



## Declaration of experience and disclosures

All information should be read in conjunction with the [Offshore Petroleum and Greenhouse Gas Storage Act 2006](#) (the OPGGS Act), associated regulations, relevant guidelines, fact sheets and policies (available on [NOPTA's website](#)).

The purpose of this document is to provide a set of frequently asked questions in relation to the information required to support the Entry Stage Assessment of the applicant or other person (as relevant) and change of circumstances declarations under section 695YC. Further details can be found in part 4 and 5 of the [Guideline: Applicant Suitability](#) and the [Fact Sheet: Declaration of experience and disclosures](#).

**Please note:** *this document is intended as a guide only and should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases. Legislative references in this fact sheet relate to the OPGGS Act unless stated otherwise.*

### Overview

The OPGGS Act requires that the decision-maker must consider the matters in section 695YB for the:

- grant of certain titles<sup>1</sup> (namely initial grants of petroleum exploration permits and greenhouse gas assessment permits<sup>2</sup>, cash-bid petroleum production licences, infrastructure licences, pipeline licences<sup>3</sup>),
- transfer of titles (section 478 and 529), and
- approval of a change in control of a registered titleholder (section 566D).

(These are collectively referred to as 'relevant applications' in this FAQ).

Applicants or other persons (as relevant) are required to provide disclosures relating to past conduct relevant to the applicant or other person (as relevant).

'Other persons' may be transferees (where the title is being transferred – see sections 478 and 529) or entities who will begin to control the registered holder's petroleum or GHG storage operations (where there is a change in company control – see section 566D).

A declaration is used to provide information against the provisions on s695YB and other relevant matters, for the decision maker to use in their assessment.

Section 695YC requires that NOPTA and the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) are notified of certain events (change

of circumstance).

### Questions

***Is there a requirement for existing titleholders to submit a declaration on commencement of the Offshore Petroleum and Greenhouse Gas Storage Amendment (Titles Administration and Other Measures) Act 2021 (OPGGSA Amendment Act)?***

No. From 2 March 2022, declarations will be required to be submitted at the time of making a relevant application.

The exception is the 2021 petroleum acreage release round gazetted in 2021 and closing on 3 March 2022. Submission requirements and assessment criteria for this round will be in accordance with the gazettal notice and the legislation that was in force prior to 2 March 2022<sup>4</sup>. That is, bids for the 2021 release round will not require submission of a declaration.

***Do I need to submit a declaration for applications submitted to NOPTA prior to the commencement of the OPGGSA Amendment Act?***

No. From 2 March 2022, declarations will be required to be submitted at the time of making a relevant application. Applications submitted prior to 2 March 2022 will be assessed and decisions will be made under the legislation that was in force at the time of submission.

***Are declarations made on a per company basis or per title?***

Declarations are made for each company, rather than title.

***Who is required to submit a declaration?***

The persons who will be subject to an experience and disclosure assessment will include:

- the person who proposes to begin controlling a registered holder of a title;
- the applicant in relation to the grant, of certain titles;
- the transferee; and
- if the applicant is a body corporate, the officer or officers of the applicant (within the meaning of the *Corporations Act 2001*).<sup>5</sup>

<sup>1</sup> See sections 105, 111, 116, 117, 179, 180, 199, 221, 222, 298, 305, 306.

<sup>2</sup> With the exception of consolidated work-bid GHG assessment permits and cross-boundary GHG assessment permits.

<sup>3</sup> Section 695YB only applies if the applicant is not the petroleum production licence holder or the GHG injection licence holder.

<sup>4</sup> See item 237(2) of the Offshore Petroleum and Greenhouse Gas Storage Amendment (Titles Administration and Other Measures) Act 2021.

<sup>5</sup> See section 9.



# Frequently Asked Questions

## ***For a company, who is an officer?***

An officer of a corporation is defined under section 9 of the *Corporations Act 2001*. NOPTA considers key persons to include the Chief Executive Officer, Managing Director, Chief Operating Officer, Chief Financial Officer, and holder of a Power of Attorney relevant to the OPGGS Act.

## ***Does a declaration need to be made for the body corporate or just the officers?***

Both the body corporate and its officers are required to provide a declaration. This includes a Director, Secretary, and key persons. This will likely see multiple declarations per company.

The declaration form:

- for a natural person, including an officer of a body corporate (not a body corporate) is a [Form 8](#);
- for a body corporate is a [Form 9](#).

## ***Do all applicants need to make a declaration?***

A declaration will be needed from each of the applicants, for example each joint venture partner and the officers of each company. Where a party (for example for a transfer of title or change in control application) is not the applicant, a declaration may be sought from the other party.

## ***Do I need to make a declaration for each company for which I am a company Secretary or Director?***

A separate declaration is required for each company for which a person is a company Secretary or Director.

## ***If a person has already provided a declaration, do they need to provide a new declaration for each new application?***

Declarations are required to be submitted if the applicant or other person (as relevant) has not previously made a declaration. If a previous declaration has been made, and

- a change of circumstances has not occurred, and
- all other information in the original declaration remains true and correct,

the previous declaration can be referenced. If a change of circumstance form(s) has been submitted, this form may also be referenced in the application.

If any information in the original declaration is no longer accurate, but does not constitute an event in respect of which notice must be provided under section 695YC (for example, details of the person's experience in petroleum exploration or recovery; relevant contraventions of the OPGGS Act; title cancellations), the applicant or other person (as relevant) is expected to submit a new declaration under section 695YB at the time of making a relevant application.

## ***How long is a declaration valid for?***

Declarations do not expire (unless the person is no longer associated with the company or the person provides a new declaration for the reasons set out in the section above). If notice of an event is required to be given under section 695YC, a change of circumstance form must be submitted and will be read in conjunction with the original declaration.

## ***If a new officer of a corporation (e.g. Director) is appointed when an application is under assessment, do they need to submit a declaration?***

For all relevant applications where the matters in section 695YB of the OPGGS Act must be taken into account by the decision-maker, it is up to the applicant to identify, and submit a declaration for newly appointed officers.

For applications for which the matters in section 695YB are not required to be taken into account by the decision-maker, a change of circumstances form would need to be submitted for the new officers if any of the matters set out in section 695YC relate to them. If not, the new officer will submit a section 695YB declaration with the next relevant application the company submits.

## **Questions**

If you have any further questions, please contact NOPTA via [titles@nopta.gov.au](mailto:titles@nopta.gov.au).

## **Version history**

Version	Date	Comment
1.0	February 2022	Creation of the FAQs