

2002

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**NATIONAL ENVIRONMENT PROTECTION COUNCIL
AMENDMENT BILL 2002**

EXPLANATORY MEMORANDUM

Circulated by authority of

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Minister for Urban Services

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Outline

This Bill makes minor amendments to the *National Environment Protection Council Act 1994*. The effect of the amendments is to provide a simplified process for making minor variations to the National Environment Protection Measures; to require five-yearly reviews of the *National Environment Protection Council Act 1994*; and to allow the National Environment Protection Council Service Corporation to provide support and assistance to other ministerial councils.

The first two amendments give effect to the outcomes of a 2000-01 review of the Commonwealth, States and Territories National Environment Protection Council Acts. The third amendment follows from the review of ministerial councils by the Council of Australian Governments in 2001 as a consequence of which the National Environment Protection Council and the Environment Protection and Heritage Council meet jointly. This Bill enables the Service Corporation, which is a statutory body under the *National Environment Protection Council Act 1994*, to extend its secretariat service to the joint council.

Revenue/Cost Implications

The Bill will have no financial impact.

Formal Clauses

Clauses 1 is a formal provision specifying the short title of the Bill.

Clause 2 provides that the naming and commencement provisions commence on the notification date.

Clause 3 provides that the Act will amend the *National Environment Protection Act 1994*.

Clause 4 relocates subsection 5(2) to a new section 4A that provides an interpretation of national environment protection measures.

Clauses 5 relocates Section 5(1), definitions to the dictionary inserted at the end of the Act. The dictionary defines certain words and expressions used in the Act. A definition in the dictionary applies to the entire Act unless the definition or another provision of the Act, provides otherwise or the contrary intention otherwise appears.

Clause 6 substitutes Section 5 with a reference to the dictionary at the end of the Act, and inserts a new section 5A which provides that notes included in the Act are explanatory and are not part of the Act.

Clause 7 inserts a new sub-section 12(h) that enables the National Environment Protection Council to direct the National Environment Protection Council Service Corporation to provide assistance and support to other ministerial councils.

Clause 8 inserts two new sub-sections into Section 19, which entitles the council to make or revoke national environment protection measures. The new sub-sections remove the application of sub-sections 19(2) – (4) to minor variations.

New Division 3.2A

Clause 9 inserts a new division 3.2A that contains the procedures the council must follow when making a minor variation of national environment protection measures. The procedure for varying a national environment protection measure is set out in Sections 19 to 21. New simplified and sequential procedures set out in Division 3.2A will apply to a minor variation.

Section 21A sets out the conditions under which the council can determine whether a variation to a national environment protection measure is minor. This sub-section requires the variation to be supported by a unanimous resolution of the council that must state that the variation will not significantly change the measure. Sub-section 21A(2) then requires the council to prepare a draft of the proposed variation and a statement that explains the reasons for the proposed variation, the nature and effect of the proposed variation, and the reasons why the council is satisfied it is minor.

Section 21B provides for public consultation before a minor variation is made so that the public is aware that the council is intending to vary a measure and have the opportunity to make submissions to the council on the proposed variation or the explanatory memorandum relating to the proposed variation.

Section 21C provides that when making a minor variation the council must have regard to any submissions it receives, the consistency of the measure with the principles of environmental policy set out in Section 3 of the Intergovernmental Agreement on the Environment, any relevant international agreements to which Australia is a party and any regional difficulties in Australia.

Clause 10 inserts two new sub-sections. Sub-section 35(b) enables the Service Corporation to provide assistance and support to ministerial councils in addition to the council. Sub-section 35(c) enables the Service Corporation to do anything incidental or conducive to its provision of assistance to other ministerial councils.

Clause 11 inserts sub-sections 63(3) and (4) which provide for the Act to be reviewed at five yearly intervals after the first five-year review and for the report of each further review to be tabled in the ACT Legislative Assembly.

Clause 12 inserts the dictionary and adds a definition of *ministerial council* that will ensure ministerial councils supported by the National Environment Protection Council Service Corporation are limited to those which include environment protection in their functions. The clause also adds a definition of *minor variation*.