

Environmental Protection and Another Regulation Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 164

made under the

Environmental Protection Act 1994
Sustainable Planning Act 2009

General Outline

Short title

Environmental Protection and Another Regulation Amendment Regulation (No. 1) 2015

Authorising law

Section 580 of the *Environmental Protection Act 1994*
Section 763 of the *Sustainable Planning Act 2009*

Policy objectives and the reasons for them

The objectives of the regulation are to amend the *Environmental Protection Regulation 2008* and the *Sustainable Planning Regulation 2009* to prescribe modules of the Queensland Auditor Handbook for Contaminated Land.

Achievement of policy objectives

The policy objectives are to be achieved by inserting new sections in the *Environmental Protection Regulation 2008* and amending an existing section of the *Sustainable Planning Regulation 2009* to prescribe modules of the Queensland Auditor Handbook for Contaminated Land.

Consistency with policy objectives of authorising legislation

To the extent the Amendment Regulation amends the *Environmental Protection Regulation 2008*, it is consistent with the object of the *Environmental Protection Act 1994*, which is to

protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (ecologically sustainable development).

To the extent the Amendment Regulation amends the *Sustainable Planning Regulation 2009*, it is consistent with the object of the *Sustainable Planning Act 2009*, which is to seek ecological sustainability by managing the process by which development takes place, including ensuring the process is accountable, effective and efficient and delivers sustainable outcomes.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

These amendments will not add to the administrative cost of the Queensland Government.

The prescription of the modules of the Queensland Auditor Handbook for Contaminated Land will streamline and align requirements under the *Sustainable Planning Act 2009* and *Environmental Protection Act 1994*. The modules will clarify statutory requirements with respect to the appointment, conduct and responsibilities of auditors appointed under the *Environmental Protection Act 1994*.

Consistency with fundamental legislative principles

The *Legislative Standards Act 1992* was considered during the drafting of this regulation and the amendments are consistent with fundamental legislative principles.

Consultation

Consultation on the modules of the Queensland Auditor Handbook for Contaminated Land was undertaken with approved auditors before the finalisation of the modules.

Consultation has been undertaken with the Office of Best Practice Regulation in determining that the amendments were excluded from the requirement to undertake a Regulatory Impact Statement.

Notes on Provisions

Clause 1 Short title

This clause states that the short title of this regulation is the *Environmental Protection and Another Regulation Amendment Regulation (No. 1) 2015*.

Clause 2 Regulation amended

This clause states that part 2 of this regulation amends the *Environmental Protection Regulation 2008*.

Clause 3 Insertion of new ss 115C and 115D

This clause inserts two new sections in the *Environmental Protection Regulation 2008* to prescribe Modules 2 and 4 of the Queensland Auditor Handbook for Contaminated Land.

115C Guideline for application for approval as auditor—Act, s 570

The *Environmental Protection and Other Legislation Amendment Bill 2014* introduced the requirement for auditors to certify contaminated land investigation documents required under the *Environmental Protection Act 1994*. These new provisions commenced on 30 September 2015.

To support the new contaminated land provisions, the Department of Environment and Heritage Protection has developed a guideline that specifies information required to support an application for approval as an auditor for contaminated land. This guideline, which forms part of the new Queensland Auditor Handbook for Contaminated Land, is prescribed to clarify statutory requirements with respect to the appointment of contaminated land auditors under the *Environmental Protection Act 1994*.

Section 570 of the *Environmental Protection Act 1994* sets out the requirements for an application made by an individual to the chief executive for approval as an auditor. In paragraph (f), the applications must include other information required to be included in the application under a guideline that has been prescribed under a regulation. The new section 115C of the *Environmental Protection Regulation 2008* which is inserted by this clause prescribes the ‘Queensland Auditor Handbook for Contaminated Land, Module 2: Auditor application requirements’ for the purposes of section 570(f) of the *Environmental Protection Act 1994*.

115D Code of conduct for auditors—Act, s 574D

The *Environmental Protection and Other Legislation Amendment Bill 2014* introduced the requirement for auditors to certify contaminated land investigation documents required under the *Environmental Protection Act 1994*. These new provisions commenced on 30 September 2015.

To support the new contaminated land provisions, the Department of Environment and Heritage Protection has developed a code of conduct that ensures auditors perform their functions appropriately. This guideline, which forms part of the new Queensland Auditor Handbook for Contaminated Land, is prescribed to clarify statutory requirements with respect to the conduct of contaminated land auditors under the *Environmental Protection Act 1994*.

Section 574D of the *Environmental Protection Act 1994* sets out the grounds for suspension or cancellation of an auditor's approval. One of the grounds for suspension or cancellation is that the auditor has not complied with a code of conduct for auditors prescribed under a regulation (section 574D(b)). The new section 115D of the *Environmental Protection Regulation 2008* which is inserted by this clause prescribes the 'Queensland Auditor Handbook for Contaminated Land, Module 4: Code of Professional Conduct' for the purposes of section 574D(b) of the *Environmental Protection Act 1994*.

Clause 4 Regulation amended

This clause states that part 3 of this regulation amends the *Sustainable Planning Regulation 2009*.

Clause 6 Amendment of sch 18 (Compliance assessment of particular development)

This clause amends the guideline referenced in Schedule 18, table 3, item 2 of the *Sustainable Planning Regulation 2009*.

The *Environmental Protection and Other Legislation Amendment Act 2014* introduced the requirement for auditors to certify contaminated land investigation documents required to be attached to a compliance permit for certain development of contaminated land under the *Sustainable Planning Act 2009*. These new provisions commenced on 30 September 2015.

To support the new contaminated land provisions, the Department of Environment and Heritage Protection has developed a new guideline to replace the one currently prescribed in the *Sustainable Planning Regulation 2009*. This guideline, which forms part of the new Queensland Auditor Handbook for Contaminated Land, is prescribed to clarify statutory requirements with respect to the assessment of certain compliance permits under the *Sustainable Planning Act 2009*. The amendment prescribes Part D of Module 5 of the Queensland Auditor Handbook for Contaminated Land as the new guideline for these purposes.