



Compliance and enforcement

Purpose

This document outlines the National Offshore Petroleum Titles Administrator's (NOPTA) compliance and enforcement policy.

Relevant legislation

- [Offshore Petroleum and Greenhouse Gas Storage Act 2006 \(the Act\)](#)
- [Offshore Petroleum Greenhouse Gas Storage \(Resources Management and Administration\) Regulations 2011 \(RMA Regulations\)](#)

Background

NOPTA was established under section 695A of the Act and is part of the Commonwealth Department of Industry, Innovation and Science.

The functions of the Joint Authority (see www.nopta.gov.au/joint-authorities.html for further information) and NOPTA, as well as their interactions with each other are discussed below.

Role of NOPTA

NOPTA's principal functions are to provide information, assessments, analysis, reports, advice and recommendations to members of the Joint Authorities and the responsible Commonwealth Minister in relation to the performance of those functions and the exercise of their powers.

The titles administration function means that NOPTA is the public face of titles administration and all communications, including applications, are received and processed by NOPTA (see section 63 of the Act).

NOPTA also:

- is the decision-maker in respect to the granting of petroleum special prospecting authorities and petroleum access authorities
- provides approval and registration for all transfers and dealings against petroleum titles
- keeps the petroleum titles register
- manages the collection, storage and release authorisation of data.

Role of the Joint Authority

The Joint Authority, for each respective offshore area, makes decisions under the Act, the RMA Regulations and associated legislation (as amended from time to time) concerning the granting of petroleum titles, the imposition of title conditions and the cancelling of titles.

Decision making and communication

Where formal action is required titleholders and other persons must be aware of the decision-making requirements set out in the Act and the RMA Regulations. As the majority of titles decisions are made by the Joint Authority, on advice from NOPTA, so are the final compliance and enforcement decisions.

Principles of compliance

NOPTA's compliance and enforcement approach is underpinned by five principles.

The principles are:

- helpfulness
- accountability
- transparency
- consistency
- efficiency.

By embracing these principles NOPTA is creating a culture where titleholders understand their obligations and how to comply with them, including an understanding of the options available to avoid becoming non-compliant. This assists titleholders to meet their legislative obligations, without increasing the regulatory burden.

Compliance and enforcement strategy

NOPTA's compliance and enforcement strategy is to encourage compliance and provide assurance to all stakeholders, that the legislation is being followed.

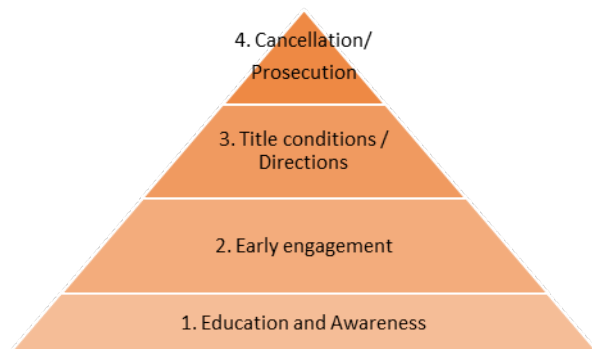
It is implemented using a graduated, risk-based approach which recognises the finite amount of resources available.

Central to NOPTA's compliance and enforcement strategy is communication. Titleholders are encouraged to engage with NOPTA early on potential compliance matters.



Compliance and enforcement options

The compliance and enforcement options available to the Joint Authority and NOPTA can be broadly categorised into four areas:



The bottom two tiers include mostly informal compliance options such as education and awareness, monitoring titleholders' progress through reporting requests or including expectations on approvals. The legislation also provides a number of formal enforcement options such as directions, additional title conditions, cancellation of titles and prosecution, which is illustrated by the top two tiers.

The graduated nature of the compliance and enforcement strategy means an issue can be resolved at any level and means that it does not have to pass through all the stages. It is possible for an issue to be escalated or de-escalated at any time depending on the nature and seriousness of the breach.

In deciding where an issue falls within the compliance pyramid NOPTA will consider a range of factors including (not exclusive):

- risk to the objectives of the legislation
- instances of non-compliance recorded against the titleholder
- titleholder's compliance stance
- risk of the behaviour
- risk to future exploration and resource recovery activities.

Education and awareness

NOPTA will use a number of communication mediums to make sure that titleholders are aware of their obligations.

These include:

- publishing information on www.nopta.gov.au to complement the existing legislation and guidelines. This may be in the form of quick tips, fact sheets or other general information.
- public information sessions.
- individual communications with titleholders, potential titleholders and other persons.

NOPTA staff will take every opportunity to consistently and transparently convey the expectations of the Joint Authority and NOPTA to titleholders and other persons.

Early engagement

Titleholders are encouraged to continuously interact with NOPTA in relation to their progress.

In order to allow a titleholder or person the best chance at returning to compliance (in cases where this is deemed possible) early engagement is desirable. This may involve titleholders being asked to regularly report to NOPTA in order to monitor their progress.

It is noted that where the Joint Authority is the decision maker NOPTA can only present options to the titleholder it cannot advise whether an application would be considered favourably.

Titles conditions/directions

The Joint Authority and NOPTA (in the case of access authorities and special prospecting authorities) have the ability to impose particular title conditions on titleholders.

In relation to some titles i.e. work-bid exploration permits and production licences, there are standard title conditions which will always be applied. All titles will be considered in relation to their unique circumstances and conditions will be applied if deemed necessary.

Once title conditions are written on the titles instrument, they become statutory conditions and full compliance with these is required. If they are not complied with, further compliance and enforcement action may be triggered.

The legislation also allows for the responsible Commonwealth Minister to give statutory directions to titleholders in certain circumstances. Statutory directions are enforceable under the legislation. Areas where statutory directions may be given include resource management and data issues.



Cancellation/prosecution

The fourth tier of compliance action will only be considered where it is proportionate to the seriousness of the breach. As discussed above, it is not necessary for all other compliance options to be exhausted prior to choosing this option as the approach will be determined by the nature of the breach.

The decision to cancel a title, excluding access authorities and special prospecting authorities, is made at the discretion of the Joint Authority.

Breaches of the legislation will always be assessed on a case by case basis and the Joint Authority, on advice from NOPTA, or NOPTA (depending on the title type) will determine whether the seriousness of the breach warrants cancellation.

For example, under the current methodology, exploration permits are offered and granted based on the work-bid system. The allocation of a permit is based, amongst other things, on the applicant's superior work program therefore if this program is not complied with, the seriousness of the breach may be considered as grounds for cancellation of the title.

If prosecution is deemed necessary the initial decision will, in the majority of cases, be made by the Joint Authority. Amongst other things, this decision will be made in accordance with the Prosecution Policy of the Commonwealth.

The ultimate decision to prosecute an offence is made by the Commonwealth Director of Public Prosecution.

More information

Further information and assistance with the legislative requirements can be found at www.nopta.gov.au.

Version history

Version	Date	Comment
4.0	21/10/2019	Update to layout, links, and simplified text.