

2002

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Urban Services)

National Environment Protection Council Amendment Bill 2002

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(Minister for Urban Services)

National Environment Protection Council Amendment Bill 2002

A Bill for

An Act to amend the *National Environment Protection Council Act 1994*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *National Environment Protection Council*
3 *Amendment Act 2002*.

4 **2 Commencement**

5 This Act commences on whichever of the following happens later:

- 6 (a) the day after its notification day;
- 7 (b) the day the *National Environment Protection Council*
8 *Amendment Act 2002* (Cwlth), schedule 1 commences.

9 *Note* The naming and commencement provisions automatically commence on
10 the notification day (see Legislation Act, s 75 (1)).

11 **3 Act amended**

12 This Act amends the *National Environment Protection Council Act*
13 *1994*.

14 **4 Interpretation for Act**
15 **Section 5 (1), definitions**

16 *relocate to dictionary*

17 **5 Section 5, remainder**

18 *substitute*

19 **5 Dictionary**

20 The dictionary at the end of this Act is part of this Act.

21 *Note 1* The dictionary at the end of this Act defines certain words and
22 expressions used in this Act.

23 *Note 2* A definition in the dictionary applies to the entire Act unless the
24 definition, or another provision of the Act, provides otherwise or the
25 contrary intention otherwise appears (see Legislation Act, s 155 and
26 s 156 (1)).

5A Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5B Interpretation—implementation of national environment protection measures

A reference in this Act to the implementation of national environment protection measures includes a reference to the enforcement of the laws and other arrangements made for the purpose of implementing those measures.

**6 Powers of council
New section 12 (g) and (h)**

substitute

(g) consult with the Australian Local Government Association;
and

(h) direct the service corporation to provide assistance and support to other ministerial councils.

**7 Variation or revocation of measures
New section 19 (5) and (6)**

insert

(5) A variation or revocation of a national environment protection measure is a notifiable instrument.

(6) Subsections (2) to (4) do not apply to a minor variation of a national environment protection measure under division 3.2A.

Note A notifiable instrument must be notified under the Legislation Act.

8 New Division 3.2A

insert

**Division 3.2A Minor variation of national
environment protection measures**

21A Minor variation of measures

(1) The council may vary a national environment protection measure (a *minor variation*) if—

(a) the variation is supported by a unanimous resolution of all of the members; and

(b) the resolution states that the variation does not involve a significant change in the effect of the national environment protection measure.

(2) If the council decides that a variation does not involve a significant change in the effect of the national environment protection measure, the council must prepare—

(a) a draft of the proposed variation; and

(b) a statement relating to the variation that explains—

(i) the reasons for the proposed variation; and

(ii) the nature and effect of the proposed variation; and

(iii) the reasons why the council is satisfied that the variation is a minor variation.

(3) A minor variation of a national environment protection measure is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

21B Public consultation for minor variation

- (1) Before making a minor variation to a national environment protection measure, the council must publish a notice—
- (a) stating how the draft of the proposed variation and the explanatory statement may be obtained; and
 - (b) inviting submissions to the council on the proposed variation, or on the explanatory statement, within a stated period.
- (2) The notice must—
- (a) be published in the *Commonwealth of Australia Gazette*; and
 - (b) in each participating State or Territory concerned—also be published, on at least 1 day during the month when the *Commonwealth of Australia Gazette* notice is published, in a newspaper circulating in that State or Territory.
- (3) The period stated in each notice under subsection (1) must end not less than 1 month after the day when subsection (2) (b) has been fully complied with in all participating jurisdictions.

21C Council to have regard to submissions etc

- In making a minor variation to a national environment protection measure, the council must have regard to—
- (a) any submissions it receives that relate to the proposed variation or the explanatory statement; and
 - (b) whether the measure is consistent with section 3 of the agreement; and
 - (c) relevant international agreements to which Australia is a party; and
 - (d) any regional environmental differences in Australia.

9 Functions of service corporation
New section 35 (b) and (c)

substitute

- (b) to provide assistance and support to other ministerial councils as directed by the council; and
- (c) to do anything incidental or conducive to the exercise of the function mentioned in paragraph (a) or (b).

10 Review of operation of Act
Section 63 (2)

substitute

- (2) The report of the review is to be presented to the Legislative Assembly within 12 months after the 5th anniversary of that commencement.
- (3) As soon as possible after the end of every 5 year period following the review under subsection (1), the council must cause a further review of the kind set out in subsection (1) to be undertaken.
- (4) The report of each further review is to be presented to the Legislative Assembly within 12 months after the end of the period to which it relates.

11 New dictionary

insert

Dictionary

(see s 5)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- appoint

- 1 • asset
- 2 • Australia
- 3 • Commonwealth
- 4 • exercise
- 5 • external Territory
- 6 • function
- 7 • Jervis Bay Territory
- 8 • land
- 9 • Legislative Assembly
- 10 • power
- 11 • property.

12 *ministerial council* means a council, comprising 1 or more
13 Ministers of the Commonwealth and Ministers of 1 or more of the
14 States or Territories, that includes environmental protection in its
15 functions.

16 *minor variation*, for a national environment protection
17 measure—see section 21A (Minor variation of measures).

Endnote

Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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