

Environment Protection (General Amendment) Bill

EXPLANATORY MEMORANDUM

The Bill makes a number of unrelated amendments to the *Environment Protection Act 1970* and to certain provisions of the *Environment Protection (Review) Act 1984* which will come into operation on 1 January 1985. Most of the changes are designed to correct typographical errors and affect minor drafting improvements. The most significant changes relate to pollution abatement and noise control notices and the new works approval and licensing system.

Preliminary

Clause 1 is the usual citation clause.

Clause 2 provides for the Act to come into operation on the day which it receives Royal Assent.

Clause 3 identifies the *Environment Protection Act 1970* as the Principal Act.

Miscellaneous

Clause 4 makes a number of miscellaneous amendments to the Principal Act. Various typographical errors are corrected and drafting improvements made. The two changes of note relate to classified areas and delegated agencies. For the purposes of State Environment Protection Policy an area may be classified but the legislation also provides for Orders to be made to classify areas for other purposes. This mechanism has not been used and it is questionable as to what purposes it could be used. Also confusing is the incorrect use of the term 'protection agency' in a number of provisions. The reference should be to a protection agency acting as a delegate of the Authority. *Clause 4* clarifies both these matters.

Works Approvals

Clause 5 amends certain provisions of the *Environment Protection (Review) Act 1984* which deal with the new works approval system. Again, a number of the amendments simply correct typographical errors and make drafting improvements.

The new section 19CA is a machinery provision which provides that superseded works approvals and approvals that have not been acted upon, lapse.

Section 19D is substantially altered to deal comprehensively with applications received by the Authority under the old licensing system but which have not been issued by 1 January 1985, the date upon which the new works approval system comes into operation.

Licences

Clause 6 amends provisions of the *Environment Protection (Review) Act 1984* which deal with the procedure for obtaining a licence once the new works approval system comes into operation. Most of the changes are designed to achieve greater consistency and clarity or are of a machinery nature. Where an applicant for a new licence or the amendment of an existing licence has failed to obtain a works approval, provision is made for the payment of the fee which would have been payable had the applicant applied for a works approval.

Abatement Notices

Clause 7. The *Environment Protection (Review) Act 1984* introduces a new pollution abatement and an expanded noise control notice system. Both types of notices run with the land and bind successive owners. *Clause 7* makes various changes to these notice systems. A notice will not bind a successive owner and a notification system is inserted to protect a new owner who is subsequently required to carry out works which the previous owner failed to complete. A vendor is required to notify a prospective occupier of any outstanding requirements contained in a notice served upon him and, upon failing to do so, the new occupier may recover any reasonable costs from the vendor incurred in complying with such a requirement subsequently made by the Authority.

Provision is also made for the Authority to revoke a notice upon being satisfied that all requirements contained in a notice have been satisfied.

Appeals

Clause 8. In addition to making a number of machinery changes to the appeal provisions, *Clause 8* inserts a new right of appeal. Any person who is liable to pay a fee may appeal against the fee on the ground that the fee has been incorrectly calculated. The lodging of an appeal will not effect the persons liability to pay the fee.

Transport of Waste

Clause 9 amends the proposed Part IXA. of the Principal Act. Part IXA. introduces a permit system for the transport of prescribed non-hazardous waste. *Clause 9* extends the permit system to any waste prescribed for the purposes of the Part.

Agreement to Waive Time Limits

Clause 10. The *Environment Protection (Review) Act 1984* imposes various time limits on the Authority for determining applications relating to works approvals and licences and precludes the Authority from dealing with an application out of time. *Clause 10* empowers the Authority to determine an application beyond the time limit where the applicant has agreed to an extension of the time limit.

Exemptions

Clause 11. The *Environment Protection (Review) Act 1984* enables regulations to be made exempting classes of persons and types of wastes from the works approval and licensing requirements of the Act. *Clause 11* amends this regulation making power to embrace classes of premises and any type of operation or work carried on upon any premises.