



The Operator of a facility

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What we will cover

- Background to NOPSA
- OHS legislation
- Duties of care
- Operator of a facility
- Facility
- Operator registration
- Decision criteria



Vision, Mission, Objectives

- **Vision**
 - Health and safety risks in the Australian offshore petroleum industry are properly controlled
- **Mission**
 - To deliver world-class offshore petroleum safety regulation for Australia
- **Objectives**
 - Improving safety outcomes across the offshore petroleum industry
 - Ensuring safety regulation of the offshore petroleum industry is provided to standards that are equivalent to the best in the world
 - Reducing the regulatory burden on the offshore petroleum industry, which operates across multiple jurisdictions, by delivering a consistent and comprehensive safety regime



History of NOPSA

- In 2002 the Ministerial Council on Mineral and Petroleum Resources (MCMPR) endorsed principles for regulation that included:
 - Consistent national approach
 - Safety case approach
 - Legislative framework that is clear and enforceable and that requires operators to discharge their responsibilities for safety



NOPSA functions

- **NOPSA and the amended OHS laws commenced 1 January 2005**
- **NOPSA functions include:**
 - **Promotion of OHS of persons engaged in offshore petroleum facilities**
 - **Implementation of effective monitoring and enforcement strategies to secure compliance**

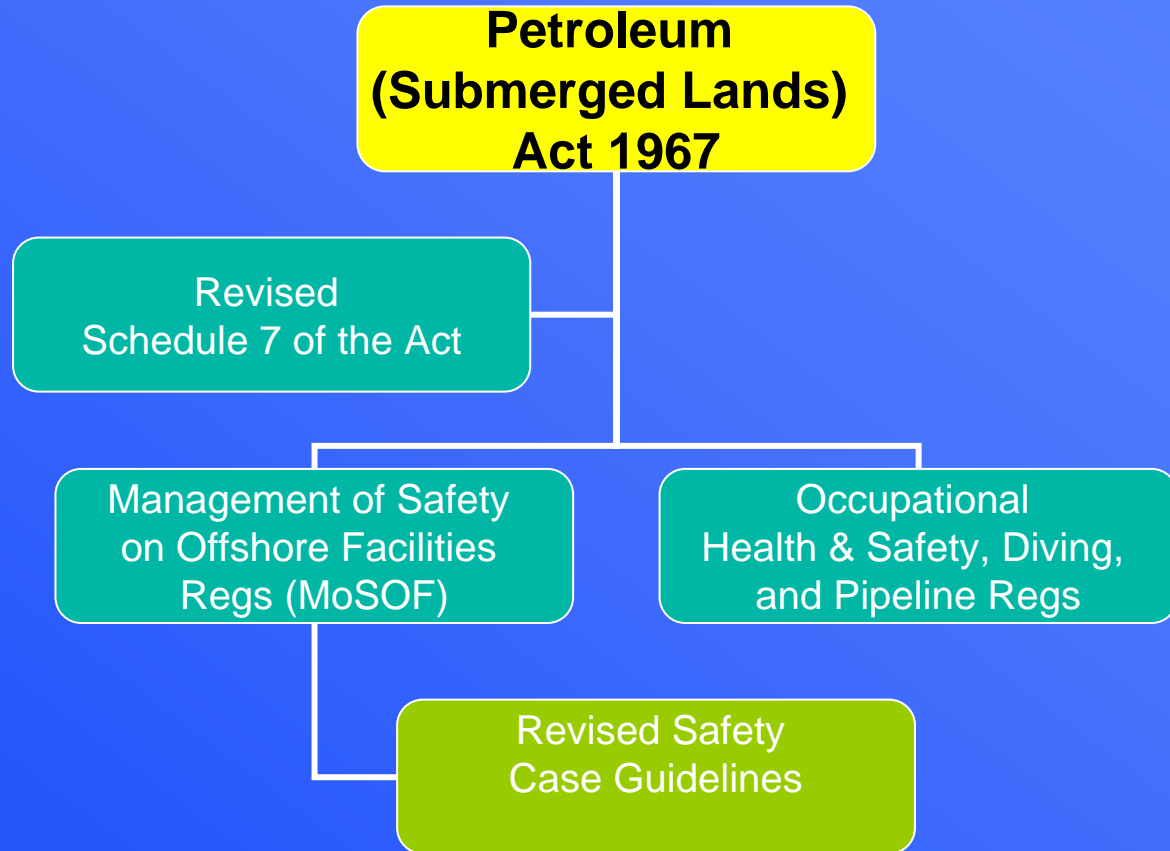


OHS laws

- **Schedule 7 to the PSLA – object is to secure the health, safety and welfare of persons at or near facilities**
- **P(SL) (Management of Safety on Offshore Facilities) Regulations 1996**
- **P(SL) (Diving Safety) Regulations 2002**
- **P(SL) (Occupational Health and Safety) Regulations 1993**
- **P(SL) (Pipelines) Regulations 2001**
 - **Available on the Commonwealth Attorney-General's website at www.comlaw.gov.au**



Legislation and guidance





Duties on parties (dutyholders) - underlying principle

- If you have control of a facility, you have duties (legal obligations)
- These include protecting people from the harmful consequences of activities conducted at a facility



Why highlight this role?

- To secure the health and safety of all members of the workforce at the facility
- Clarity: to place duties of care on the person most able to control the activities at the facility, the operator



Previous legislation

- **Previous PSLA imposed general duties relating to OHS, including duties of employers, but not duties of operators**
- **Previous MoSOF regs:**
 - **Titleholder: ensure there was an operator of a facility**
 - **Operator: the person responsible for the overall management and operation of the facility**
 - **Operator: submits the Safety Case**



Dutyholders in legislation

- **PSLA Schedule 7 – general OHS duties**
 - Clause 3: duties of operator
 - Clause 4: duties of persons in control of parts of facility or particular work
 - Clause 5: duties of employers
 - Clause 9: duties of persons regarding OHS
- **MoSOF Regulation 7**
 - NOPSA must accept the operator if they have day to day management and control of the facility and its operations



Why operators, employers and others?

- Enforcement action can be taken against the most appropriate person or range of persons in the circumstances
- Focus on those persons best positioned to control risk in the relevant circumstances



Duty of the operator

- Take all reasonably practicable steps to ensure that the facility and all work and other activities are safe and without risk to health
- A qualified duty - duty applies only so far as the operator can exercise control or mitigate the consequences
- A concept common to all modern OHS regimes



Do these duties cover all parts of the facility and its operations?

- In context of the broad duty of the operator of a facility, there can be parts of a facility or particular work for which other people may be in control. These people also have duties (PSLA Schedule 7, Clause 4,) which are similar to those of operators of a facility.



Duties of care

- Schedule 7 sets out who has duties of care
- In practice duty of care is shared among parties who have control
- In general, dutyholders are obliged to take all reasonably practicable steps to ensure the safety of activities that they control



All reasonably practicable steps

- **Duty holder must weigh up**
 - Level of risk
 - State of knowledge about the risk and about the ways it can be controlled
 - Costs of providing control
- **Duty holder must decide what measures will be adopted to control the risk**
- **If risk is high or knowledge uncertain, more or better measures to be adopted and less weight given to cost**



Facility – a broad definition

- **Facility:** as defined by PSLA, Schedule 7, Clause 2A and including
 - Facility being constructed or installed
 - An associated offshore place
- **Associated offshore place:** any offshore place near the facility where activities (including diving activities) relating to construction, operation, maintenance or decommissioning of the facility take place



Facility – focused on structures undertaking activities

- Vessels or structures whether floating or fixed, whether in use or being prepared for use
- Categories of activities :
 - Recovery, processing, storage, offloading of petroleum, accommodation, drilling, laying pipes, erection/dismantling
 - includes any wells, associated plant, equipment used, and any pipes, or secondary lines connected to the facility
 - licensed pipelines



Has anything changed?

- **Clarity on these issues:**
 - **The operator of a facility has the overall responsibility for safety at a facility and its activities**
 - **The operator must be assured that others who introduce risks are adequately managing those risks**



Operator for a facility: registration

- **Nomination: the titleholder or the facility owner nominates an operator to NOPSA - MoSOF 6**
- **Decision: NOPSA accepts or rejects on the basis of MoSOF 7:**
 - **the person that has day-to-day management and control of the facility and its operations, where a person could be an organisation**



Day-to-day management

- ***Day-to-day management and control*** is considered to mean that on a daily or ongoing basis the nominated person exercises practical overall authority over the administration and organisation of activities at a facility



Management authority

- **Authority, for example, influencing what people do by policy, procedures or protocol, giving permission for something to be done, enforcing requirements or allocating resources for, or at the facility, whether hardware, financial or people related**



Management authority

- These functions may be exercised by the operator through the position of Offshore Installation Manager (OIM) or equivalent
- The lines of authority and reporting, and relationships to others, both above and below this position will be considered as part of the decision-making process.
- Relationships with client representatives or facility owners, as appropriate, will also be considered.



Decision Criteria

- The primary check is that the nominated operator for the facility is consistent with the operator and the related roles and responsibilities of the parties as described in the Safety Case or PSMP in force for the facility
- Includes implementation of all aspects of the Safety Management System



Management and control issues

- the work environment
- maintenance and modifications
- plant, machinery, equipment, materials used
- substances transferred
- systems of work implemented, eg permit to work;
- procedures and equipment for emergencies;
- workforce (including contractors) eg hiring & firing, competency standards, shift rosters;
- provision of information, instruction, training and supervision of the workforce, including any contractor arrangements;
- command structure specified in the facility safety case;
- monitoring, review and continuous improvement of the above



NOPSA maintains a register

- **NOPSA must notify owner or titleholder and the nominated operator of its decision**
- **NOPSA must provide the reasons for rejecting a nomination**
- **NOPSA must maintain a register of operators**
- **NOPSA may remove an operator's name from the register if it believes that the operator does not have day-to-day control of the facility and operations at the facility**



Transitional provisions until 1 April 05

- Titleholder is operator of the facility until 1 April 2005, or until someone else is registered – whichever happens earlier
- Thereafter, no operator unless accepted and registered by NOPSA as the operator of the facility
- After 1 April 2005, a facility must have a registered operator (MoSOF 47) and penalties will apply



Summary: Operator of a facility

- **Operator:** person that has day-to-day management and control of the facility and its operations
- **Duties:** take all reasonably practicable steps to ensure that the facility and all work and other activities are safe and without risk to health



More details ?

- To view the Criteria for Operator Registration go to the NOPSA website at <http://www.nopsa.gov.au/operator.asp>



Caveat

- *Please note this material is provided as guidance only, based on NOPSA's current understanding of the issues. This material must not be considered as legal advice. For proper legal advice on the Regulations, interested parties should seek professional legal opinion.*



Incident Reporting Number

- Reporting requirements remain the same
- Call NOPSA pager service on

(08) 9480 9427



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Questions

- Any questions?