

Queensland



**ENVIRONMENTAL
PROTECTION AMENDMENT
BILL (No. 2) 1996**

Queensland



ENVIRONMENTAL PROTECTION AMENDMENT BILL (No. 2) 1996

TABLE OF PROVISIONS

Section	Page
1 Short title	4
2 Commencement	4
3 Act amended	4
4 Replacement of s 35 (Application date)	4
35 Application date	4
5 Amendment of s 65 (Extensions of time for decision on applications)	5
6 Replacement of s 70 (Offence to contravene condition of licence)	5
70 Offence to contravene condition of environmental authority	5
7 Insertion of new ch 3, pt 6, div 1 heading	6
<i>Division 1—Preliminary</i>	
8 Amendment of s 81 (Content of program)	6
9 Insertion of new ch 3, pt 6, div 2 heading	6
<i>Division 2—Submission and approval of environmental management programs</i>	
10 Amendment of s 85 (Public notice of submission for approval of certain draft programs)	6
11 Insertion of new ch 3, pt 6, div 3	6
<i>Division 3—Amendment of approval for environmental management programs</i>	
94A Application	7
12 Insertion of new ch 3, pt 6, div 4 heading	7
<i>Division 4—Miscellaneous</i>	
13 Insertion of new ss 236B and 236C	8
236B Reconsideration of applications refused during relevant period	8

Environmental Protection Amendment (No.2)

	236C Postponement of requirement for environmental authorities to carry out certain existing environmentally relevant activities . .	8
14	Amendment of sch 1 (Original decisions)	9

1996

A BILL

FOR

An Act to amend the *Environmental Protection Act 1994*

The Parliament of Queensland enacts—

1

Short title

2

Clause **1.** This Act may be cited as the *Environmental Protection Amendment Act (No. 2) 1996*.

3

4

Commencement

5

Clause **2.** Section 13 commences on 1 January 1997.

6

Act amended

7

Clause **3.** This Act amends the *Environmental Protection Act 1994*.

8

Replacement of s 35 (Application date)

9

Clause **4.** Section 35—
omit, insert—

10

11

‘Application date

12

‘35.(1) This section applies to—

13

(a) an application for, or amendment or transfer of, a licence; or

14

(b) a submission for the approval of—

15

(i) a draft environmental management program; or

16

(ii) an amendment of an approval for an environmental management program.

17

18

‘(2) The **“application date”** for the application or submission is—

19

(a) if, within 10 days after the application or submission is made to the administering authority, the authority requires additional information about the licence, transfer or program—the date the authority states as the application date in a written notice given by the authority to the person who made the application or submission; or

20

21

22

23

24

25

Environmental Protection Amendment (No.2)

(b) if paragraph (a) does not apply—the date that is 14 days after the application or submission is made to the administering authority.

‘(3) However, the application date stated in a notice under subsection (2)(a) must not be a date that is earlier than 2 days after the person’s receipt of the notice.’.

Amendment of s 65 (Extensions of time for decision on applications)

Clause 5. Section 65(1)—

omit, insert—

‘65.(1) The administering authority may, before the time in which it is required to make a decision about an application under this part ends, extend the time for deciding the application.’.

Replacement of s 70 (Offence to contravene condition of licence)

Clause 6. Section 70—

omit, insert—

‘Offence to contravene condition of environmental authority

‘70.(1) The holder of an environmental authority must not wilfully contravene a condition of the authority.

Maximum penalty—

(a) for a licence—2 000 penalty units or 2 years imprisonment; or

(b) for an approval—300 penalty units.

‘(2) The holder of an environmental authority must not contravene a condition of the authority.

Maximum penalty—

(a) for a licence—1 665 penalty units; or

(b) for an approval—250 penalty units.

‘(3) In a proceeding for an offence against subsection (1), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the offence against subsection (2).’.

Environmental Protection Amendment (No.2)

	Insertion of new ch 3, pt 6, div 1 heading	1
Clause	7. Chapter 3, part 6, before section 80—	2
	<i>insert—</i>	3
	<i>‘Division 1—Preliminary’.</i>	4
	Amendment of s 81 (Content of program)	5
Clause	8. Section 81(b), ‘objects’—	6
	<i>omit, insert—</i>	7
	‘objectives’.	8
	Insertion of new ch 3, pt 6, div 2 heading	9
Clause	9. Chapter 3, part 6, before section 82—	10
	<i>insert—</i>	11
	<i>‘Division 2—Submission and approval of environmental management programs’.</i>	12
		13
	Amendment of s 85 (Public notice of submission for approval of certain draft programs)	14
		15
Clause	10. Section 85(1), ‘3 years’—	16
	<i>omit, insert—</i>	17
	‘5 years’.	18
	Insertion of new ch 3, pt 6, div 3	19
Clause	11. Chapter 3, part 6, after section 94—	20
	<i>insert—</i>	21

Environmental Protection Amendment (No.2)

‘Division 3—Amendment of approval for environmental management programs 1
2

‘Application 3

‘**94A.(1)** Division 2 (other than section 85(1)) applies, with all necessary changes, to a submission by the holder of an approval for an environmental management program for an environmentally relevant activity to amend the approval. 4
5
6
7

‘**(2)** Without limiting subsection (1), if the holder submits for approval an amendment of the approval that extends the period over which the program is to be carried out to longer than 5 years, section 85(2) and (3) applies to the submission as if the submission were for the approval of a draft environmental management program. 8
9
10
11
12

‘**(3)** Also, the administering authority may approve the amendment only if it is reasonably satisfied it will result in less environmental harm being caused by the carrying out of the activity under the amended approval than the environmental harm that would be caused by carrying out the activity if the approval were not granted. 13
14
15
16
17

‘**(4)** Without limiting the matters to be considered in deciding the application, the administering authority must have regard to— 18
19

- (a) the period under the original approval; and 20
- (b) the period that remains under the original approval; and 21
- (c) any change to the period under the original approval; and 22
- (d) the nature of the risk of environmental harm being caused by the activity.’. 23
24

Insertion of new ch 3, pt 6, div 4 heading 25

Clause **12.** Chapter 3, part 6, after section 94A— 26
insert— 27

‘Division 4—Miscellaneous’. 28

	Insertion of new ss 236B and 236C	1
Clause	13. After section 236A—	2
	<i>insert—</i>	3
	‘Reconsideration of applications refused during relevant period	4
	‘236B.(1) This section applies if—	5
	(a) during the relevant period, the administering authority was taken	6
	to have decided to refuse an application for, or for the amendment	7
	or transfer of, an environmental authority because of section 67; ¹	8
	and	9
	(b) under this Act, the applicant did not apply for a review of the	10
	decision.	11
	‘(2) The administering authority must treat the application as if it were a	12
	fresh application properly made to it on 1 January 1997 and accompanied	13
	by the appropriate application fee.	14
	‘(3) Despite section 35, the application date for the application is taken to	15
	be 1 January 1997.	16
	‘(4) In this section—	17
	“relevant period” means 1 March 1996 to 31 December 1996.	18
	‘Postponement of requirement for environmental authorities to carry	19
	out certain existing environmentally relevant activities	20
	‘236C.(1) This section applies to a person if—	21
	(a) the person made application (the “original application”) for an	22
	environmental authority on or after 1 March 1996 but before	23
	1 July 1996 to carry out an environmentally relevant activity; and	24
	(b) under section 236B, the original application is to be treated as a	25
	fresh application.	26
	‘(2) A provision of this Act that creates an offence for carrying out the	27
	activity without an environmental authority (the “offence provision”) does	28
	not apply to the person until the fresh application is decided.	29

¹ Section 67 (Failure to decide applications taken to be refusal)

Environmental Protection Amendment (No.2)

‘(3) Subsection (2) has effect despite the offence provision. 1

‘(4) This section applies to a person even if a proceeding against the 2
 person under the offence provision was started, but not finished, before 3
 1 January 1997.’. 4

Amendment of sch 1 (Original decisions) 5

Clause **14.** Schedule 1— 6

insert— 7

‘86 and 94A Requirement for additional information about an application 8
 for an amendment of an approval for an environmental
 management program

90(1) and 94A Approval of an application for an amendment of an approval 9
 for an environmental management program

90(3) and 94A Imposition of conditions on an approval of an amendment 10
 of an approval for an environmental management program

91 and 94A Refusal to approve an application for an amendment of an 11
 approval for an environmental management program

92 and 94A Extension of time for decision on submission of an 12
 amendment of approval for environmental management
 program’. 13