

ENVIRONMENTAL PROTECTION AMENDMENT BILL (No.2) 1996

EXPLANATORY NOTES

The Environmental Protection Amendment Bill (No.2) 1996 has been drafted to be consistent with current legislative drafting practice and in modern language. As a consequence particular sections, clauses and sub-clauses require little or no further explanation and in these Explanatory Notes those parts will be repeated or summarised in general terms only.

Short Title

The short title of this Bill is the *Environmental Protection Amendment Act (No.2) 1996*.

Policy Objectives of the Bill

There are two main objectives of this Bill. Firstly, this Bill deals with matters arising from the recommendations of the Ministerial Advisory Committee. This committee was established to review the *Environmental Protection (Interim) Regulation 1995*. The review required amendment of the *Environmental Protection Act 1994* and these amendments are the subject of this Bill. Secondly this Bill clarifies other matters which have arisen during the implementation of the *Environmental Protection Act 1994*.

How the Policy Objectives will be Achieved

The Bill implements the recommendations of the Ministerial Advisory Council and clarifies other issues which have arisen since the commencement of the *Environmental Protection Act 1994*. As these issues are legislative in nature, an Act of Parliament is the only option available to address them.

Administrative Cost of the Bill

In most cases, the amendments proposed in this Bill will have little or no effect on costs. In the main the amendments are of an administrative nature to clarify issues which have arisen as a result of the implementation of the *Environmental Protection Act 1994*. For example, the amendments to environmental management programs allow the holder of an approval for an environmental management program to apply for an amendment to take advantage of new technology which may reduce their costs.

Consistency with the Fundamental Legislative Principles

The Bill is consistent with fundamental legislative principles.

Consultation

Comments have been sought from the following organisations; The Queensland Office of the Parliamentary Counsel, all Government Departments (through Cabinet Submissions relating to the Ministerial Advisory Committee Report) and the Ministerial Advisory Committee representing local government and industry.

Notes on Provisions

Clause 1 states the short title of the Act.

Clause 2 indicates when this Act commences.

Clause 3 indicates that this Bill will amend the *Environmental Protection Act 1994* (The Act).

Clause 4 amends the provision which establishes the application dates for licences and environmental management programs. The new provision also establishes an application date for amendments to environmental management programs provided for at clause 11.

Clause 5 amends section 65 of the Act to allow an administering authority to extend the time for deciding an application for an environmental authority.

Clause 6 amends section 70 of the Act to provide that it is an offence to breach the conditions of an approval. This is consistent with the existing offence of breaching the conditions of a licence.

Clause 7 merely inserts a new heading in relation to environmental management programs.

Clause 8 replaces the word “objects” in section 81 with the word “objectives” in order to provide consistency throughout the Act.

Clause 9 merely inserts a new heading in relation to the submission and approval of environmental management programs.

Clause 10 amends section 85 of the Act to provide that where the length of an environmental management program is longer than five years, public notification of the application is required. This requirement was previously three years.

Clause 11 inserts a new division in the Act which allows for amendments to approvals of environmental management programs

New subsection 94A(1) prescribes the process for amending environmental management program approvals to be the process for the approval of an original program, with any necessary changes.

New subsection (2) is a consequential amendment to clause 10 of this Bill which provides that where an amendment to an approval of an environmental management program extends the term of the environmental management program to longer than five years, public notification is required.

New subsection (3) provides that the administering authority may only amend an approval for an environmental management program if it provides for a better environmental outcome than the original program.

New subsection (4) provides criteria the administering authority must consider in deciding to amend an approval of an environmental management program.

Clause 12 inserts a new division heading before existing sections 95 to 100.

Clause 13 inserts a two new transitional provisions dealing with applications for environmental authorities which have been deemed to be refused between the commencement of the moratorium on licensing (1 March 1996) and the commencement of these provisions on 1 January 1996.

New section 236B provides where a deemed refusal has occurred and the applicant did not apply for a review of the decision, the application is deemed to be resubmitted with the appropriate fee on 1 January 1996.

New section 236C provides that where a deemed approval occurred during the moratorium on licensing (1 March 1996 to 30 June 1996) and the application is deemed to be resubmitted under new section 236B, then the person does not commit an offence under the Act for carrying out an environmentally relevant activity without an environmental authority until the “new” application is decided.

Clause 14 amends Schedule 1 of the Act to add five new original decisions. Original decisions are those decisions of an administering authority which may be appealed. The five new decisions relate to amendments of approvals of environmental management programs, and parallel the decisions for an original application for approval of an environmental management program.