum Development Area” and substitutes “*Greater Sunrise special regime area*”. This amendment ensures that the prohibition on taking goods directly from an external place to the JPDA, which will cease to exist, is replicated in relation to the *Greater Sunrise special regime area*.

Item 20: Subsection 58B(3)

35. This item omits from subsection 58B(3) of the Customs Act reference to “East Timor” and substitutes “Timor-Leste”, to align subsection 58B(3) with the language used throughout the Timor Sea Treaty. This amendment is a technical amendment.

Item 21: Subsection 58B(4)

36. This item omits from subsection 58B(4) of the Customs Act reference to “Joint Petroleum Development Area” and substitutes “*Greater Sunrise special regime area*”. This amendment ensures that the prohibition on direct journeys to an external place from the JPDA, which will cease to exist, is replicated in relation to the *Greater Sunrise special regime area*.

Item 22: Subsection 58B(4)

37. This item omits from subsection 58B(4) of the Customs Act reference to “East Timor” and substitutes “Timor-Leste”, to align subsection 58B(4) with the language used throughout the Treaty. This amendment is a technical amendment.

Item 23: Subsection 58B(5)

38. This item omits from subsection 58B(5) of the Customs Act reference to “Joint Petroleum Development Area” and substitutes “Greater Sunrise special regime area”. This amendment ensures that the prohibition on direct journeys to an external place from the JPDA, which will cease to exist, is replicated in relation to the *Greater Sunrise special regime area*.

Item 24: Subsection 58B(5)

39. This item omits from subsection 58B(5) of the Customs Act reference to “East Timor” and substitutes “Timor-Leste”, to align subsection 58B(5) with the language used throughout the Treaty. This amendment is a technical amendment.

Item 25: Section 131AA

40. This item repeals section 131AA of the Customs Act and provides, under new subsection 131AA(1), that goods taken out of Australia for the Timor Sea petroleum activities purpose are not liable to any duty of Customs in relation to the taking of the goods out of Australia.
41. Under new subsection 131AA(2), goods brought into Australia for the Timor Sea petroleum activities purpose are not liable to any duty of Customs in relation to the bringing of the goods into Australia.
42. The effect of this amendment is replicate the existing exemptions from duty of Customs for goods being taken to a resources installation in the JPDA, which will cease to exist, to the *Greater Sunrise special regime area*. New section 131AA also extends the scope of section 131AA to the Kitan Oil Field, the Bayu-Undan Gas Field and Pipeline to ensure goods taken to and from Australia for a Timor Sea petroleum activities purposes are not subject to customs duties.

Part 6—Amendment of the Customs Tariff Act 1995

Customs Tariff Act 1995

Item 26: Subsection 3(1) (definition of *petroleum activity*)

43. This item repeals the definition of *petroleum activity*. This amendment is consequential to that made by item 28 described below.

Item 27: Subsection 3(1)

44. This item inserts a new definition *Timor Sea Maritime Boundaries Treaty* for the purpose of the amendment made by item 28 described below.

Item 28: Schedule 4 (table item 14)

45. This item repeals and substitutes table item 14 in Schedule 4 which currently applies to goods, as prescribed by by-law, that are for use in a petroleum activity (as defined in the *Customs Tariff Act 1995*) in the Eastern Greater Sunrise offshore area (within the meaning in the OPGGS Act). Such goods are dutiable at the rate of “Free”.
46. New table item 14 will apply to goods, prescribed by by-law goods that are for use in an activity that is a Petroleum Activity within the meaning of the Timor Sea Maritime Boundaries Treaty (using the definition inserted by item 27) and which takes place in any of the following areas:
 - a. The *Greater Sunrise special regime area*. As the Eastern Greater Sunrise offshore area falls within the *Greater Sunrise special regime area*, the amendment extends the scope of table item 14 to the *Greater Sunrise special regime area*.
 - b. The area in or above the Bayu-Undan Gas Field (within the meaning of the Treaty). This will enable a customs duty rate of “Free” to apply to goods that are taken out of or brought into Australia from the Bayu-Undan Gas Field. This implements paragraph 3 of Article 2 in Annex D to the Timor Sea Maritime Sea Boundaries Treaty.
 - c. The Bayu-Undan pipeline international offshore area (within the meaning of the OPGGS Act). This will enable a customs duty rate of “Free” to apply to goods that are taken out of or brought into Australia from the Bayu-Undan pipeline international offshore area. This implements paragraph 3 of Article 2 in Annex D to the Timor Sea Maritime Sea Boundaries Treaty.
 - d. The area in or above the Kitan Oil Field (within the meaning of the Treaty). This will enable a customs duty rate of “Free” to apply to goods that are taken out of or brought into Australia from the Kitan Oil Field. This implements paragraph 3 of Article 2 in Annex D to the Timor Sea Maritime Sea Boundaries Treaty.

Part 7—Amendment of the Fair Work Act 2009

Fair Work Act 2009

Item 29: Section 12 (definition of *continental shelf*)

47. This item amends section 12 of the *Fair Work Act 2009* (the FW Act) to substitute a new definition of *continental shelf*. The new definition provides that continental shelf means:
 - a. the continental shelf (as defined in the *Seas and Submerged Lands Act 1973*) of Australia (including its external Territories); and
 - b. the *Greater Sunrise special regime area* (as defined in the *Seas and Submerged Lands Act 1973*).

Item 30: At the end of section 33

48. This item amends section 33 of the FW Act (Extension of this Act to the exclusive economic zone and the continental shelf) to include a new subsection 33(6).
49. Section 13AB of the *Seas and Submerged Lands Act 1973* provides that a law of the Commonwealth does not apply in relation to an act, omission, matter or thing directly or indirectly connected with the exploration of, or exploitation of the natural resources of, the continental shelf in the *Greater Sunrise special regime area*, subject to a contrary intention. New subsection 33(6) establishes a contrary intention and ensures that the sections of the FW Act that apply to the waters above the continental shelf will, subject to any modifications prescribed by the regulations, apply in the *Greater Sunrise special regime area*.
50. Note that the operation of provisions of the FW Act in relation to all or part the *Greater Sunrise special regime area* may be modified by regulations (see subsection 33(4) of the FW Act). This will enable regulations to be made to adapt the application of the FW Act in the *Greater Sunrise special regime area*, as necessary, to ensure it applies in a manner consistent with Australia's obligations under the Treaty and to facilitate the cooperative exercise of jurisdiction in the *Greater Sunrise special regime area*.

Part 8—Amendment of the International Organisations (Privileges and Immunities) Act 1963

International Organisations (Privileges and Immunities) Act 1963

Item 31: Section 5B

51. Section 5B of the *International Organisations (Privileges and Immunities Act) 1963* allowed for regulations to confer privileges and immunities on the Designated Authority (the oil and gas regulator) in the JPDA with Timor-Leste in the Timor Sea. These privileges and immunities were a requirement under the Timor Sea Treaty. As a result of the Timor Sea Treaty ceasing to be in force, section 5B is no longer necessary and is repealed.

Part 9—Amendment of the Migration Act 1958

Migration Act 1958

Item 32: Subsection 5(1) (definition of *Australian seabed*)

52. This item omits from the definition of *Australian seabed* in subsection 5(1) of the *Migration Act 1958* (the Migration Act) the reference to “other than the seabed within the Joint Petroleum Development Area”.
53. The effect of this amendment is to repeal redundant references to the JPDA.

Item 33: Subsection 5(1) (definition of *Joint Petroleum Development Area*)

54. This item repeals the definition of *Joint Petroleum Development Area* from subsection 5(1) of the Migration Act. As the JPDA will no longer exist, the definition is redundant and therefore repealed.

Part 10—Amendment of the National Greenhouse and Energy Reporting Act 2007

Division 1—Amendments

National Greenhouse and Energy Reporting Act 2007

Item 34: Subsection 6A(2)

55. The existing section 6A of the National Greenhouse and Energy Reporting Act 2007 (NGER Act) extends the Act to Australia’s continental shelf and exclusive economic zone. This item amends section 6A of the NGER Act so that reporting obligations are no longer applied to the JPDA, which will cease to exist, but will to apply to the *Greater Sunrise special regime area* and provides for the continued exclusion of the safeguard mechanism from the *Greater Sunrise special regime area*. Reporting under the NGER Act is important for Australia to have a comprehensive data set of emissions and energy information which is included in Australia’s National Greenhouse Gas Inventory. The safeguard mechanism applies limits on the net emissions of the largest facilities in Australia.
56. New subsection 6A(2) will provide a contrary intention to section 13AB of the *Seas and Submerged Lands Act 1973* so that the NGER Act extends to acts, omissions, matters or things directly or indirectly connected with the exploration/exploitation of natural resources in the *Greater Sunrise special regime area*. In particular, this will mean that emissions, energy production and energy consumption from oil and gas activities will need to be reported from facilities in the *Greater Sunrise special regime area*. These emissions will remain relevant to Australia’s National Greenhouse Gas Inventory. Activities not within the scope of subsection 6A(2) would not be excluded by section 13AB of the *Seas and Submerged Lands Act 1973* and would thus be covered by subsection 6A(1).
57. New subsection 6A(4) will replicate the exclusion of the safeguard mechanism from the *Greater Sunrise special regime area*, in the same way as existing subsection 6A(2). There is no longer a need to mention the JPDA because it will cease to exist upon entry into force of the Treaty.

Item 35: Section 6B

58. This item repeals section 6B which currently applies the NGER Act to the JPDA. This is no longer necessary once the Treaty is implemented the JPDA will no longer exist and the emissions from that geographical area are outside of Australia’s National Greenhouse Gas Inventory.

Item 36: Section 7

59. This item inserts a definition of *Greater Sunrise special regime area* consistent with the *Seas and Submerged Lands Act 1973*.

Item 37: Section 7

60. This item repeals definitions for areas which will cease to exist upon entry into force of the Treaty.

Division 2—Transitional provisions

Item 38: Transitional provisions for reporting on facilities in Joint Petroleum Development Area if this Part does not commence on 1 July

61. This item ensures that if the Treaty commences during a financial year, the emissions, energy production and energy consumption of facilities in the JPDA are reported for that part of the financial year before the Treaty was implemented. For example, if the Treaty was implemented on a 1 January, the emissions, energy production and consumption in the JPDA from 1 July to 30 December of the previous year would need to be included in a report under the Act. Subitems (2), (3) and (4) capture the various types of reporters captured by the NGER Act. As these provisions require reports under the NGER Act to include the necessary information, the Regulator's compliance powers under the NGER Act would be applicable for any failure to meet these obligations.

Part 11—Amendment of the Offshore Minerals Act 1994

Offshore Minerals Act 1994

Item 39: Subsection 10(3) (after paragraph (f) of the definition of *International Seabed Agreement*)

62. This item adds the Treaty to the definition of *International Seabed Agreement* for the purpose of section 10 of the *Offshore Minerals Act 1994* (the OM Act). That section provides that the position on the surface of the Earth of a point or line specified in an International Seabed Agreement is to be worked out in accordance with that Agreement.

Item 40: Subsection 13(1) (note)

63. This item amends the note to subsection 13(1) as the note will become the first of two notes. The second note will be inserted by item 42.

Item 41: Subsection 13(1) (note)

64. This item makes an amendment to fix an incorrect cross-reference in the note to subsection 13(1). The correct reference in the note should be to subsection 6(3) of the OPGGS Act.

Item 42: At the end of subsection 13(1)

65. This item adds an additional note to subsection 13(1). The intent of Note 2 is to clarify that neither the “Bayu-Undan pipeline international offshore area” nor the “Greater Sunrise pipeline international offshore area”, as described in the OPGGS Act, are offshore areas of a State.

Item 43: After section 35

66. This item inserts new section 35A to ensure it is clear that the OM Act does not apply to the *Greater Sunrise special regime area*, which is created under the Treaty. Section 13AB of the *Seas and Submerged Lands Act 1973* provides that a law of the Commonwealth does not apply in the *Greater Sunrise special regime area*, subject to a contrary intention. New section 35A ensures it is clear that there is no contrary intention that would apply the OM Act in the *Greater Sunrise special regime area*. This is necessary because of the fact that the OM Act picks up the definition of *offshore area* of a State from the OPGGS Act, and the offshore area of the Northern Territory is defined in the OPGGS Act to include the Eastern Greater Sunrise offshore area (which falls within the *Greater Sunrise special regime area*), may otherwise be taken to constitute a contrary intention.
67. The purpose of the *Greater Sunrise special regime area* is to designate the area in which Australia and Timor-Leste shall jointly develop the petroleum resources of the Greater Sunrise fields. When the Greater Sunrise Special Regime ceases to be in force, Australia and Timor-Leste will individually exercise their rights as coastal states on the basis of the continental shelf as delimited by the Treaty. As the area is established for a particular purpose and a defined period, it is not appropriate for certain Commonwealth laws (including the OM Act) to apply to the *Greater Sunrise special regime area*, except as required for implementation of the Treaty. The Greater Sunrise Special Regime will remain in force until commercial depletion of the Greater Sunrise fields.

Part 12—Amendment of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

Division 1—Amendments

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Item 44: Subsection 6(3) (map 1)

68. This item repeals the existing map and replaces it with an updated map to reflect the new maritime boundary in the Timor Sea agreed between Australia and Timor-Leste. The map reflects the geodesic lines connecting the points identified in Article 2: Continental Shelf Boundary and Article 4: Exclusive Economic Zone Boundary of the Treaty.

Item 45: Subsection 6(3) (note 3)

69. This item repeals note 3 to subsection 6(3) because it references the Joint Petroleum Development Area which is repealed by item 49 of this Schedule.

Item 46: Section 7

70. This item inserts definitions for three new areas that will be established by this Bill.
71. *Bayu-Undan pipeline international offshore area* is defined to mean the area described in Schedule 8 to the OPGGS Act (inserted by item 80 of this Schedule). The Bayu-Undan pipeline is the export pipeline which transports gas extracted from the Bayu-Undan gas field to the Darwin Liquefied Natural Gas processing facility at Wickham Point in the Northern Territory. Under Article 3 of Annex D to the Treaty, Australia has exclusive jurisdiction over the Bayu-Undan pipeline. Following agreement on the permanent maritime boundary, the northernmost portion of the Bayu-Undan pipeline will be located over Timor-Leste's continental shelf. The Bayu-Undan pipeline international offshore area is established in the OPGGS Act to enable the application of provisions of the OPGGS Act to the portion of the pipeline over Timor-Leste's continental shelf. The new *Bayu-Undan pipeline international offshore area* is approximately 500 metres to either side of the portion of the Bayu-Undan pipeline in Timor-Leste's continental shelf.
72. *Greater Sunrise pipeline international offshore area* is defined to mean the area declared under section 780P (inserted by item 75 of this Bill). The Treaty allows for the Greater Sunrise fields to be developed by means of a petroleum pipeline either to Timor-Leste or Australia. Under the Treaty, a pipeline that commences in the Greater Sunrise special regime area and lands in Australia will be under Australia's exclusive jurisdiction. It is likely that portions of this potential pipeline would be located in areas over which Timor-Leste and Australia will exercise joint continental shelf jurisdiction and areas located over Timor-Leste's continental shelf. To allow for the regulation of a petroleum pipeline that is to land in Australia, the amendments in this Bill provide for the creation of a new pipeline international offshore area to enable the application of provisions of the OPGGS Act to this area. The new pipeline international offshore area will only come into force if the responsible Commonwealth Minister declares, by notifiable instrument, that a person proposes to construct a petroleum pipeline for conveying petroleum recovered from the Greater Sunrise special regime area to a place in Australia. See further paragraph 127.
73. *Greater Sunrise special regime area* is defined to have the same meaning as in the *Seas and Submerged Lands Act 1973*. This Bill amends that Act to establish and define the *Greater Sunrise special regime area* to have the same meaning as the Special Regime Area has in the Treaty. The *Greater Sunrise special regime area* is an area extending over the Sunrise and Troubadour gas and condensate fields, collectively known as the Greater Sunrise fields, where Australia and Timor-Leste will jointly exercise their rights as coastal States pursuant to Article 77 of the United Nations Convention on the Law of the Sea.

Item 47: Section 7

74. This item repeals the definition of *Greater Sunrise unit area*, which is referred to in Schedule 7 of the OPGGS Act. The relevant clause of that Schedule is repealed by item 79 of this Bill.

Item 48: Section 7 (definition of *Greater Sunrise unitisation agreement*)

75. The effect of this item is to clarify that the Greater Sunrise unitisation agreement ceases to be in force upon entry into force of the Treaty.

Item 49: Section 7 (definition of *Joint Petroleum Development Area*)

76. This item repeals the definition of *Joint Petroleum Development Area* because that area ceases to exist upon entry into force of the Treaty.

Item 50: Section 7 (at the end of the definition of *offshore area*)

77. This item adds note 3 to the end of the definition of *offshore area* in section 7. The note clarifies that both the Bayu-Undan pipeline international offshore area and Greater Sunrise pipeline international offshore area are to be treated like an offshore area only in order to have certain provisions apply to them insofar as the provisions relate to petroleum pipeline matters. These offshore areas are established only for the purposes of pipeline activities, meaning that there will be no ability for the issuance of any other type of permit, lease or licence under the OPGGS Act in these areas.

Item 51: Section 7

78. This item inserts two new definitions into section 7.
79. *Timorese Designated Authority* is defined to mean the authority that is the Designated Authority in paragraph 2 of Article 6 of the Treaty. At the time of Treaty signature this was the Timor-Leste regulator, Autoridade Nacional do Petróleo e Minerais. The Timorese Designated Authority will carry out the day-to-day regulation and management of petroleum activities in the *Greater Sunrise special regime area*, on behalf of Australia and Timor-Leste.
80. *Timor Sea Maritime Boundaries Treaty* is defined to mean the Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea done at New York on 6 March 2018, as in force from time to time. The Treaty is publicly available in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

Item 52: Section 7

81. This item repeals two definitions. The definition of *Timor Sea Treaty* is superseded and replaced by the Timor Sea Maritime Boundaries Treaty. The definition of *Timor Sea Treaty Designated Authority* was established under the *Petroleum (Timor Sea Treaty) Act 2003* for the purposes of the Timor Sea Treaty which cease to be in force on the entry into force of the Timor Sea Maritime Boundaries Treaty (see Part 15 of this Bill).

Item 53: Section 7 (note to the definition of *Western Greater Sunrise area*)

82. This item repeals the note to the definition of *Western Greater Sunrise area* because that note explains that the activities occurring in the Western Greater Sunrise area are dealt with under the *Petroleum (Timor Sea Treaty) Act 2003* and the relevant part of that Act is repealed by this Bill (see Part 15 of this Bill).

Items 54 and 55: Subsection 8(1) (table item 3, column headed “is ...”, paragraph (b)) and subsection 8(1) (table item 3, column headed “is ...”, paragraph (c))

83. These items amend item 3 of the table in subsection 8(1), which defines the offshore area of Western Australia, to remove paragraph (c) which references the JPDA. That reference is redundant as the JPDA will cease to exist upon entry into force of the Treaty.

Item 56: Subsection 8(1) (cell at table item 4, column headed “is ...”)

84. This item amends item 4 of the table in subsection 8(1), which defines the offshore area of the Northern Territory. The effect of the amendment is to remove the JPDA, which will cease to exist upon entry into force of the Treaty.
85. The item also maintains the Eastern Greater Sunrise offshore area, which continues to be part of the offshore area of the Northern Territory during the period between the commencement of Schedules 1 and 2 of this Bill. The amendments to the scheduled area of the Northern Territory (by item 77) result in the Eastern Greater Sunrise offshore area ceasing to be part of the scheduled area for Northern Territory. The Eastern Greater Sunrise offshore area is specifically incorporated into the definition of the offshore area of Northern Territory by this item. This will preserve the security of title and the rights of titleholders for Retention Leases NT/RL2 and NT/RL4, as it allows the OPGGS Act and related Acts and regulations to continue to apply to the Eastern Greater Sunrise offshore area until such time as the GSPSC commences. At that time, provisions relating to the Eastern Greater Sunrise offshore area will be repealed by Schedule 2 of this Bill.

Item 57: Subsection 8(1) (cell at table item 5, column headed “is ...”)

86. This item amends item 5 of the table in subsection 8(1), which defines the offshore area of the Territory of Ashmore and Cartier Islands, to remove the reference to the JPDA. That reference is redundant as the JPDA will cease to exist upon entry into force of the Treaty.

Item 58: After section 8

87. This item inserts new section 8A, which allows for the new Bayu-Undan pipeline international offshore area and the Greater Sunrise pipeline international offshore area to be treated as offshore areas for the purpose of particular provisions of the OPGGS Act, and regulations or other instruments made for the purposes of those provisions.
88. Article 3 of Annex D to the Treaty provides that Australia will exercise exclusive jurisdiction over the Bayu-Undan pipeline. Article 10 of Annex B to the Treaty

provides that Australia will exercise exclusive jurisdiction over a petroleum pipeline that commences in the *Greater Sunrise special regime area* and lands in Australia. The Bayu-Undan pipeline international offshore area is created by new Schedule 8 (inserted by item 80 of this Bill). The Greater Sunrise pipeline international offshore area may be declared under section 780P (inserted by item 75 of this Bill). Creation of the pipeline international offshore areas enables regulation of the pipelines by application of provisions of the OPGGS Act. As the pipelines traverse Timor-Leste's continental shelf, Australia will only exercise jurisdiction to regulate the petroleum pipelines as agreed in the Treaty. There will be no ability for the issuance of any other type of permit, lease or licence under the OPGGS Act in these areas.

89. New subsection 8A(1) enables the provisions identified in new subsection 8A(2) to apply in relation to the pipeline international offshore areas in the same way as if they were offshore areas defined under section 7 of the OPGGS Act.
90. New subsection 8A(3) applies paragraphs 227(6)(d) and 506(1)(f) of the OPGGS Act to the Bayu-Undan pipeline international offshore area as if that area were an offshore area relating to Western Australia. The effect is that a person seeking to recover the cost of complying with a direction of the Joint Authority under subsection 227(1), or aggrieved by an omission, entry without cause, wrongly existing entry or an error or defect in an entry in a Register of offshore petroleum titles, in relation to a pipeline licence in the Bayu-Undan pipeline international offshore area, may bring an action in the Supreme Court of Western Australia.
91. New subsection 8A(3) also applies paragraphs 227(6)(d) and 506(1)(f) to the Greater Sunrise pipeline international offshore area as if that area were an offshore area relating to the Northern Territory. The effect is that a person seeking to recover the cost of complying with a direction of the Joint Authority under subsection 227(1), or aggrieved by an omission, entry without cause, wrongly existing entry or an error or defect in an entry in a Register of offshore petroleum titles, in relation to a pipeline licence in the Greater Sunrise pipeline international offshore area, may bring an action in the Supreme Court of the Northern Territory.
92. New subsection 8A(4) provides that a person cannot apply for the grant of a pipeline licence in the Bayu-Undan pipeline international offshore area. This is because the Bayu-Undan pipeline international offshore area is located over Timor-Leste's continental shelf and has been established under the OPGGS Act to give effect to Article 3 of Annex D to the Treaty which provides that Australia will regulate the entire length of the Bayu-Undan pipeline. As this area is located over Timor-Leste's continental shelf it is not appropriate for any other pipeline licence to be granted.
93. New subsection 8A(5) modifies the application of subsections 223(2) and (3) of the OPGGS Act in relation to an application for a pipeline licence relating to the construction of a petroleum pipeline in the Greater Sunrise pipeline international offshore area. This is to account for the fact that petroleum production activities in the *Greater Sunrise special regime area* will not be authorised by a petroleum production licence under the OPGGS Act but will be authorised by the GSPSC.

94. New subsection 8A(6) modifies the application of item 5 of the table in subsection 262(1) of the OPGGS Act, so that the reference to a petroleum production licensee is a reference to the person who applied for a pipeline licence, where that person is the Greater Sunrise Contractor. The effect of this subsection is to apply the section 262 requirement for consultation by the Joint Authority prior to making a proposed decision to refuse to grant a pipeline licence to the Greater Sunrise Contractor, in relation to construction of a pipeline in the Greater Sunrise pipeline international offshore area.

Item 59: After paragraph 40(1)(d)

95. This item amends subsection 40(1) to provide that, for the purposes of the OPGGS Act, the position on the surface of the Earth of the Bayu-Undan pipeline international offshore area (as described by new Schedule 8 to the OPGGS Act – inserted by item 80 of this Bill) will be determined by reference to the Geocentric Datum of Australia (as defined by section 38 of the OPGGS Act).

Item 60: Subsection 40(1) (note 3A)

96. This item repeals note 3A to subsection 40(1). That note referenced the Greater Sunrise unit area and the Western Greater Sunrise area, which are repealed by this Bill. New note 3A retains the reference to the Eastern Greater Sunrise offshore area, as described by Schedule 7 to the OPGGS Act. New note 3B is inserted to direct the reader that Schedule 8 deals with the Bayu-Undan pipeline international offshore area.

Item 61: Subsection 49(3) (at the end of the definition of *International Seabed Agreement*)

97. This item adds the Treaty to the definition of *International Seabed Agreement* for the purpose of section 49 of the OPGGS Act. That section provides that, if it is necessary for the purposes of the OPGGS Act or the regulations to determine the position on the surface of the Earth of a point or line specified in an International Seabed Agreement, then the position must be determined in accordance with that Agreement.

Item 62: At the end of section 56

98. New subsection 56(10) provides that the responsible Commonwealth Minister is the Joint Authority for the Bayu-Undan pipeline international offshore area (the Bayu-Undan Offshore Petroleum Joint Authority).
99. New subsection 56(11) provides that the responsible Commonwealth Minister will be the Joint Authority for the Greater Sunrise pipeline international offshore area (the Greater Sunrise Pipeline Offshore Petroleum Joint Authority).

Item 63: At the end of section 57

100. This item adds new subsections 57(4), (5) and (6), which outline the functions and powers of both the Bayu-Undan Offshore Petroleum Joint Authority and the Greater Sunrise Pipeline Offshore Petroleum Joint Authority. This item limits the functions and powers of both Joint Authorities to those conferred on a Joint Authority by the provisions of the OPGGS Act listed in new subsection 57(6), or regulations made for

the purposes of those provisions, insofar as they relate to petroleum pipelines. This will enable the Joint Authorities to carry out their functions in relation to the portion of the pipelines that are in Timor-Leste's continental shelf in accordance with the Treaty. It also ensures the functions and powers conferred on the Joint Authorities do not go beyond those necessary to enable regulation of the portion of the pipelines that are in Timor-Leste's continental shelf.

Item 64: After paragraph 61(2A)(b)

101. This item inserts two new paragraphs to include the Bayu-Undan pipeline international offshore area and the Greater Sunrise pipeline international offshore area in relation to records of decisions of a Joint Authority. This ensures the National Offshore Petroleum Titles Administrator must keep written records of the decisions of a Joint Authority in relation to those offshore areas, and those records are evidence that the decision was duly made as recorded, if signed by a person who was the Joint Authority at the time.

Item 65: After subsection 64(3)

102. This item inserts new subsection 64(3A) which deals with the judicial notice of signature and facts relating to membership or being a delegate of a Joint Authority for the purposes of a pipeline international offshore area. The provision requires that all courts must take judicial notice of the signature of a person who is or was, at a particular time, the Joint Authority or a delegate of the Joint Authority for the Bayu-Undan pipeline international offshore area or the Greater Sunrise pipeline international offshore area. Courts must also take judicial notice of the fact that the person is, or was at the particular time, the Joint Authority or a delegate of the Joint Authority.
103. Judicial notice is a finding by a court of the existence of a fact which has not been established by evidence. Once judicial notice is taken of a matter, it is prima facie proved and evidence is not required to prove it. However, evidence may be led to rebut the fact noticed or the consequences of it.
104. This provision is consistent with the other Joint Authorities outlined in section 64, as they apply to the OPGGS Act.

Item 66: After section 68

105. This item inserts new section 68A which allows for both the Bayu-Undan Offshore Petroleum Joint Authority and the Greater Sunrise Pipeline Offshore Petroleum Joint Authority to delegate any or all of the functions or powers of the Joint Authority under the OPGGS Act or the regulations to an APS employee who is an SES employee or acting SES employee.
106. For efficient administration, delegations will continue in force despite a vacancy in or change in the identity of the holder of the office of Joint Authority. Delegations may be revoked by the Joint Authority in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*, which provides that where an Act confers a power to make,

grant or issue any instrument, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to revoke the instrument. A copy of an instrument making, varying or revoking a delegation under new section 68A will be published in the Gazette.

107. This item is consistent with the delegation provisions for other Joint Authorities under the OPGGS Act.

Item 67: Section 69

108. This item omits the reference to the “Timor Sea Treaty Designated Authority” and substitutes it with the “Timorese Designated Authority”. This is because the Timor Sea Treaty Designated Authority was established under the Timor Sea Treaty, which ceases to be in force when the Timor Sea Maritime Boundaries Treaty enters into force. The Timorese Designated Authority is the body defined in Article 6(2) of Annex B to the Treaty (see new definition inserted by item 51 of this Bill).

Item 68: At the end of Division 1 of Part 1.3

109. This item adds new section 70, which provides for cooperation between a Joint Authority for a pipeline international offshore area and the Timorese Designated Authority.
110. New subsection 70(1) implements Article 3(3) of Annex D to the Treaty which provides that Australia and Timor-Leste will cooperate for the safe and efficient regulation of the Bayu-Undan gas field, having regard to the integrated nature of the upstream and downstream component of that field.
111. New subsection 70(2) implements Article 10(2) of Annex B to the Treaty which provides that the State exercising jurisdiction over the Greater Sunrise pipeline will cooperate with the Timorese Designated Authority in relation to the pipeline to ensure the effective management and regulation of the *Greater Sunrise special regime area*. The Timorese Designated Authority is responsible for carrying out the day-to-day regulation and management of petroleum activities in the *Greater Sunrise special regime area*, on behalf of Australia and Timor-Leste.

Items 69 to 71: Paragraphs 172(a) and (c), Subsection 173(5) (heading), Paragraph 173(5)(b)

112. These items omit references to “Timor Sea Treaty Designated Authority” and substitute them with “Timorese Designated Authority”. (For further information see item 67 of this Bill.)

Item 72: Section 643 (definition of *Commonwealth waters*)

113. This item amends the definition of *Commonwealth waters* to include both the Bayu-Undan pipeline international offshore area and the Greater Sunrise pipeline international offshore area. The inclusion of these areas in the definition is required to extend the application of provisions under the OPGGS Act and related acts and regulations to those areas. For example, the effect of this item will allow the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA)

to continue to regulate the northern-most portion of the Bayu-Undan pipeline in Timor-Leste's continental shelf and, if required, to regulate the Greater Sunrise pipeline as provided for by the Treaty.

Item 73: Section 695AA

114. This item repeals section 695AA, which refers to the Timor Sea Treaty Designated Authority. (For further information see item 67 of this Bill.)

Item 74: After section 695X

115. This item inserts new section 695XA to enable the CEO of NOPSEMA to share offshore information (as defined in subsection 695U(1) of the OPGGS Act) or a thing with the Timorese Designated Authority for the purposes of the exercise of the latter's powers or the performance of its functions. In practice, information or a thing would be shared in relation to matters relevant to the Bayu-Undan pipeline international offshore area and, if required, the Greater Sunrise pipeline international offshore area. The Treaty does not specify how and what information should be shared, however the Bayu-Undan and Greater Sunrise offshore petroleum projects are integrated projects and it is envisaged that information or a thing, relating to the pipeline(s), may need to be shared with the Timor-Leste regulatory authority to ensure that the project(s) are managed effectively.
116. The sharing of offshore information or things is discretionary. The CEO of NOPSEMA therefore has the ability to determine the appropriateness of sharing particular offshore information or things in each case.
117. Offshore information may be or include personal information, within the meaning of the *Privacy Act 1988* (the Privacy Act). The use or disclosure of personal information is regulated under the Privacy Act. Further, section 695Y of the OPGGS Act applies to offshore information to the extent that it is personal information. Before information is made available under new section 695XA, the CEO of NOPSEMA is required to take reasonable steps to ensure the information is de-identified. This provides an additional safeguard to protect personal information.

Item 75: After Part 9.10C

118. This item inserts new Part 9.10D, relating to the *Greater Sunrise special regime area*.
119. New section 780M provides for certain bodies to exercise Australia's rights and responsibilities relating to "Petroleum Activities" (within the meaning of the Treaty) in the *Greater Sunrise special regime area*, in accordance with the Treaty.
120. The Timorese Designated Authority will carry out the day-to-day regulation and management of petroleum activities in the *Greater Sunrise special regime area* in accordance with the Treaty, on behalf of Australia and Timor-Leste. The Timorese Designated Authority will report to the Governance Board and will have the following functions and powers:

- regulate and manage Petroleum Activities in the Greater Sunrise special regime area in accordance with the applicable Petroleum Mining Code and any regulations under that code;
- assess and approve the Development Plan for the Greater Sunrise fields;
- enter into the GSPSC, subject to the approval of the Governance Board;
- supervise, manage and agree on non-material amendments to the GSPSC;
- agree material amendments to the GSPSC subject to the approval of the Governance Board;
- approve assignments, production plans, lifting agreement and other technical documents and agreements relating to the GSPSC;
- report annual income and expenditure relating to the Greater Sunrise special regime area to the Governance Board;
- access, consolidate and disseminate information pertaining to the Greater Sunrise fields' reserves;
- collect and distribute revenue from Petroleum Activities and Special Regime Installations;
- audit and inspect the Greater Sunrise Contractor's books and accounts;
- inspect Special Regime Installations;
- ensure compliance by the Greater Sunrise Contractor with its local content obligations;
- issue, and monitor compliance with, regulations to protect the marine environment and investigating safety and environmental incidents in the Greater Sunrise special regime area;
- issue regulations and develop and adopt standards and procedures on occupational health and safety for persons employed on special regime installations;
- request assistance from the appropriate authorities for search and rescue operations, security threats, air traffic services, anti-pollution prevention measures, and safety and environmental incidents, or the activation of emergency procedures, in accordance with international law;
- establish safety zones in accordance with UNCLOS;
- controlling movements into, within and out of the Greater Sunrise special regime area of vessels, aircraft, structures, and other equipment employed in exploration for and exploitation of the Greater Sunrise fields;
- powers and functions described in Article 21 of Annex B to the Treaty with respect to the decommissioning plan;
- oversight of the abandonment and decommissioning phase of the Greater Sunrise fields;
- authorising the construction, operation and use of Special Regime Installations;
and
- any other powers or functions in respect of the Greater Sunrise special regime are conferred on it by the Governance Board.

121. The Governance Board will comprise one representative appointed by Australia and two representatives appointed by Timor-Leste. The Governance Board will have the following powers and functions:
- provide strategic oversight over the Greater Sunrise Special Regime (as defined in the Treaty);
 - establish and oversee an assurance and audit framework for revenue verification and offshore petroleum regulation and administration;
 - make decisions on the assessment and approval of a Development Plan pursuant to Article 9(2) of Annex B to the Treaty and any material change to the a Development Plan as defined in that Development Plan, pursuant to Article 9(4) of Annex B to the Treaty;
 - approve the decision by the Timorese Designated Authority to enter into or terminate the GSPSC or propose any material changes to that contract;
 - approve a decommissioning plan, and any material change to a decommissioning plan in accordance with Article 21 of Annex B to the Treaty;
 - approve the construction and operation of the pipeline by which petroleum is discharged from the Greater Sunrise special regime area;
 - approve amendments to the Interim Petroleum Mining Code and any regulations under that code;
 - approve the final Petroleum Mining Code and any regulations under that code; and
 - confer additional powers and functions on the Timorese Designated Authority if necessary.
122. The Dispute Resolution Committee will be an independent board mandated to hear matters referred to it by the Designated Authority, the Governance Board or the Greater Sunrise Contractor (being the person authorised to undertake exploitation activities in the special regime area). The Dispute Resolution Committee will be comprised of one member appointed from each of Australia and Timor-Leste and a third independent member, who will act as Chair. Decisions of the Dispute Resolution Committee will be binding on the Timorese Designated Authority and the Greater Sunrise Contractor.
123. New section 780N applies to the extent that a law of the Commonwealth, a State or a Territory applies in, or in relation to, the *Greater Sunrise special regime area*. A “law” could either be a whole Act or instrument, or a provision of an Act or instrument. New section 780N gives effect to the delegation of jurisdictional competencies to the Timorese Designated Authority set out in Articles 6(3) and 16(3) of Annex B to the Treaty.
124. The law has effect subject to certain legislation and regulations made under the Treaty. By Article 6 of Annex B to the Treaty, the Timorese Designated Authority will be responsible for the day-to-day regulation and management of petroleum activities in the *Greater Sunrise special regime area* on behalf of Australia and Timor-Leste. Accordingly, Australian laws should give way to legislation and

regulations made by the Timorese Designated Authority in regulating and managing petroleum activities.

125. Laws of the Commonwealth, a State or a Territory are excluded from application in relation to the *Greater Sunrise special regime area* under section 13AB of the *Seas and Submerged Lands Act 1973*, subject to a contrary intention. “Laws of the Commonwealth” includes State and Territory law applied as Commonwealth law (e.g. under section 80 of the OPGGS Act), as well as Commonwealth law applying of its own force.
126. New section 780P provides for the responsible Commonwealth Minister to declare, by notifiable instrument, an area as the Greater Sunrise pipeline international offshore area. The section specifies that the responsible Commonwealth Minister must be satisfied that a person proposes to construct a pipeline for conveying petroleum recovered from the *Greater Sunrise special regime area* to a place in Australia, before declaring the area through which the pipeline is proposed to extend as the Greater Sunrise pipeline international offshore area.
127. The Treaty allows for the Greater Sunrise fields to be developed by means of a pipeline either to Timor-Leste or Australia. This area will therefore be declared by the Minister only if required. If declared, the area must be at least partly within the *Greater Sunrise special regime area*, and must adjoin (but cannot include any of) an offshore area of a State or Territory.
128. If declared, Australia will exercise exclusive jurisdiction over a pipeline in the Greater Sunrise pipeline international offshore area. To allow for the regulation of a petroleum pipeline that is to land in Australia, amendments in this Bill apply many provisions of the OPGGS Act to this area.

Item 76: Paragraphs 5(zx), (zy) and (zz) of Schedule 1

129. This item amends the scheduled area for Western Australian (referenced by section 8 of the OPGGS Act which deals with the offshore areas of the States and Territories) by repealing references to the boundaries that no longer apply with the new reference points to reflect the boundaries as agreed in the Treaty.

Item 77: Paragraphs 7(l), (m), (n) and (o) of Schedule 1

130. This item amends the scheduled area for the Northern Territory (referenced by section 8 of the OPGGS Act which deals with the offshore areas of the States and Territories) by repealing references to the boundaries that no longer apply with new reference points to reflect the boundaries as agreed in the Treaty.

Item 78: Paragraphs 8(l) and (m) of Schedule 1

131. This item amends the scheduled area for the Territory of Ashmore and Cartier Islands (referenced by section 8 of the OPGGS Act which deals with the offshore areas of the States and Territories) by repealing references to the boundaries that no longer apply with new reference points to reflect the boundaries as agreed in the Treaty.

Item 79: Clause 1 of Schedule 7

132. This item repeals clause 1 Schedule 7, which relate to the Greater Sunrise unit area and the Western Greater Sunrise area. These areas exist for the purposes of the Timor Sea Treaty, which will be superseded and replaced following the commencement of the Treaty. In their place, the *Greater Sunrise special regime area* will be established (for further information on the *Greater Sunrise special regime area* see item 46 of this Bill).

Item 80: At the end of the Act

133. This item adds new Schedule 8 to establish the Bayu-Undan pipeline international offshore area through the provision of its coordinates (for further information see item 46 of this Bill).

Division 2—Transitional provisions

Item 81: Alteration of permit areas and licence areas to reflect new continental shelf boundary

134. This item alters permit and licence areas to reflect the new continental shelf boundary between Australia and Timor-Leste that has been established by the Treaty. As a result of the new boundary, the area of certain permits and licences granted under the OPGGS Act or the former *Petroleum (Submerged Lands) Act 1967* (PSLA) will be altered to reflect the removal of certain areas that are now part of the continental shelf of Timor-Leste.

Petroleum Exploration Permit WA-523-P

135. Petroleum Exploration Permit WA-523-P comprises certain blocks in the offshore area of Western Australia. As a result of the changes made to the continental shelf boundary by the Treaty, and reflected in the amendments to clause 5 of Schedule 1 of the OPGGS Act made by this Bill (see item 76), there are changes to the number of and size of blocks under this permit. Subitem 81(1) provides that, upon and after the commencement of that subitem, the blocks that are the subject of the permit are those constituted by the graticular sections listed in the table in the subitem. The changes to the permit area made by subitem (1) do not otherwise affect the continuity of the permit, or the operation of the OPGGS Act, the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (Regulatory Levies Act) or relevant regulations or instruments made under those Acts, in relation to the permit.
136. In respect of the area of the title which becomes part of Timor-Leste's continental shelf, the Treaty provides for security of title and any other rights held by the holder of the permit before the commencement of this item to be preserved through equivalent conditions determined by agreement between Australia, Timor-Leste and the holder of the permit (paragraph 2 of Article 4 of Annex D of the Treaty). To give effect to this obligation, the holder of the permit will enter into a Production Sharing Contract (PSC) with Timor-Leste. Negotiations on the PSC is occurring through the

ongoing transitional arrangements process between Australia, Timor-Leste and the affected petroleum operations.

Petroleum Production Licence WA-18-L

137. Petroleum Production Licence WA-18-L covers a block that is in the offshore area of Western Australia. As a result of the changes made to the continental shelf boundary by the Treaty, the area of the licence has changed. Subitem 81(3) clarifies that the change to the licence area does not otherwise affect the continuity of the licence, or the operation of the OPGGS Act, the Regulatory Levies Act or relevant regulations or instruments made under those Acts, in relation to the licence. Australia and Timor-Leste have agreed that the titleholder will enter into a PSC with Timor-Leste for the portion of the production licence which becomes part of Timor-Leste's continental shelf. Negotiations on the PSC is occurring through the ongoing transitional arrangements process between Australia, Timor-Leste and the affected petroleum operations.

Petroleum Production Licence AC/L5

138. Petroleum Production Licence AC/L5 covers two blocks that are in the offshore area of the Territory of Ashmore and Cartier Islands. As a result of the changes made to the continental shelf boundary by the Treaty, the area of the licence has changed. Subitem 81(4) clarifies that the change to the licence area does not otherwise affect the continuity of the licence, or the operation of the OPGGS Act, the Regulatory Levies Act or relevant regulations or instruments made under those Acts, in relation to the licence. Australia and Timor-Leste have agreed that the titleholder will enter into a PSC with Timor-Leste for the portion of the production licence which becomes part of Timor-Leste's continental shelf. Negotiations on the PSC is occurring through the ongoing transitional arrangements process between Australia, Timor-Leste and the affected petroleum operations.

Gazettal not required

139. Section 708 of the OPGGS Act requires notice of certain events relating to petroleum titles to be published in the Gazette. Subitems 81(5) and (6) provide that the changes to the permit or licence areas referenced in subitems 81(2), (3) and (4) are not required to be published in the Gazette.

Item 82: Alteration of Pipeline Licence WA-8-PL to reflect new continental shelf boundary

140. This item alters pipeline licence WA-8-PL to reflect the continental shelf boundary as agreed in the Treaty. Previously, this licence was issued for the portion of the pipeline running from the boundary of the JPDA in the offshore area of Western Australia to the boundary of the offshore area of the Northern Territory. The length of the pipeline under the licence has been extended to reflect the extension of the boundary of the offshore area of Western Australia.
141. In addition, this item makes clear that the alteration of the licence does not affect the continuity of WA-8-PL, or the operation of the OPGGS Act, the Regulatory Levies

Act, regulations or other instruments in regard to it. The alteration is not required to be Gazetted by the Titles Administrator.

142. The item also clarifies the titleholder's rights in relation to Subdivision C of Division 4 of Part 15 of the *Environment Protection and Biodiversity Conservation Act 1999*. A marine reserve area was established under that Act over a portion of the licence area of WA-8-PL, after the licence was granted. The licence is therefore a prior usage right for the purpose of section 359 of that Act. This item provides that the licence continues to be a prior usage right, and that the alteration of the licence area does not cause the usage right to be renewed or have its term extended (which would require the approval of the Minister for the Environment under subsection 359(3) of that Act). This will ensure that the alteration of the licence area has no effect on the existing rights and obligations of the titleholder.

Item 83: New pipeline licence for part of Bayu-Undan pipeline

143. This item provides for the automatic grant of a new pipeline licence under the OPGGS Act for the section of the Bayu-Undan pipeline that will be in Timor-Leste's jurisdiction on entry into force of the Treaty. Under Article 3 of Annex D to the Treaty, Australia has exclusive jurisdiction over the Bayu-Undan pipeline.
144. On commencement of the item, the licence is taken to have been granted by the Joint Authority for the Bayu-Undan pipeline international offshore area under Part 2.6 of the OPGGS Act. The licence is granted to the person who, immediately before commencement of the item, was the registered holder of pipeline licence WA-8-PL. Automatic grant of a licence will ensure the operator of the Bayu-Undan pipeline retains tenure of title over the entire pipeline, and the new licence reflects the rights and obligations of the titleholder as they related to WA-8-PL.
145. This Bill establishes the Bayu-Undan international pipeline offshore area in Schedule 8 of the OPGGS Act and the new pipeline licence is granted in respect of this area. For the purpose of section 211 of the OPGGS Act, which sets out the rights of the holder of a pipeline licence, subitem 83(2) provides for the new licence to be taken to specify the Bayu-Undan pipeline international offshore area.
146. Subitem 83(3) provides for the design, construction, size and capacity of the pipeline that is taken to be specified by the licence. Subitem 83(4) identifies the route and position of the pipeline to which the licence relates. The Australian Government agreed with the titleholder and the Timorese Designated Authority that the new licence should apply to the pipeline from the subsea isolation valve, which is adjacent to the Bayu-Undan facility, through to the boundary of the Bayu-Undan pipeline international offshore area and the offshore area of Western Australia. Coordinates are provided to reflect this.
147. To avoid any doubt, subitem (5) specifies that the OPGGS Act applies to the new Bayu-Undan pipeline licence.
148. Subitems (6), (7) and (8) provide for dealings in respect of the new licence. When the new pipeline licence comes into force on commencement of this item, any dealings

approved and registered under the repealed *Petroleum (Seas and Submerged Lands) Act 1973* in relation to WA-8-PL is deemed to be in force in relation to the new licence. Subitem (7) provides that the Titles Administrator must register each of the dealings in force in respect of the new licence. Subitem (8) is included for the avoidance of doubt and provides that dealings in relation to the new licence may be affected by dealings occurring after the commencement of the item, subject to Part 4.6 of the OPGGS Act.

149. Subitem (9) provides that the grant of the new licence is not required to be published in the Gazette.

Item 84: Extension of environment plan and safety case for Bayu-Undan pipeline

150. This item extends any environment plan in force, immediately prior to commencement of this item, for an activity in relation to Pipeline Licence WA-8-PL, as that licence was in force prior to the commencement of Schedule 1 of this Bill. The plan will continue to apply in relation to the activity as it relates to WA-8-PL (as altered by item 82), and will also have effect in relation to the activity as it relates to the new pipeline licence granted under item 83.
151. This item also extends a safety case in force in relation to the Bayu-Undan pipeline. The safety case will continue in force in relation to the part of the pipeline in WA-8-PL (as altered by item 82), and will also be the safety case in force in relation to the part of the pipeline covered by the new pipeline licence granted under item 83.
152. This provision will provide continuity in relation to regulatory requirements relating to the pipeline, while minimising the impact on the titleholders of the pipeline licences.

Part 13—Amendment of the Passenger Movement Charge Collection Act 1978

Passenger Movement Charge Collection Act 1978

Item 85: Section 3

153. This item repeals the following definitions from section 3 of *the Passenger Movement Charge Collection Act 1978* (the PMCC Act):
- a. definition of *Joint Petroleum Development Area*;
 - b. definition of *petroleum*;
 - c. definition of *petroleum activities*;
 - d. definition of *Timor Sea Treaty*.
154. The effect of this amendment is to repeal redundant references to the *Joint Petroleum Development Area*, *petroleum*, *petroleum activities* and *Timor Sea Treaty*. This item is a consequential amendment to the amendments made to the Customs Act in Part 5 of this Schedule. The effect of this item is to remove redundant references from section 3 of the PMCC Act.

Item 86: Paragraph 5(1)

155. This item omits “Joint Petroleum Development Area in connection with the prospecting for petroleum or the undertaking of petroleum operations”, and substitutes “Greater Sunrise special regime area (within the meaning of the *Seas and Submerged Lands Act 1973*) in connection with Petroleum Activities (within the meaning of the Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea done at New York on 6 March 2018, as in force from time to time)”.
156. This item is a consequential amendment to the amendment made by item 9 of this Schedule which inserts the definition of *Greater Sunrise special regime area* and item 14 of this Schedule, which inserts the definition of *Timor Sea petroleum activities purpose* in subsection 4(1) of the Customs Act. The effect of this amendment is to ensure a person departing from Australia for the purposes of travelling to the *Greater Sunrise special regime area* in connection with petroleum activities shall be exempt from the passenger movement charge, as was previously the case with a person travelling to the JPDA.

Item 87: At the end of section 5

157. This item adds a note at the end of section 5 of the PMCC Act. The note refers to the Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea, which could in 2018 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

Part 14—Amendment of the Petroleum and Other Fuels Reporting Act 2017

Petroleum and Other Fuels Reporting Act 2017

Item 88: At the end of paragraph 11(1)(c)

158. The *Petroleum and Other Fuels Reporting Act 2017* (the POFR Act) establishes a mandatory reporting regime for fuel information.
159. Section 11 of the POFR Act creates a reporting obligation for persons prescribed by the *Petroleum and Other Fuels Reporting Rules 2017* (the Rules) to report specified information in relation to the carrying out of covered activities concerning covered products where the activity is undertaken by a regulated entity in Australia or in connection with a business in Australia.
160. This item inserts paragraph 11(1)(c) to provide that, subject to being prescribed by the Rules, reporting obligations may extend to the Greater Sunrise Special Regime. It is intended that any reporting obligations, which may be prescribed by the Rules, be consistent with the Treaty and any agreements between Timor-Leste and Australia that give effect to the operation of the Treaty, and the development and exploitation of the Greater Sunrise fields.

Part 15—Amendment of the Petroleum (Timor Sea Treaty) Act 2003

Division 1—Amendments

Petroleum (Timor Sea Treaty) Act 2003

The *Petroleum (Timor Sea Treaty) Act 2003* (the PTST Act) was part of the legislative response to bring the Timor Sea Treaty into force. That agreement is superseded and replaced by the Treaty. The PTST Act is partially repealed by this Bill in order to maintain relevant provisions for current petroleum operations until the transitional arrangements have been agreed and implemented in a subsequent tranche of legislation.

In accordance with the Treaty, Australia will cease to have taxing rights over the Joint Petroleum Development Area and Australian taxes to be applied to the *Greater Sunrise special regime area* (as now defined) shall be agreed among Australia, Timor-Leste and the Greater Sunrise Contractor. Further consequential amendments will therefore be made separately to the taxation legislation (such as the *Income Tax Assessment Act 1936*, *Income Tax Assessment Act 1997*, *Petroleum Resource Rent Tax Assessment Act 1987* and *Fringe Benefits Tax Assessment Act 1986*) to reflect these fiscal changes.

Item 89: Sections 3 and 4

161. This item repeals sections 3 and 4. Section 3 is repealed because the Timor Sea Treaty will no longer be in force. Section 4 is repealed because the Ministerial Council, Joint Commission and Designated Authority, established for the purpose of the Timor Sea Treaty, cease to be in force upon the entry into force of the Treaty.

Item 90: Subsection 5(1) (definition of *Petroleum Mining Code*)

162. This item repeals the definition of *Petroleum Mining Code* because the Petroleum Mining Code ceases to be in force upon the entry into force of the Treaty.

Item 91: Subsection 5(1) (definition of *Treaty*)

163. This item repeals the definition of *Treaty*, which references the Timor Sea Treaty, and substitutes it with a definition for the *Timor Sea Treaty* which clarifies that it is the agreement which was in force immediately prior to the entry into force of the Treaty.

Item 92: Part 2

164. This item repeals Part 2, which deals with the JPDA. The JPDA created by the Timor Sea Treaty and established by this Act ceases to be in force upon entry into force of the Treaty.

Division 2—Saving provisions

Item 93: Continued jurisdiction of courts and application of law

165. This item inserts a savings provision to allow for the continued operation of sections 9 and 10 of the PTST Act in relation to civil matters concerning an act or omission done in the JPDA and which involved damage suffered or expenses incurred by Australia, a

State or Territory or a person who is a national, or permanent resident of Australia, before the repeal of those sections (by item 92 of this Bill).

Part 16—Amendment of the Radiocommunications Act 1992

Radiocommunications Act 1992

Item 94: 17A (heading)

166. This item amends the heading of section 17A by omitting the reference to “Western Greater Sunrise” and substituting it with “Greater Sunrise special regime area”, “Greater Sunrise pipeline international offshore area” and “Bayu-Undan pipeline international offshore area”.

Item 95: Subsection 17A(1)

167. This item amends subsection 17A(1) by omitting all references to the “Western Greater Sunrise area” and substituting these references with the “Greater Sunrise special regime area”, the “Greater Sunrise pipeline international offshore area” and the “Bayu-Undan pipeline international offshore area”. The new *Greater Sunrise special regime area* and the new offshore areas are created by item 46 of this Bill. These amendments are to update Australian legislation to reflect the new arrangements under the Treaty, and ensure the continued application of the *Radiocommunications Act 1992* (the RC Act) in the *Greater Sunrise special regime area*. The application of the RC Act in the *Greater Sunrise special regime area* provides statutory authority for the Australian Communications and Media Authority (the ACMA) to take action to ensure the integrity of radiocommunications services in the area, which are of vital importance to the safe operation of exploration and resource extraction activities.

Item 96: Subsections 17A(2) and (3)

168. This item repeals subsections 17A(2) and (3) so that the RC Act ceases to apply in the “Greater Sunrise unit reservoirs”, which is repealed by item 3 of Schedule 1 of this Bill and the “Western Greater Sunrise area”, which is superseded by the *Greater Sunrise special regime area*.
169. New paragraph 17A(2)(a) specifies the matters to which the extended application of the Act applies. These are limited to acts, matters and things directly or indirectly connected with Petroleum Activities (as defined by the Treaty) relating to the Greater Sunrise fields (as defined by the Treaty) or specified pipeline matters concerning a pipeline in the Greater Sunrise pipeline international offshore area or the Bayu-Undan pipeline.
170. New paragraph 17(2)(b) specifies that the extended application of the Act applies to acts done by or in relation to, and matters, circumstances and things affecting, any person in the *Greater Sunrise special regime area*, the Greater Sunrise pipeline international offshore area or the Bayu-Undan pipeline international offshore area for a reason directly or indirectly connected with the acts, matters and things specified in

new paragraph 17A(2)(a). The objective is to ensure regulatory action under this Act can be taken in relation to acts, matters, circumstances and things affecting persons which may critically interfere with communication services around them.

171. For the purposes of subsection 17A(3), the Bayu-Undan pipeline international offshore area and the Greater Sunrise pipeline international offshore area have the same meaning as it has in the OPGGS Act, the *Greater Sunrise special regime area* has the same meaning as in the *Seas and Submerged Lands Act 1973* and the *Timor Sea Maritime Boundaries Treaty* means the Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea done at New York on 6 March 2018, as in force from time to time.

Part 17—Amendment of the Seas and Submerged Lands Act 1973

Seas and Submerged Lands Act 1973

Item 97: Subsection 3(1)

172. This item inserts a new definition into subsection 3(1) of *Greater Sunrise special regime area*. The term is described in clause 1 of new Schedule 2 to the Act (inserted by item 103 of this Bill) and discussed further below.

Item 98: Subsection 3(1) (definition of *the Convention*)

173. This item is consequential to the insertion of a new Schedule 2 to the *Seas and Submerged Lands Act 1973* (the SSL Act). As the Bill will insert a new Schedule into the SSL Act, this amendment updates the note to the definition of *the Convention* in subsection 3(1) by replacing the reference to “the Schedule” of the SSL Act with “Schedule 1” to that Act.

Item 99: Subsection 3(1)

174. This item inserts a new definition into subsection 3(1) of *Timor Sea Maritime Boundaries Treaty*.

Item 100: At the end of subsection 3(3)

175. This item inserts a new note at the end of subsection 3(3) to clarify that new Division 2AA affects the operation of Australian laws in the part of the continental shelf of Australia in the *Greater Sunrise special regime area*. Subsection 3(3) is an interpretative provision which clarifies that a reference to the continental shelf of Australia in this Act, including section 11, is a reference to that continental shelf so far as it extends.

Item 101: After Division 2 of Part II

176. This item inserts a new Division 2AA into Part II of the Act entitled “Greater Sunrise special regime area”. The new Division implements the *Greater Sunrise special regime area* into Australian law. The SSL Act is the domestic legal mechanism by which Australia establishes and declares sovereignty or sovereign rights over its maritime zones and continental shelf, consistently with UNCLOS.

177. The *Greater Sunrise special regime area* is a unique area that differs from Australia's other maritime zones. It is an area over which Australia and Timor-Leste have agreed that pending commercial depletion of the gas fields, both States will jointly exercise sovereign rights over that area of the continental shelf for the purpose of exploring and exploiting its natural resources. New section 13AA provides that within the *Greater Sunrise special regime area*, Australia is to exercise its rights as a coastal state pursuant to Article 77 of UNCLOS jointly with Timor-Leste. Article 77 of UNCLOS sets out the rights of the coastal State over the continental shelf.
178. New section 13AB provides that a law of the Commonwealth, a State or a Territory does not apply in relation to an act, omission, matter or thing directly or indirectly connected with the exploration of, or exploitation of the natural resources of, the continental shelf in the *Greater Sunrise special regime area* unless a contrary intention is indicated. The purpose of this provision is to enable the application of relevant Australian laws in relation to the exploration of, or exploitation of the natural resources of, the continental shelf within the *Greater Sunrise special regime area*, in a manner consistent with the terms of the Treaty and the joint cooperative exercise of jurisdiction agreed to by Australia and Timor-Leste. This means that before a Commonwealth, State or Territory law relating to the exploration or exploitation of the continental shelf has effect in the *Greater Sunrise special regime area*, an intention for that law to apply must be indicated. This ensures that laws which may operate by general application to an area of Australia's continental shelf will only apply within the *Greater Sunrise special regime area* to the extent permitted by the terms of the Treaty.
179. With respect to a contrary intention, notwithstanding the application of new Section 13AB, a law of the Commonwealth, a State or a Territory which is intended to apply within the *Greater Sunrise special regime area* would include provisions which clearly establish that the relevant law extends to acts, matters, things directly or indirectly connected with the exploration of, or exploitation of, the natural resources of the continental shelf in the *Greater Sunrise special regime area*. A law of the Commonwealth, a State or a Territory could be a whole Act or a provision of an Act, and consistent with normal principles of statutory interpretation, a contrary intention may be express or implied. Certain amendments in the Bill evince an express intention, for example, through a formulation which states the relevant Act (or provisions of that Act) will extend to acts, omissions, matters and things directly or indirectly connected with the exploration of, or exploitation of the natural resources of, the continental shelf in the *Greater Sunrise special regime area* despite the application of new section 13AB. For other Acts, the contrary intention may be established implicitly through the direct application of certain provisions to acts, omissions, matters and things within the *Greater Sunrise special regime area*.
180. New section 13AC provides that Division 2AA will cease to have effect when the Greater Sunrise Special Regime within the meaning of the Treaty, ceases to be in force under the Treaty. The purpose of this provision is to align Australia's domestic

law with the terms of the Treaty. Article 23(1) of Annex B of the Treaty provides that the Greater Sunrise Special Regime will cease to be in force following the Commercial Depletion of the Greater Sunrise gas fields. Article 7(5) of the Treaty provides that when the Greater Sunrise Special Regime ceases to be in force, Australia and Timor-Leste shall individually exercise their rights as coastal States on the basis of the continental shelf boundary as delimited by the Treaty. Commercial depletion is defined by the Treaty to mean the date by which the relevant authority (in this case, the Designated Authority for the Greater Sunrise fields) confirms that the Greater Sunrise Contractor has fulfilled all of its production and decommissioning obligations under the relevant development or decommissioning plan, contract or licence and that the relevant contract or licence has terminated or otherwise expired. To ensure clarity as to the cessation of the Greater Sunrise Special Regime, the date upon which the regime ceases to be in force must be announced by the Minister by notifiable instrument.

Item 102: Schedule (heading)

181. This item is consequential to the insertion of a new Schedule 2 to the SSL Act. The existing Schedule will be renamed “Schedule 1”.

Item 103: At the end of the Act

182. This item inserts a new Schedule 2 into the Act and describes the *Greater Sunrise special regime area* by reference to the coordinates in Annex C of the Treaty. Subclause 1(1) reflects the points of latitude and longitude set out in the Treaty.
183. Subclause 1(2) sets out the datum which is to be utilised to derive the geographic coordinates of points, namely the Geocentric Datum of Australia as defined in Gazette No. 35 of 6 September 1995 (known as GDA94 geocentric data set). A geodetic datum such as GDA94 is a coordinate reference system that derives the precise location on the Earth’s surface of the geographic coordinates. The particular points in Schedule 2 are sourced in the Treaty which utilises a datum that is deemed equivalent to the GDA94 geocentric data set. The coordinates specified in the Treaty are determinative of the location of the points.
184. Clause 2 inserts an illustrative map of the *Greater Sunrise special regime area* and its location relative to Australia and Timor-Leste. This map is slightly modified from the map set out in Annex C of the Treaty.

Schedule 2—Provisions commencing once Greater Sunrise Production Sharing Contract comes into force

Schedule 2 to the Bill contains amendments to relevant legislation that will support and effect the legislative framework to implement the Treaty and will commence on a day to be fixed by Proclamation. As the amendments in the Schedule are dependent on commencement of the Greater Sunrise Production Sharing Contract (GSPSC (within the meaning of the Treaty)), that day will not be before the GSPSC commences.

Part 1—Amendment of the Offshore Minerals Act 1994

Offshore Minerals Act 1994

Item 1: Section 35A

185. This item repeals section 35A. The section was inserted by item 43 of Schedule 1 of this Bill to ensure it was clear that the *Offshore Minerals Act 1994* (the OM Act) did not apply in the *Greater Sunrise special regime area*. This was necessary because the fact that the OM Act picks up the definition of *offshore area* of a State from the *Offshore Petroleum and Greenhouse Gas Act 2006* (the OPGGS Act), and the offshore area of the Northern Territory was (before the commencement of Schedule 2 of this Bill) defined in the OPGGS Act to include the Eastern Greater Sunrise offshore area (which falls within the Special Regime Area), may otherwise have been taken to constitute a contrary intention for the purpose of section 13AB of the *Seas and Submerged Lands Act 1973*.
186. The section is no longer needed on commencement of Schedule 2 of this Bill, as amendments to the OPGGS Act made by the Schedule will cease to include the Eastern Greater Sunrise offshore area in the offshore area of the Northern Territory. (For further information see item 3 of this Schedule.)

Part 2—Amendment of the Offshore Petroleum and Greenhouse Gas Storage Act 2006

Division 1—Amendments

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Item 2: Section 4

187. Section 4 provides a simplified outline of the OPGGS Act, including content relating to the Principal Northern Territory offshore area. This item deletes the word “Principal”. The Principal Northern Territory offshore area referred to so much of the offshore area of the Northern Territory as did not include the Eastern Greater Sunrise offshore area. On commencement of Schedule 2 of this Bill, provisions of the OPGGS Act relating to the Eastern Greater Sunrise offshore area are removed, as they are no longer relevant in the context of the new arrangements set out in the Treaty. Therefore there is no need to differentiate between the Principal Northern Territory offshore area and the entire Northern Territory offshore area.

Item 3: Section 7

188. This item repeals the following definitions which are redundant:
- a. definition of *Eastern Greater Sunrise offshore area*;
 - b. definition of *Greater Sunrise unitisation agreement*;
 - c. definition of *Greater Sunrise unit reservoir petroleum production licence*;
 - d. definition of *Greater Sunrise unit reservoirs*;
 - e. definition of *Greater Sunrise visiting inspector*.
189. At the time of commencement of Schedule 2 of this Bill, the Greater Sunrise special regime (GSSR) will be established (which subsumes and supersedes the Eastern Greater Sunrise offshore area) and a new GSPSC will commence. This Bill consequentially amends the OPGGS Act to remove provisions relating to the Eastern Greater Sunrise offshore area, which are no longer required under the arrangements set out in the Treaty. The Bill also consequentially amends the OPGGS Act to remove provisions relating to the Greater Sunrise unitisation agreement, which is superseded and replaced by the arrangements in the Treaty.

Item 4: Section 7 (paragraph (g) of the definition of *offshore area*)

190. This item replaces the term “Principal Northern Territory offshore area” with “offshore area of the Northern Territory”. (For further information see item 2 of this Schedule.)

Items 5 and 6: Section 7 (paragraph (h) of the definition of *offshore area*), Section 7 (definition of *offshore area*)

191. These items repeal references to the “Eastern Greater Sunrise offshore area” in the definition of *offshore area*. (For further information see item 3 of this Schedule.)

Item 7: Section 7 (definition of *Principal Northern Territory offshore area*)

192. This item repeals the definition of *Principal Northern Territory offshore area*, as it is no longer required. (For further information see item 2 of this Schedule.)

Item 8: Subsection 8(1) (cell at table item 4, column headed “is ...”)

193. This item removes the reference to the “Eastern Greater Sunrise offshore area” in item 4 of the table in subsection 8(1), as it is no longer required. (For further information see item 3 of this Schedule.)

Item 9: Subsection 40(1) (note 3A)

194. This item amends note 3A to subsection 40(1) to remove the reference to the “Eastern Greater Sunrise offshore area” as it is no longer required.

Items 10 and 11: Subsection 56(4) (heading), Subsection 56(4)

195. Item 11 amends subsection 56(4) to replace the term “Principal Northern Territory offshore area” with “offshore area of the Northern Territory”. (For further information

see item 2 of this Schedule.) Item 10 makes a consequential amendment to the heading to subsection 56(4).

Item 12: Subsections 56(6) and (7)

196. This item repeals subsections 56(6) and (7), which established the Joint Authority for the Eastern Greater Sunrise offshore area, and are therefore no longer required. (For further information see item 3 of this Schedule.)

Items 13 and 14: Subsection 57(1), Subsections 57(2) and (3)

197. Item 14 repeals subsections 57(2) and (3), which provided for the functions and powers of the Joint Authorities for the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area. These subsections are no longer required. (For further information see items 2 and 3 of this Schedule.)
198. Item 13 makes a consequential amendment to subsection 57(1), so that subsection will provide for the functions and powers of the Joint Authority for the offshore area of the Northern Territory.

Item 15: Paragraph 61(2A)(a)

199. This item repeals paragraph 61(2A)(a) which refers to the Eastern Greater Sunrise offshore area, as it is no longer required. (For further information see item 3 of this Schedule.)

Item 16: Subsection 64(2)

200. This item repeals subsection 64(2), which provided for judicial notice of signature of a person who is or was the Joint Authority for the Eastern Greater Sunrise offshore area, as that area will be repealed. (For further information see item 3 of this Schedule.)

Item 17: Section 67

201. This item repeals section 67, which provided for delegation by the Joint Authority for the Eastern Greater Sunrise offshore area, as it is no longer required. (For further information see item 3 of this Schedule.)

Item 18: Section 69

202. This item repeals section 69, which provided for consultation by the Joint Authority for the Eastern Greater Sunrise offshore area, as it is no longer required. (For further information see paragraph item 3 of this Schedule.)

Items 19 to 22: Subsections 168(7) and 170(4), Paragraph 171(1)(c), Section 172, Subsection 173(5)

203. These items repeal provisions that related to applications for the grant of a Greater Sunrise unit reservoir petroleum production licence. These provisions are no longer required. (For further information see item 3 of this Schedule.)

Item 23: Subsection 173A(1)

204. This item omits a reference to a Greater Sunrise unit reservoir petroleum production licence, which is no longer relevant. (For further information see item 3 of this Schedule.)

Item 24: Paragraph 191(1)(a)

205. This item omits a reference to the Greater Sunrise unit reservoirs, which is no longer relevant. (For further information see item 3 of this Schedule.)

Item 25: Subsection 227(9)

206. This item repeals subsection 227(9), which applied to the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area. This subsection is no longer required. (For further information see items 2 and 3 of this Schedule.)

Item 26: Section 285 (heading)

207. This item revises the heading to section 285 to remove the reference to a Greater Sunrise unit reservoir. (For further information see item 3 of this Schedule.)

Item 27: Subsection 285(1)

208. This item amends subsection 285(1) to omit “(other than petroleum from the Greater Sunrise unit reservoirs)” because the definition of Greater Sunrise unit reservoirs is repealed by item 3 of this Schedule.

Item 28: Section 286 (heading)

209. This item repeals the heading of section 286 and substitutes it with ‘Current apportionment percentage of petroleum recovered from a Greater Sunrise unit reservoir’ to reflect the substantive amendment made to the section by item 29 below.
210. Amendments were made to the *Petroleum Resource Rent Tax Assessment Act 1987* (PRRTAA) in 2004 to give effect to the Greater Sunrise Unitisation Agreement reached between Australia and Timor-Leste in 2003.
211. As a result, the PRRT was extended to all Greater Sunrise projects in 2004. Prior to entry into the Treaty, the PRRT applied to each taxpayer's interest in such a Greater Sunrise project, on the same basis as for any other application of the PRRT. However, this is adjusted according to the apportionment ratio as determined in accordance with the Greater Sunrise unitisation agreement (to reflect Australia's secondary tax share of the Greater Sunrise projects).
212. The PRRT is calculated on the basis of the taxable profit of the year. For Greater Sunrise projects that taxable profit is reduced according to the apportionment ratio provisions under the Greater Sunrise unitisation agreement. Any PRRT closing-down credit is correspondingly adjusted according to the current apportionment ratio.
213. As such, a number of operative provisions in the PRRTAA rely on the apportionment ratio, as well as the definition of the boundaries of the Greater Sunrise area (see

section 2, subsections 22(2), 23(3) and 46(2), and clauses 4A and 4B of Schedule 1 to that Act).

214. The apportionment ratio is currently defined in section 2C of the PRRTAA as the percentage applicable from time to time under the definition of *current apportionment percentage* in subsection 286(4) of the OPGGS Act. This means the PRRTAA and the OPGGSA are interdependent in relation to definitional aspects relevant to the taxation of Greater Sunrise.
215. In accordance with the Treaty, Australian taxes to be applied to the Greater Sunrise area (as now defined) shall be agreed among Australia, Timor-Leste and the Greater Sunrise contractors or project proponents. Until this occurs, as an interim measure, the operation of the PRRTAA will retain its status quo. The amending law to give effect to the implementation of the ultimately agreed fiscal regime for the Greater Sunrise area will specify the start time for those amendments and any further consequential and transitional arrangements, as necessary.
216. As such, subsection 286(4) of the OPGGS Act will be retained in its current form due to its interaction with the PRRTAA. Other non-PRRT interdependent subsections of section 286 of the OPGGS Act are being repealed. Subsection 286(1) of the OPGGS Act will be amended to clarify the residual sole operation of section 286 to provide a meaning for the apportionment ratio applicable under the PRRTAA.
217. Other definitions in the OPGGS Act pertaining to Greater Sunrise that are cross-referenced in the PRRTAA are also retained (such as Greater Sunrise unit reservoirs and Western Greater Sunrise area), until the agreed fiscal regime for Greater Sunrise is ultimately implemented.

Item 29: Subsection 286(1), (2) and (3)

218. This item repeals subsections 286(1), (2) and (3) and replaces them with subsection (1). This new subsection 286(1) defines the apportionment percentage to be applied to petroleum license holders in respect of the Greater Sunrise fields. The *Petroleum Resources Rent Tax Assessment 1987* (PPRT Act) relies on this definition of apportionment percentage to determine petroleum resources rent taxable profit attributable to the Greater Sunrise area (see section 22(s) and section 46(s) (closing down credits), and clause 4B in Schedule 1 (transfers of expenditure in and out of Greater Sunrise) of the PPRT Act. As the operation of the PPRT Act in the *Greater Sunrise special regime area* is yet to be finalised, wholly repealing section 286 would leave a void. Section 286 will be repealed when a fiscal regime for the Greater Sunrise special regime area has been agreed.

Item 30: Subsection 286(4) (definition of *current apportionment percentage*)

219. This item repeals the calculation of the current apportionment percentage and substitutes it with a set percentage, being 79.9%. The calculation set out in the current section 286(4)(b) is redundant and repealed because the Greater Sunrise unitisation agreement ceases to be in force on the entry into force of the Treaty and is repealed by item 3 of this Schedule.

Item 31: Subsections 506(7) and 555(7)

220. This item repeals subsections 506(7) and 555(7), which applied to the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area. The subsections are no longer required. (For further information see items 2 and 3 of this Schedule.)

Items 32 and 33: Paragraph 602(4)(b), Paragraph 602(4)(c)

221. These items amend subsection 602(4) to omit the paragraph that applies to the Eastern Greater Sunrise offshore area, as it is no longer required. (For further information see item 3 of this Schedule.) This abolishes the category of inspector referred to as a Greater Sunrise visiting inspector.

Item 34: Section 602H

222. This item repeals section 602H, which related to the exercise of monitoring and investigation powers by a Greater Sunrise visiting inspector. (For further information see items 32 and 33 of this Schedule.)

Items 35 to 37: Section 776 (heading), Paragraph 776(1)(b), Section 777

223. Item 37 repeals section 777, which applied in relation to the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area, and is therefore no longer required. (For further information see paragraph items 2 and 3 of this Schedule.)
224. Items 35 and 36 make consequential amendments to section 776 to ensure that section applies to an instrument or notice that has effect in relation to the offshore area of the Northern Territory.

Items 37 to 47: Section 780F

225. These items amend section 780F to remove references to a Greater Sunrise visiting inspector. (For further information see items 32 and 33 of this Schedule.)

Item 48: Paragraph 7(1)(ea) of Schedule 6

226. This item repeals paragraph 7(1)(ea) of Schedule 6, which provided for a reference in a document to the Eastern Greater Sunrise area within the meaning of the *Petroleum (Submerged Lands) Act 1967*, to be taken to be a reference to the Eastern Greater Sunrise offshore area. Provisions relating to the Eastern Greater Sunrise offshore area are repealed by this Bill. (For further information see item 3 of this Schedule.)

Item 49: Subclause 9(1) of Schedule 6

227. This item omits references to the Joint Authorities for the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area, which are no longer relevant. (For further information see items 2 and 3 of this Schedule.)

Item 50: Subclauses 9(1A) and (1B) of Schedule 6

228. This item repeals subclauses 9(1A) and (1B) of Schedule 6, which applied in relation to the Principal Northern Territory offshore area and the Eastern Greater Sunrise

offshore area, and are therefore no longer required. (For further information see items 2 and 3 of this Schedule.)

Items 51 to 53: Subclause 11(1) of Schedule 6, Subclauses 11(2) and (3) of Schedule 6

229. Item 53 repeals subclauses 11(2) and (3) of Schedule 6, which applied in relation to the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area, and are therefore no longer required. Item 52 omits references to the Designated Authorities for the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area, which are no longer relevant. (For further information see items 2 and 3 of this Schedule.)
230. Item 51 is a consequential amendment – the provision that is currently subclause 11(1) will become clause 11.

Item 54: Subclause 13(3) of Schedule 6

231. This item repeals subclause 13(3) of Schedule 6, which applied in relation to the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area, and is therefore no longer required. (For further information see items 2 and 3 of this Schedule.)

Item 55: Subclause 15(1) of Schedule 6

232. This item omits references to the Register for the Principal Northern Territory offshore area and the Register for the Eastern Greater Sunrise offshore area, which are no longer relevant. (For further information see items 2 and 3 of this Schedule.)

Item 56: Subclauses 15(1A) and (1B) of Schedule 6

233. This item repeals subclauses 15(1A) and (1B) of Schedule 6, which applied in relation to the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area, and are therefore no longer required. (For further information see items 2 and 3 of this Schedule.)

Item 57: Schedule 7 (heading)

234. This item repeals the heading of Schedule 7 and substitutes it with ‘Western Greater sunrise area’. This is to reflect the repeal of clause 1 of Schedule 7 by item 79 of Schedule 1 to this Bill and the repeal of clause 2 of Schedule 7 by item 58 of Schedule 2 of this Bill. The repeal of clauses 1 and 2 will leave only the coordinates for the Western Greater sunrise area in Schedule 7.

Item 58: Clause 2 of Schedule 7

235. This item repeals clause 2 of Schedule 7 because the Eastern Greater sunrise offshore area is repealed by item 3 of this Schedule. The repeal of the Eastern Greater sunrise offshore area makes the coordinates set out in clause 2 of Schedule 7 redundant and therefore this clause is repealed.

Division 2—Saving and transitional provisions

Item 59: Revocation of petroleum retention leases in Greater Sunrise special regime area

236. This item revokes any petroleum retention lease in force under the OPGGS Act in the Eastern Greater Sunrise offshore area on commencement of the item. This is because the Eastern Greater Sunrise offshore area will no longer exist as a result of the amendments made by Schedule 2 of this Bill.
237. The item commences once the GSPSC has come into force. The retention leases previously in force under the OPGGS Act will instead be governed by the GSPSC. Under Article 4 of Annex B to the Treaty, the conditions of the GSPSC must be equivalent to the legal rights held under the retention leases.
238. Subitem 59(2) clarifies that provisions of the OPGGS Act do not apply as a result of the revocation. The OPGGS Act will no longer apply to the blocks over which the leases were in force, as they will fall within the *Greater Sunrise special regime area*.

Item 60: Saving of paragraph 61(2A)(a) and subsection 64(2) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

239. This item will ensure that, in proceedings occurring after Schedule 2 of this Bill repeals paragraph 61(2A)(a) of the OPGGS Act, a record kept under subsection 61(1) in relation a decision of the Joint Authority for the Eastern Greater Sunrise offshore area (prior to the removal of that area by Schedule 2 of this Bill) will continue to be evidence that the decision was duly made.
240. It will also ensure that, in proceedings occurring after Schedule 2 of this Bill repeals subsection 64(2) of the OPGGS Act, all courts must continue to take judicial notice of the signature of a person who has been the Joint Authority for the Eastern Greater Sunrise offshore area (prior to the removal of that area by Schedule 2 of this Bill) or a delegate of that Joint Authority, and of the fact that the person was at a particular time the Joint Authority for that offshore area or a delegate of that Joint Authority.

Item 61: Saving of Schedule 6 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

241. This item ensures that Schedule 6 of the OPGGS Act, which sets out transitional provisions relating to the repeal of the former *Petroleum (Submerged Lands) Act 1967*, will continue to have effect as if the Schedule had not been amended. The amendments of the Schedule made by Schedule 2 of this Bill remove references to the Principal Northern Territory offshore area and the Eastern Greater Sunrise offshore area. However, those references may still be required to have effect with respect to matters relating to those areas prior to the commencement of Schedule 2 of this Bill.

Schedule 3—Compensation for acquisition of property

Item 1: Compensation for acquisition of property

242. This item refers to paragraph 51(xxxi) of the Australian Constitution, which broadly provides that the Parliament shall have power to make laws with respect to the acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has the power to make laws.
243. This item provides that if the operation of this Act would result in an acquisition of property from a person otherwise than on just terms, then the Commonwealth is liable to pay just terms compensation to the person. This provides a safety net to ensure that, in the event that any of the provisions of the Act represent an acquisition of property other than on just terms, the validity of the provision(s) is not jeopardised.
244. The amount of just terms compensation is to be agreed between the Commonwealth and the person. However, if they do not agree, subitem 1(2) enables the person to institute proceedings in the Federal Court of Australia or the Supreme Court of a State or Territory for the recovery of such reasonable amount as determined by the court.

PASSENGER MOVEMENT CHARGE AMENDMENT (TIMOR SEA MARITIME BOUNDARIES TREATY) BILL 2018

NOTES ON CLAUSES

Clause 1: Short title

1. This is a formal provision specifying the short title of the Act.

Clause 2: Commencement

2. The table in this clause provides for the commencement of provisions in the Bill.
3. Sections 1 to 3 of the Bill commence on the day the Bill receives Royal Assent.
4. Schedule 1 of the Bill commences on the later of the start of the day after the Bill receives Royal Assent and the start of the day when Schedule 1 to the *Timor Sea Maritime Boundaries Treaty Consequential Amendments Act 2018* commences. That Schedule will commence when the *Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea* (New York, 6 March 2018) [2018 ATNIF 4] (the Treaty) enters into force. The Treaty enters into force when Australia and Timor-Leste have notified each other in writing through diplomatic channels that their respective requirements for entry into force of this Treaty have been fulfilled. The Minister will announce the day that the Treaty enters into force by notifiable instrument. There is no default commencement if the Treaty has not entered into force within a certain amount of time after Royal Assent. Schedule 1 of the Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill gives effect to the Treaty, and therefore is dependent on the entering into force of the Treaty. As the date of entry into force is not wholly within the control of the Government and the exact timing is uncertain, a default commencement has not been included, to avoid a situation where Schedule 1 of the Bill commences and the Treaty has not entered into force.
5. However, if Schedule 1 to the *Timor Sea Maritime Boundaries Treaty Consequential Amendments Act 2018* does not commence, then Schedule 1 of this Bill does not commence at all.

Clause 3: Schedules

6. This is a machinery clause that gives effect to the provisions in the Schedule to the Bill according to their terms.

Schedule 1—Amendment of the Passenger Movement Charge Act 1978
Passenger Movement Charge Act 1978

Item 1: Section 3

7. This item inserts a new definition of *installation in the Greater Sunrise special regime area* in section 3 of this Act, which means a resources installation or a sea installation that is attached to the seabed in the *Greater Sunrise special regime area* (within the meaning of the *Seas and Submerged Lands Act 1973*).
8. This new definition is for the purposes of the amendments in items 3 and 4 below.

Item 2: Section 3

9. This item repeals the definitions of *installation in the Joint Petroleum Development Area* and *Joint Petroleum Development Area*. The effect of this amendment is to repeal redundant references to the “Joint Petroleum Development Area”.

Item 3: Section 4

10. This item omits “installation in the Joint Petroleum Development Area” (wherever occurring), and substitutes “installation in the Greater Sunrise special regime area”.
11. These amendments ensure that the current provisions in section 4 that apply to journeys to an installation in the Joint Petroleum Development Area will apply to journeys to an installation in the *Greater Sunrise special regime area*.

Item 4: Paragraph 5(b)

12. This item repeals and substitutes paragraph 5(b). Currently the effect of this paragraph is that a departure from Australia to an installation in the Joint Petroleum Development Area is subject to passenger movement charge. This amendment will ensure that departures from Australia to an installation in the *Greater Sunrise special regime area* will also be subject to passenger movement charge.