



Queensland

# **Environmental Protection and Other Legislation Amendment Act (No. 2) 2008**

**Act No. 52 of 2008**





## Queensland

# Environmental Protection and Other Legislation Amendment Act (No. 2) 2008

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Queensland

## **Environmental Protection and Other Legislation Amendment Act (No. 2) 2008**

### **Act No. 52 of 2008**

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**An Act to amend the Environmental Protection Act 1994, the Dangerous Goods Safety Management Act 2001, the Environmental Protection and Other Legislation Amendment Act 2007, the Integrated Planning Act 1997 and the Nature Conservation Act 1992 for particular purposes, and to make consequential or minor amendments of other Acts as stated in schedule 2 for purposes related to those particular purposes**

**[Assented to 23 October 2008]**

**The Parliament of Queensland enacts—**

**Part 1 Preliminary**

**1 Short title**

This Act may be cited as the *Environmental Protection and Other Legislation Amendment Act (No. 2) 2008*.

**2 Commencement**

This Act commences on a day to be fixed by proclamation.

**Part 2 Amendment of Environmental Protection Act 1994**

**3 Act amended in pt 2 and sch 1**

This part and schedule 1 amend the *Environmental Protection Act 1994*.

**4 Amendment of s 15 (Environmental nuisance)**

Section 15(a)—

*omit, insert—*

‘(a) aerosols, fumes, light, noise, odour, particles or smoke; or’.

**5 Amendment of s 17 (Serious environmental harm)**

(1) Section 17(1)(a), from ‘that causes’ to ‘values’—

*omit.*

- (2) Section 17(1)(b), from ‘that’ to ‘values of’—  
*omit, insert—*  
‘caused to’.

**6 Insertion of new s 17A**

After section 17—

*insert—*

**‘17A Exclusions**

‘Despite sections 14 and 15, a thing stated in schedule 1, part 2 is not environmental harm or environmental nuisance.’.

**7 Amendment of s 18 (Meaning of *environmentally relevant activity*)**

Section 18(a)—

*omit, insert—*

‘(a) a mining activity or petroleum activity; or’.

**8 Amendment of s 19 (Environmentally relevant activity may be prescribed)**

Section 19, after ‘mining activity’—

*insert—*

‘or petroleum activity’.

**9 Omission of s 20 (Levels for environmentally relevant activities)**

Section 20—

*omit.*

[s 10]

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**10 Amendment of s 57 (EIS assessment report)**

Section 57(2)(a), ‘the end of the relevant period under section 56’—

*omit, insert—*

‘the day the notice mentioned in subsection (1) was given’.

**11 Amendment of s 73AA (Development applications in relation to wild river areas)**

(1) Section 73AA(2), from ‘environmentally’ to ‘material’—

*omit, insert—*

‘extraction ERA’.

(2) Section 73AA(3)(a) and (b)—

*omit, insert—*

(a) a sewage ERA;

(b) a water treatment ERA;

(c) a dredging ERA;

(d) an extraction ERA, if the activity is a low impact activity carried out outside waters and is for specified works, or residential complexes, in the area;

(e) a screening ERA, if the activity is carried out outside waters and is for specified works, or residential complexes, in the area;

(f) a crude oil or petroleum product storage ERA, if the activity is for residential complexes in the area and is carried out outside a designated urban area;

(g) an exempt environmentally relevant activity in a designated urban area.’.

(3) Section 73AA(4), from ‘environmentally’ to ‘item 20’—

*omit, insert—*

‘extraction ERA’.

- (4) Section 73AA(6)(b)(i) and (ii)—

*omit, insert—*

‘(i) a sewage ERA or water treatment ERA, if the development is in a designated urban area;

(ii) development mentioned in subsection (3)(g); and’.

- (5) Section 73AA(8), ‘(3)(a)(i)’—

*omit, insert—*

‘(3)(a) or (b)’.

- (6) Section 73AA(9), definition *exempt environmentally relevant activity*—

*omit.*

- (7) Section 73AA(9)—

*insert—*

***‘crude oil or petroleum product storage ERA*** means a chapter 4 activity, prescribed under a regulation for this section, relating to storing crude oil or a petroleum product.

***dredging ERA*** means a chapter 4 activity, prescribed under a regulation for this section, relating to dredging material.

***exempt environmentally relevant activity*** means a chapter 4 activity prescribed under a regulation for this definition.

***extraction ERA*** means a chapter 4 activity, prescribed under a regulation for this section, relating to extracting rock or other material.

***screening ERA*** means a chapter 4 activity, prescribed under a regulation for this section, relating to screening, washing, crushing, grinding, milling, sizing or separating material extracted from the earth or dredged.

***sewage ERA*** means a chapter 4 activity, prescribed under a regulation for this section, relating to sewage treatment.

***water treatment ERA*** means a chapter 4 activity, prescribed under a regulation for this section, relating to water treatment.’.

[s 12]

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## 12 Amendment of s 73F (Registration certificates)

- (1) Section 73F(1), ‘a certificate (a *registration certificate*)’—  
*omit, insert—*  
‘1 or more certificates (each a *registration certificate*)’.
- (2) Section 73F(4)(a), ‘under subsection (2),’—  
*omit.*
- (3) Section 73F(7), ‘or (5)’—  
*omit, insert—*  
‘, (3) or (6)’.
- (4) Section 73F(3) to (7)—  
*renumber* as section 73F(4) to (8).
- (5) Section 73F(2)—  
*omit, insert—*  
‘(2) Subject to subsection (3), if the activities are carried out at 2 or more places, a separate registration certificate must be granted for the activities carried out at each place.  
(3) A single registration certificate may be granted for activities carried out at different places if—
  - (a) the administering authority is satisfied the activities will be carried out as a single integrated operation; or
  - (b) all the following apply—
    - (i) the applicant is a local government;
    - (ii) the applicant asks the administering authority to grant a single registration certificate for the activities;
    - (iii) the administering authority is satisfied the activities are non-commercial and it would be appropriate, having regard to the level of integration of the activities, to grant a single registration certificate for them.’.



### 13 Insertion of new s 73FA

After section 73F—

*insert—*

#### **'73FA Issue of 2 or more registration certificates in place of single certificate**

- '(1) This section applies if—
- (a) a person holds a single registration certificate for activities carried out at 2 or more places; and
  - (b) the administering authority believes that, if the person did not hold the certificate and were to apply to be a registered operator to carry out the activities, a single registration certificate may not be granted for the activities under section 73F(3).
- '(2) The administering authority may give the person a notice stating—
- (a) the belief mentioned in subsection (1)(b); and
  - (b) the grounds for the belief; and
  - (c) that the administering authority proposes to cancel the registration certificate and issue 2 or more registration certificates for the activities; and
  - (d) that, if the administering authority takes the action mentioned in paragraph (c) (the *replacement action*), the person must pay the fees for the additional registration certificates; and
  - (e) that the person may make written representations to the administering authority about why the authority should not take the replacement action; and
  - (f) the period, at least 20 business days after the notice is given, within which the representations may be made; and
  - (g) the name, address and contact details of the administering authority;
  - (h) the review or appeal details.

[s 14]

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- ‘(3) If, after considering any written representations received from the person within the time stated in the notice, the administering authority is satisfied of the matters stated in subsection (1)(b), it may take the replacement action.
- ‘(4) The administering authority must give the person written notice stating—
  - (a) whether or not it has decided to take the replacement action; and
  - (b) if it takes the replacement action—
    - (i) the fees payable by the person for the additional registration certificates; and
    - (ii) the review or appeal details.
- ‘(5) On receiving a notice under subsection (4)(b), the person must pay the fees for the additional registration certificates.’.

**14 Amendment of s 73O (Surrendering a registration certificate)**

- (1) Section 73O(6), words before section 73O(6)(b)(i)—  
*omit, insert—*
- ‘(6) In making a decision under subsection (3), the administering authority must consider the following—’.
- (2) Section 73O(6)(i) to (vii)—  
*renumber* as section 73O(6)(a) to (g).

**15 Amendment of s 73T (Offences under s 427 do not apply in certain circumstances)**

- (1) Section 73T(2), ‘4 months’—  
*omit, insert—*  
‘1 year’.
- (2) Section 73T(3), ‘4 months mentioned in subsection (2) end if, within the 4 months’—

---

*omit, insert—*

‘1 year period mentioned in subsection (2) ends if, within the period’.

**16 Amendment of s 77 (What is a *petroleum activity*, a *level 1 petroleum activity* and a *level 2 petroleum activity*)**

Section 77(2) and (3)—

*omit, insert—*

- ‘(2) Each petroleum activity must be prescribed under a regulation as a level 1 or level 2 petroleum activity, depending on the risk of environmental harm.’.

**17 Amendment of s 163A (Application of div 3)**

Section 163A(a), ‘or an environmental authority (mining claim)’—

*omit, insert—*

‘, environmental authority (mining claim) or environmental authority (exploration)’.

**18 Amendment of s 171 (Deciding application)**

- (1) Section 171(2)(a) to (f)—

*renumber* as section 171(2)(i) to (vi).

- (2) Section 171(2), ‘must consider each of the following—’—

*omit, insert—*

‘must—

- (a) comply with any relevant regulatory requirement; and  
(b) subject to paragraph (a), consider each of the following—’.

[s 19]

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**19 Amendment of s 173 (Administering authority may refuse application)**

- (1) Section 173(2)(a) to (e)—  
*renumber* as section 173(2)(i) to (v).
- (2) Section 173(2), ‘, consider the following—’—  
*omit, insert—*  
‘\_\_
  - (a) comply with any relevant regulatory requirement; and
  - (b) subject to paragraph (a), consider each of the following—’.

**20 Amendment of s 207 (Administering authority may refuse application)**

- (1) Section 207(2)(a) to (e)—  
*renumber* as section 207(2)(i) to (v).
- (2) Section 207(2), ‘, consider the following—’—  
*omit, insert—*  
‘\_\_
  - (a) comply with any relevant regulatory requirement; and
  - (b) subject to paragraph (a), consider each of the following—’.

**21 Amendment of s 214 (Declaration of compliance)**

Section 214(1), ‘starts’—  
*omit, insert—*  
‘ends’.

**22 Amendment of s 215 (Substantial compliance may be accepted)**

Section 215(1), ‘before’—

---

*omit, insert—*

‘within 10 business days after’.

**23 Amendment of s 228 (Grant of application on basis of draft environmental authority)**

Section 228(1), ‘10 days’—

*omit, insert—*

‘10 business days’.

**24 Amendment of s 240 (Requirements for application)**

Section 240(c)—

*omit, insert—*

‘(c) accompanied by the fee prescribed under a regulation.’.

**25 Amendment of s 246 (Assessment level and EIS decisions for application)**

Section 246(2), after ‘subsection (1)’—

*insert—*

‘, comply with any relevant regulatory requirement and’.

**26 Amendment of s 247 (Ministerial decision about assessment level and EIS decisions)**

Section 247(7), after ‘consider’—

*insert—*

‘any relevant regulatory requirement,’.

**27 Amendment of s 337 (Administering authority to consider draft programs)**

Section 337(1), ‘after the application date.’—

*omit, insert—*

[s 28]

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‘after—

- (a) if public notice is required under section 335—the day stated in the notice as the day by which submissions may be made to the administering authority; or
- (b) otherwise—the application date.’.

## **28 Insertion of new ch 7, pts 5A to 5C**

Chapter 7—

*insert—*

### **‘Part 5A Direction notices**

#### **‘363A Prescribed provisions**

‘This part provides for a direction notice to be issued in relation to a contravention of section 440, 440Q or 440ZG (each of which is a *prescribed provision*).

*Editor’s note—*

section 440 (Offence of causing environmental nuisance), 440Q (Offence of contravening a noise standard) or 440ZG (Depositing prescribed water contaminants in waters and related matters)

#### **‘363B Authorised person may issue a direction notice**

- ‘(1) This section applies if an authorised person is satisfied on reasonable grounds that—
  - (a) a person—
    - (i) is contravening a prescribed provision; or
    - (ii) has contravened a prescribed provision in circumstances that make it likely the contravention will continue or be repeated; and
  - (b) a matter relating to the contravention can be remedied; and

- 
- (c) it is appropriate to give the person an opportunity to remedy the matter.
  - ‘(2) The authorised person may issue a written notice (a *direction notice*) to the person requiring the person to remedy the contravention.
  - ‘(3) If, for any reason, it is not practicable to make a requirement to remedy the contravention by written notice, the requirement may be made orally and confirmed by a direction notice as soon as practicable.

*Note—*

Whether an oral requirement is made before issuing a direction notice is relevant to the time by which the person may be required to remedy the contravention. See section 363D(2)(c).

**‘363C Matters to consider before issuing a direction notice relating to particular emissions**

- ‘(1) This section applies to a contravention of section 440 involving an emission of aerosols, fumes, light, noise, odour, particles or smoke.
- ‘(2) Before deciding to issue a direction notice in relation to the contravention, the authorised person must—
  - (a) consider the general emission criteria stated in subsection (3); and
  - (b) if the emission is of noise, consider the noise emission criteria stated in subsection (4); and
  - (c) having regard to those criteria, consider whether it would be appropriate to issue the direction notice or to first try to resolve the matter in another way.
- ‘(3) The general emission criteria, for a particular emission, are as follows—
  - (a) the emission’s characteristics or qualities;
  - (b) the emission’s amount or rate;
  - (c) the duration and time of the emission;

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- (d) whether the emission is continuous or fluctuating;
- (e) the characteristics and qualities of the receiving environment, including the types of emissions that could reasonably be expected in the receiving environment;
- (f) the emission's impact on the receiving environment;
- (g) in relation to each affected person for the emission—
  - (i) any views of the affected person about the emission of which the authorised person is aware, including views about the degree of interference caused, or likely to be caused, by the emission to lawful activities at the place occupied by the affected person; and
  - (ii) the order of occupancy between the person causing the emission and the affected person; and
  - (iii) for the period during which the person causing the emission has occupied the place from which the emission is generated and the affected person has occupied the place affected by the emission—
    - (A) any structural or other changes to either of those places; and
    - (B) any change to the activities conducted at either of those places by the person causing the emission or affected person;
- (h) any mitigating measures that have been taken or could reasonably have been taken by the person causing the emission.

‘(4) The noise emission criteria are as follows—

- (a) if the authorised person has measured a sound pressure level for the noise—that level;
- (b) the audibility of the noise;
- (c) whether the noise is continuous at a steady level or whether it has a fluctuating, intermittent, tonal or impulsive nature;



(d) whether the noise has vibration components.

‘(5) In this section—

*affected person*, for an emission, means a person who the authorised person knows to be affected by the emission.

### ‘363D Requirements of direction notices

‘(1) A direction notice must state the following—

- (a) that the authorised person believes the person—
  - (i) is contravening a prescribed provision; or
  - (ii) has contravened a prescribed provision in circumstances that make it likely the contravention will continue or be repeated;
- (b) the particular prescribed provision the authorised person believes is being, or has been, contravened;
- (c) briefly, how it is believed the prescribed provision is being, or has been, contravened;
- (d) the time by which the person must remedy the contravention;
- (e) that it is an offence to fail to comply with the direction notice unless the person has a reasonable excuse;
- (f) the maximum penalty for failing to comply with the direction notice;
- (g) the review or appeal details.

‘(2) The time under subsection (1)(d) must be reasonable having regard to—

- (a) the action required to remedy the contravention; and
- (b) the risk to human health or the natural environment, or risk of loss or damage to property, posed by the contravention; and
- (c) how long the person has been aware of the contravention, for example, because an authorised

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person has previously made an oral requirement that the contravention be remedied.

- (3) The notice may also state the reasonable steps the authorised person considers necessary to remedy the contravention, or avoid further contravention, of the prescribed provision.

### **‘363E Offence not to comply with a direction notice**

‘A person who is issued with a direction notice must comply with it unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

## **‘Part 5B                      Clean-up notices**

### **‘363F Definitions for pt 5B**

‘In this part—

*contamination incident* means an incident, involving contamination of the environment, that the administering authority is satisfied has caused or is likely to cause serious or material environmental harm.

*place* means premises, another place on land or a vehicle.

### **‘363G Who are the *prescribed persons* for a contamination incident**

‘For this part, each of the following persons is a *prescribed person* for a contamination incident—

- (a) a person causing or permitting, or who caused or permitted, the incident to happen;
- (b) a person who, at the time of the incident, is or was—
  - (i) the occupier of a place at or from which the incident is happening or happened; or

- (ii) the owner, or person in control, of a contaminant involved in the incident;
- (c) if a clean-up notice is issued to a corporation (the *first corporation*) in relation to the incident and it fails to comply with the notice—
  - (i) a parent corporation of the first corporation; and
  - (ii) an executive officer of the first corporation.

### **‘363H Administering authority may issue clean-up notice**

- ‘(1) The administering authority may issue a written notice (a *clean-up notice*) to a person whom the administering authority reasonably believes to be a prescribed person for a contamination incident, requiring the person to take stated action to—
  - (a) prevent or minimise contamination; or  
*Example—*  
action to contain, remove, disperse or destroy the contaminants
  - (b) rehabilitate or restore the environment because of the incident, including by taking steps to mitigate or remedy the effects of the incident; or
  - (c) assess the nature and extent of the environmental harm, or the risk of further environmental harm, from the incident, including by inspecting, sampling, recording, measuring, calculating, testing or analysing; or
  - (d) keep the administering authority informed about the incident or the actions taken under the notice, including by giving to the administering authority stated reports, plans, drawings or other documents.
- ‘(2) The clean-up notice must state the following matters—
  - (a) the name of the recipient;
  - (b) a description of the contamination incident;
  - (c) the place at or from which the administering authority is satisfied the incident is happening or has happened;

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- (d) the actions the recipient must take;
  - (e) for each action, the time by which it must be taken;
  - (f) that it is an offence for the recipient not to comply with the notice unless the recipient has a reasonable excuse;
  - (g) the maximum penalty for the offence;
  - (h) that, if the recipient does not comply with the notice, an authorised person may take any of the actions stated in the notice and the administering authority may recover from the recipient the costs incurred in taking the actions;
  - (i) the name, address and contact details of the administering authority;
  - (j) the review or appeal details.
- ‘(3) The time under subsection (2)(e) must be reasonable in all the circumstances, having regard to the actions the recipient must take and the risk of harm or further harm from the incident.
- ‘(4) The notice may include any other information the administering authority considers appropriate.
- Example—*
- The notice may state how the administering authority proposes to monitor compliance with the notice, including by exercising powers under chapter 9.
- ‘(5) If the notice is issued to 2 or more recipients, a copy must be given to each recipient.
- ‘(6) To the extent that the recipient complies with the notice but did not cause or permit the contamination incident to happen, the recipient may recover as a debt, from another person who caused or permitted the contamination incident to happen, the amount of loss or expense incurred by the recipient in complying with the notice.
- ‘(7) A reference in this section to taking actions includes achieving outcomes.

*Example—*

A clean-up notice may state, as an action that must be taken, that the recipient must ensure contaminated water does not reach the aquifer.

**‘363I Offence not to comply with clean-up notice**

‘(1) The recipient of a clean-up notice must comply with the notice unless the recipient has a reasonable excuse.

Maximum penalty—2000 penalty units.

‘(2) If the recipient is an individual and the notice includes a requirement to give information or produce a document, it is a reasonable excuse for the individual to fail to comply with the requirement if complying with the requirement might tend to incriminate the individual.

‘(3) In proceedings for an offence against subsection (1), it is a defence for the recipient to show—

- (a) that the recipient is not a prescribed person; or
- (b) that the relevant contamination incident was caused by a natural disaster; or
- (c) that—
  - (i) the relevant contamination incident was caused by a terrorist act or other deliberate act of sabotage by someone other than the recipient; and
  - (ii) the recipient had taken all measures it would be reasonable for the recipient to have taken to prevent the incident, having regard to all the circumstances including the inherent nature of the risk and the nature of the recipient’s connection with the incident; or
- (d) if the recipient is a prescribed person mentioned in section 363G(c)(i), that it took all reasonable steps to ensure the first corporation complied with the notice served on the first corporation; or
- (e) if the recipient is a prescribed person mentioned in section 363G(c)(ii), that—

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- (i) the person took all reasonable steps to ensure the first corporation complied with the notice served on the first corporation; or
- (ii) the person was not in a position to influence the conduct of the first corporation in relation to its compliance with the notice served on the first corporation.

‘(4) In this section—

*first corporation* see section 363G(c).

*lease* includes a residential tenancy agreement under the *Residential Tenancies Act 1994*.

### ‘363J Procedure if recipient is not the owner of land on which action is required

- ‘(1) This section applies if a clean-up notice requires the recipient to take action on land that the recipient does not own.
- ‘(2) The recipient, or person taking the action for the recipient (the *contractor*), may enter the land to take the action only—
  - (a) with the consent of the owner and occupier of the land; or
  - (b) if the recipient or contractor has given at least 5 business days written notice to the owner and occupier.
- ‘(3) The notice under subsection (2)(b) must inform the owner and occupier of—
  - (a) the intention to enter the land; and
  - (b) the purpose of the entry; and
  - (c) the days and times when the entry is to be made.
- ‘(4) In taking the action, the recipient or contractor must take all reasonable steps to ensure the recipient or contractor causes as little inconvenience, and does as little damage, as is practicable in the circumstances.
- ‘(5) Nothing in this section authorises the recipient or contractor to enter a building used for residential purposes.

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- ‘(6) If a person incurs loss or damage because of action taken by the recipient or contractor, the person is entitled to be paid by the recipient or contractor the reasonable compensation because of the loss or damage that is agreed between the recipient or contractor and the person or, failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.
- ‘(7) The court may make an order about costs it considers just.

### ‘363K Taking action in place of recipient

- ‘(1) This section applies if—
- (a) the recipient of a clean-up notice fails to comply with it; or
  - (b) the operation of the decision to issue a clean-up notice is stayed under section 535.
- ‘(2) An authorised person, or person acting under the direction of an authorised person (the *contractor*), may take any of the actions stated in the clean-up notice.
- ‘(3) For subsection (2), the authorised person or contractor may enter land on which the actions are required to be taken—
- (a) with the consent of the owner and occupier of the land; or
  - (b) if the authorised person or contractor has given at least 5 business days written notice, complying with section 363J(3), to the owner and occupier.
- ‘(4) If the authorised person or contractor enters land under subsection (3), section 363J(4) to (7) applies as if a reference in the provisions to the recipient or contractor were a reference to the authorised person or contractor.
- ‘(5) Subsections (3) and (4) do not limit another provision of this Act under which an authorised person may enter land.

*Note—*

See also sections 452 and 458 in relation to the power to enter a place to take the actions.

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### **‘363L Obstruction of recipient complying with notice**

- ‘(1) A person must not obstruct the recipient of a clean-up notice in the taking of action to comply with a clean-up notice, unless the person has a reasonable excuse.

Maximum penalty—165 penalty units.

- ‘(2) In this section—

*recipient*, of a clean-up notice, includes a person acting for the recipient of a clean-up notice.

## **‘Part 5C Cost recovery notices**

### **‘363M Who are the *prescribed persons* for a contamination incident**

‘For this part, each of the following persons is a *prescribed person* for a contamination incident—

- (a) a person causing or permitting, or who caused or permitted, the incident to happen;
- (b) a person who, at the time of the incident, is or was—
  - (i) the occupier of a place at or from which the incident is happening or happened; or
  - (ii) the owner, or person in control, of a contaminant involved in the incident;
- (c) if a cost recovery notice is issued to a corporation (the *first corporation*) in relation to the incident and it fails to pay the amount claimed under the notice—
  - (i) a parent corporation of the first corporation; and
  - (ii) an executive officer of the first corporation.



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**‘363N Administering authority may issue cost recovery notice**

- ‘(1) The administering authority may issue a written notice (a *cost recovery notice*)—
- (a) to the recipient of a clean-up notice, if—
    - (i) the recipient fails to comply with the clean-up notice; and
    - (ii) an authorised person or contractor acts under section 363K; or
  - (b) to the recipient of a clean-up notice, if—
    - (i) the operation of the decision to issue a clean-up notice is stayed under section 535; and
    - (ii) during the period of the stay, an authorised person or contractor acts under section 363K; and
    - (iii) either—
      - (A) the appeal ends without an appeal decision under section 539; or
      - (B) the effect of the appeal decision under section 539 is to confirm the decision to issue the clean-up notice to the extent the notice required the recipient to take the action that was ultimately taken by the authorised person or contractor under section 363K; or
  - (c) to a person whom the administering authority reasonably believes to be a prescribed person for a contamination incident, if an authorised person, or person authorised under section 467(2)(b), acts under section 467 in relation to environmental harm caused or likely to be caused by the incident.
- ‘(2) A cost recovery notice may claim a stated amount for costs or expenses reasonably incurred in—
- (a) for a notice issued under subsection (1)(a) or (b)—

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- (i) taking an action stated in the clean-up notice; or
    - (ii) monitoring compliance by the recipient with the clean-up notice; or
  - (b) for a notice issued under subsection (1)(c)—taking the action under section 467.
- ‘(3) A cost recovery notice must state the following matters—
- (a) the name of the recipient;
  - (b) a description of the contamination incident;
  - (c) the place at or from which the administering authority is satisfied the incident happened;
  - (d) the amount claimed;
  - (e) a description of costs and expenses giving rise to the claimed amount;
  - (f) that, if the recipient does not pay the amount to the administering authority within 30 days after the day the notice is issued, the administering authority may claim the amount from the recipient as a debt;
  - (g) the name, address and contact details of the administering authority;
  - (h) the review or appeal details.
- ‘(4) Subject to subsection (5), if the recipient does not pay the amount to the administering authority within 30 days after the day the notice is issued, the administering authority may claim the amount from the recipient as a debt.
- ‘(5) The amount is not payable—
- (a) if the recipient is not a prescribed person; or
  - (b) if the contamination incident was caused by a natural disaster; or
  - (c) if—
    - (i) the contamination incident was caused by a terrorist act or other deliberate act of sabotage by someone other than the recipient; and

- 
- (ii) the recipient had taken all measures it would be reasonable for the recipient to have taken to prevent the incident, having regard to all the circumstances including the inherent nature of the risk and the nature of the recipient's connection with the incident; or
- (d) for a recipient who is a prescribed person mentioned in section 363M(c)(i), if the recipient took all reasonable steps to ensure the first corporation paid the amount claimed under the notice served on the first corporation; or
- (e) for a recipient who is a prescribed person mentioned in section 363M(c)(ii), if—
- (i) the recipient took all reasonable steps to ensure the first corporation paid the amount claimed under the notice served on the first corporation; or
- (ii) the recipient was not in a position to influence the conduct of the first corporation in relation to its paying the amount claimed under the notice served on the first corporation.
- ‘(6) To the extent that the recipient pays an amount in compliance with the notice but did not cause or permit the contamination incident to happen, the recipient may recover the amount as a debt from another person who caused or permitted the contamination incident to happen.
- ‘(7) A reference in this section to an authorised person acting includes a person acting under the direction of an authorised person.
- ‘(8) In this section—
- costs and expenses* includes labour, equipment and administrative costs and expenses.
- first corporation* see section 363M(c).

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**‘3630 Several recipients of a cost recovery notice**

‘If a cost recovery notice is issued to 2 or more recipients—

- (a) a copy of the notice must be given to each recipient; and
- (b) the amount claimed in the notice is payable by the recipients jointly and severally.’,

**29 Amendment of s 364 (When financial assurance may be required)**

Section 364(1A) and (2)(c), ‘level 1, chapter 4 activity’—

*omit, insert—*

‘chapter 4 activity prescribed under a regulation for this section’.

**30 Replacement of s 369 (Restrictions on performing waste management works)**

Section 369—

*omit, insert—*

**‘369 Restrictions on performing waste management works**

‘A person must not, for fee or reward, perform waste management works in a local government’s area unless—

- (a) the works are performed by or for the local government;  
or
- (b) the person holds, or is acting under—
  - (i) an approval, under section 369A, from the local government to perform the works; or
  - (ii) a development approval; or
- (c) the person is acting under a code of environmental compliance; or
- (d) the works are an environmentally relevant activity other than waste transport.

Maximum penalty— 250 penalty units.’.

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**31 Insertion of new s 369C**

After section 369B—

*insert—*

**‘369C Offence of contravening approval**

‘A person must not contravene a condition of an approval under section 369A.

Maximum penalty— 250 penalty units.’.

**32 Amendment of s 380 (Procedure to be followed if recipient is not owner)**

Section 380(5), ‘structure, or part of a structure,’—

*omit, insert—*

‘building’.

**33 Amendment of s 394 (Procedure to be followed if recipient is not owner)**

Section 394(5), ‘structure, or part of a structure,’—

*omit, insert—*

‘building’.

**34 Amendment of s 409 (Procedure to be followed if recipient is not owner)**

Section 409(5), ‘structure, or part of a structure,’—

*omit, insert—*

‘building’.

**35 Replacement of s 426 (Environmental authority required for mining or petroleum activity)**

Section 426—

*omit, insert—*

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**‘426 Environmental authority required for mining activity**

‘A person must not carry out a mining activity unless the person holds, or is acting under, an environmental authority (mining activities) for the activity.

Maximum penalty—

- (a) for a mining activity that is part of a level 1 mining project—400 penalty units; or
- (b) for a mining activity that is part of a level 2 mining project—165 penalty units.

**‘426A Environmental authority required for petroleum activity**

‘A person must not carry out a petroleum activity unless the person holds, or is acting under, an environmental authority (petroleum activities) for the activity.

Maximum penalty—

- (a) for a level 1 petroleum activity—400 penalty units; or
- (b) for a level 2 petroleum activity—165 penalty units.’.

**36 Amendment of s 427 (Only registered operators may carry out chapter 4 activities)**

- (1) Section 427(1), ‘level 1’—

*omit.*

- (2) Section 427(2)—

*omit.*

- (3) Section 427(3)—

*renumber* as section 427(2).

**37 Omission of s 436 (Unlawful environmental harm)**

Section 436—

*omit.*

**38 Amendment of s 437 (Offences of causing serious environmental harm)**

Section 437(3)—

*insert—*

*Note—*

See section 493A (When environmental harm or related acts are unlawful).’.

**39 Amendment of s 438 (Offences of causing material environmental harm)**

Section 438(3)—

*insert—*

*Note—*

See section 493A (When environmental harm or related acts are unlawful).’.

**40 Amendment of s 440 (Offence of causing environmental nuisance)**

(1) Section 440(2), penalty—

*omit, insert—*

‘Maximum penalty—300 penalty units.’.

(2) Section 440(3)—

*insert—*

*Note—*

See section 493A (When environmental harm or related acts are unlawful).’.

(3) Section 440(3)—

*renumber* as section 440(4).

(4) Section 440—

*insert—*

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‘(3) This section does not apply to an environmental nuisance mentioned in schedule 1, part 1.’

## 41 Insertion of new ch 8, pts 3B to 3F

Chapter 8—

*insert—*

### ‘Part 3B Offences relating to noise standards

#### ‘Division 1 Preliminary

##### ‘440K Definitions for pt 3B

‘In this part—

*affected building*, for noise—

- (a) means a building at which the noise can be heard; and
- (b) if the noise is made from a building, includes that building.

*at*, a place or premises, includes in or on the place or premises.

*audible noise* see section 440L.

*background level* means the background A-weighted sound pressure level under the prescribed standard measured as  $L_{A90, T}$ .

*building work* means any of the following—

- (a) building, repairing, altering, underpinning (whether by vertical or lateral support), moving or demolishing a building;
- (b) providing airconditioning, drainage, heating, lighting, sewerage, ventilation or water supply for a building;
- (c) excavating or filling—



- 
- (i) for, or that is incidental to, an activity mentioned in paragraph (a) or (b); or
  - (ii) that may adversely affect the stability of a building, whether the excavating or filling is happening on the land on which the building is situated or on adjoining land;
- (d) supporting (whether vertically or laterally) land for an activity mentioned in paragraph (a) or (b);
  - (e) installing or removing scaffolding.

***educational institution*** means—

- (a) a State educational institution under the *Education (General Provisions) Act 2006*; or
- (b) a school that is provisionally accredited, or accredited, under the *Education (Accreditation of Non-State Schools) Act 2001*; or
- (c) a TAFE institute or statutory TAFE institute under the *Vocational Education, Training and Employment Act 2000*; or
- (d) a university.

***indoor venue*** means a building used for musical, sporting or other entertainment or for cultural or religious activities, but does not include—

- (a) licensed premises; or
- (b) a building being used for an open-air event.

*Examples of uses of a building for definition indoor venue—*

10 pin bowling, concerts, indoor cricket, religious worship, squash

**$L_{A90, T}$**  means the A-weighted sound pressure level obtained using time weighting ‘F’ that is exceeded for 90% of the measuring period (T).

***licensed premises*** means licensed premises under the *Liquor Act 1992*.

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***noise standard*** means a local law or section in division 3 that applies as a noise standard under section 440O(3) or 440P.

***nominated section*** see section 440O(2)(b).

***open-air event*** means an open-air competition, concert, display, race or other activity.

***peak particle velocity*** means the maximum instantaneous particle velocity at a point during a given time interval measured in millimetres per second.

*Notes—*

- 1 Peak particle velocity is a measure of ground vibration magnitude.
- 2 Peak particle velocity may be taken as the vector sum of the 3 component particle velocities in mutually perpendicular directions.

***power boat*** means a power-driven watercraft and includes a jet ski or other power-driven personal watercraft.

***Z Peak*** means the peak time-weighting characteristic of a sound level meter specified in the prescribed standard set to the linear Z frequency rating.

***Z Peak Hold*** means the peak time-weighting characteristic of a sound level meter specified in the prescribed standard set to the linear Z frequency rating and fitted with a hold feature.

#### **‘440L Meaning of *audible noise***

- ‘(1) ***Audible noise*** means noise that can be clearly heard by an individual who is an occupier of a building.
- ‘(2) For subsection (1), an individual is taken to be able to clearly hear a noise if he or she can hear the noise from the part of the building occupied by the individual that is most exposed to the noise.

#### **‘440M Reference to making a noise**

‘A reference in this part to making a noise includes causing a noise to be made.

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**‘440N Noise levels measured at an affected building**

A reference in this part to a noise of a level that is a stated number of decibels, or a stated number of decibels above the background level, is a reference to a noise of that level when measured at an affected building.

**‘Division 2                    Application of noise standards**

**‘440O Local law may prescribe noise standards**

- ‘(1) This section applies in relation to a local government area if the local government for the local government area is the administering authority for this part.
- ‘(2) A provision of a local law made by the local government under the *Local Government Act 1993* may prescribe a noise standard by—
  - (a) prohibiting the making of a stated noise (for example, by reference to the activity making the noise and the time at which the noise is made); and
  - (b) stating a section in division 3 (the *nominated section*) for which the local law provision is prescribing a noise standard.
- ‘(3) If a provision of a local law is in force for which a section in division 3 is the nominated section, the local law provision applies as a noise standard.

**‘440P Default noise standards under div 3**

‘A section in division 3 applies as a noise standard in relation to a local government area if and only if—

- (a) the local government for the local government area is not the administering authority for this part; or
- (b) the local government for the local government area is the administering authority for this part but there is no

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provision of a local law in force for which the section is the nominated section.

#### **‘440Q Offence of contravening a noise standard**

‘(1) A person must not unlawfully contravene a noise standard.

Maximum penalty—300 penalty units.

*Note—*

See section 493A (When environmental harm or related acts are unlawful).

‘(2) A person does not contravene a noise standard by causing an environmental nuisance mentioned in schedule 1, part 1.

### **‘Division 3                    Default noise standards**

#### **‘440R Building work**

‘(1) A person must not carry out building work in a way that makes an audible noise—

- (a) on a business day or Saturday, before 6.30a.m. or after 6.30p.m.; or
- (b) on any other day, at any time.

‘(2) The reference in subsection (1) to a person carrying out building work—

- (a) includes a person carrying out building work under an owner-builder permit; and
- (b) otherwise does not include a person carrying out building work at premises used by the person only for residential purposes.

#### **‘440S Regulated devices**

‘(1) This section applies to—

- 
- (a) a person carrying out an activity other than building work; and
  - (b) a person carrying out building work, at premises used by the person only for residential purposes, other than under an owner-builder permit.
- ‘(2) A person must not operate a regulated device in a way that makes an audible noise—
- (a) on a business day or Saturday, before 7.00a.m. or after 7.00p.m; or
  - (b) on any other day, before 8.00a.m. or after 7.00p.m.
- ‘(3) Subsection (2) does not apply to a person operating a grass-cutter or leaf-blower at a place that is a State-controlled road or a railway under an authority from the occupier of the place.
- ‘(4) Subsection (2)(a) does not apply to a person operating a regulated device at a manual arts facility at an educational institution between 7.00p.m. and 10.00 p.m.
- ‘(5) In this section—

***grass-cutter*** means an electrical or mechanical device a function of which is to cut grass.

*Examples—*

brush cutter, edge cutter, lawnmower, ride-on mower, string trimmer

***leaf-blower*** means an electrical or mechanical device a function of which is to blow leaves.

***regulated device*** means any of the following—

- (a) a compressor;
- (b) a ducted vacuuming system;
- (c) a generator;
- (d) a grass-cutter;
- (e) an impacting tool;
- (f) a leaf-blower;

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- (g) a mulcher;
- (h) an oxyacetylene burner;
- (i) an electrical, mechanical or pneumatic power tool.

*Examples of a power tool—*

chainsaw, drill, electric grinder or sander, electric welder, nail gun

### **‘440T Pumps**

- ‘(1) This section applies to premises at or for which there is a pump.
- ‘(2) An occupier of the premises must not use, or permit the use of, the pump on any day—
  - (a) before 7a.m, if it makes an audible noise; or
  - (b) from 7a.m. to 7p.m, if it makes a noise of more than 5dB(A) above the background level; or
  - (c) from 7p.m. to 10p.m, if it makes a noise of more than 3dB(A) above the background level; or
  - (d) after 10p.m, if it makes an audible noise.
- ‘(3) Subsection (2)(a), (c) and (d) do not apply to a noise made at an educational institution, that is not more than 5dB(A) above the background level.
- ‘(4) In this section—

***pump***—

  - (a) means an electrical, mechanical or pneumatic pump; and

*Examples—*

  - liquid pump, air pump, heat pump
  - (b) includes a swimming pool pump and a spa blower.

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#### **‘440U Airconditioning equipment**

- ‘(1) This section applies to premises at or for which there is airconditioning equipment.
- ‘(2) An occupier of the premises must not use, or permit the use of, the equipment on any day—
  - (a) before 7a.m, if it makes a noise of more than 3dB(A) above the background level; or
  - (b) from 7a.m. to 10p.m, if it makes a noise of more than 5dB(A) above the background level; or
  - (c) after 10p.m, if it makes a noise of more than 3dB(A) above the background level.

#### **‘440V Refrigeration equipment**

- ‘(1) This section applies to a person who is—
  - (a) an occupier of premises at or for which there is plant or equipment for refrigeration (*refrigeration equipment*); or
  - (b) an owner of refrigeration equipment that is on or in a vehicle, other than a vehicle used or to be used on a railway.
- ‘(2) The person must not use, or permit the use of, the refrigeration equipment on any day—
  - (a) before 7a.m, if it makes a noise of more than 3dB(A) above the background level; or
  - (b) from 7a.m. to 10p.m, if it makes a noise of more than 5dB(A) above the background level; or
  - (c) after 10p.m, if it makes a noise of more than 3dB(A) above the background level.
- ‘(3) In this section—  
*vehicle* includes a trailer.

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### **‘440W Indoor venues**

- ‘(1) An occupier of a building must not use, or permit the use of, the building as an indoor venue on any day—
  - (a) before 7a.m, if the use makes an audible noise; or
  - (b) from 7a.m. to 10p.m, if the use makes a noise of more than 5dB(A) above the background level; or
  - (c) from 10p.m. to midnight, if the use makes a noise of more than 3dB(A) above the background level.
- ‘(2) However, subsection (1)(b) does not apply if—
  - (a) the building is, or is part of, an educational institution; and
  - (b) the use of the building as an indoor venue is organised by or for the educational institution for non-commercial purposes of the institution.

### **‘440X Open-air events**

- ‘(1) An occupier of premises must not use, or permit the use of, the premises for an open-air event on any day—
  - (a) before 7a.m, if the use causes audible noise; or
  - (b) from 7a.m. to 10p.m, if the use causes noise of more than 70dB(A); or
  - (c) from 10p.m. to midnight, if the use causes noise of more than the lesser of the following—
    - (i) 50dB(A);
    - (ii) 10dB(A) above the background level.
- ‘(2) However, subsection (1) does not apply to licensed premises.
- ‘(3) Also, subsection (1)(b) does not apply if—
  - (a) the premises is, or is part of, an educational institution; and



- 
- (b) the use of the premises for an open-air event is organised by or for the educational institution for non-commercial purposes of the institution.

**‘440Y Amplifier devices other than at indoor venue or open-air event**

- ‘(1) This section applies to a person who operates an amplifier device other than at an indoor venue or open-air event.
- ‘(2) The person must not operate the device in a way that makes audible noise—
- (a) on a business day, before 7a.m. or after 10p.m; or
  - (b) on any other day, before 8a.m. or after 6p.m.
- ‘(3) At a time when the person may operate the device under subsection (2), the person must not operate the device in a way that makes noise of more than 10dB(A) above the background level.
- ‘(4) However, subsection (3) does not apply if the person is operating the device at an educational institution.
- ‘(5) In this section—
- amplifier device* means any of the following—
- (a) a loudhailer;
  - (b) a megaphone;
  - (c) a public address system, other than for a railway;
  - (d) a remote telephone bell;
  - (e) a telephone repeater bell.

**‘440Z Power boat sports in waterway**

- ‘(1) A person must not use a power boat, or permit the use of a power boat, in a waterway for a power boat sport if the use makes audible noise for the same affected building for more than a continuous period of 2 minutes—

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- (a) on a business day or Saturday, before 7a.m. or after 7p.m; or
- (b) on any other day, before 8a.m. or after 6.30p.m.

‘(2) In this section—

***power boat sport*** means—

- (a) a sport in which a person is towed by a line attached to a power boat, including, for example, a person water skiing or riding on a toboggan or tube; or
- (b) operating a jet ski or other power-driven personal watercraft, other than for fishing.

***waterway*** means any of the following—

- (a) a creek, river, stream or watercourse;
- (b) an inlet of the sea into which a creek, river, stream or watercourse flows;
- (c) a dam or weir.

#### ‘440ZA Operating power boat engine at premises

‘(1) A person must not operate, or permit the operation of, a power boat engine at premises in a way that makes audible noise—

- (a) on a business day or Saturday, before 7a.m. or after 7p.m; or
- (b) on any other day, before 8a.m. or after 6.30p.m.

‘(2) In this section—

***operate***, a power boat engine, includes flushing the engine.

#### ‘440ZB Blasting

‘A person must not conduct blasting if—

- (a) the airblast overpressure is more than 115dB Z Peak for 4 out of any 5 consecutive blasts; or

- 
- (b) the airblast overpressure is more than 120dB Z Peak for any blast; or
  - (c) the ground vibration is—
    - (i) for vibrations of more than 35Hz—more than 25mm a second ground vibration, peak particle velocity; or
    - (ii) for vibrations of no more than 35Hz—more than 10mm a second ground vibration, peak particle velocity.

#### **‘440ZC Outdoor shooting ranges**

- ‘(1) A person must not operate, or permit the operation of, an outdoor shooting range, between 6a.m. and 6p.m. on any day, if the noise from the operation is more than—
  - (a) for a range that is normally used at least 5 days a week—95dB Z Peak Hold; or
  - (b) for a range that is normally used 4 days a week—100dB Z Peak Hold; or
  - (c) for a range that is normally used no more than 3 days a week—105dB Z Peak Hold.
- ‘(2) A person must not operate, or permit the operation of, an outdoor shooting range, between 6p.m. and 10p.m. on any day, if the noise from the operation is more than—
  - (a) for a range that is normally used at least 5 evenings a week—85dB Z Peak Hold; or
  - (b) for a range that is normally used 4 evenings a week—90dB Z Peak Hold; or
  - (c) for a range that is normally used no more than 3 evenings a week—95dB Z Peak Hold.
- ‘(3) For this section, noise from an outdoor shooting range is measured by working out the arithmetic average of the noise levels of whichever of the following happens first during the measurement period—

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- (a) at least 40 individual gunshots;
  - (b) at least 20 individual gunshots in any 30 minute period.
- ‘(4) In this section—

*used* means used for an activity that includes shooting.

*Examples of a range being used—*

- 1 a shooting match conducted at the range
- 2 a defence personnel or police officer training session, that includes shooting, conducted at the range

## ‘Part 3C                      Offences relating to water contamination

### ‘440ZD Definitions for pt 3C

‘In this part—

*deposits* see section 440ZE.

*earth* means sand, soil, silt or mud.

*prescribed water contaminant* means—

- (a) earth; or
- (b) a contaminant prescribed under section 440ZF.

*stormwater drainage* means a drain, channel, pipe, chamber, structure, outfall or other work used to receive, store, transport or treat stormwater.

### ‘440ZE Meaning of *deposits* for pt 3C

- ‘(1) A person *deposits* a contaminant in waters or at another place if the person—
- (a) drops, places or throws the contaminant in the waters or onto the place; or
  - (b) releases the contaminant, or otherwise causes it to move, into the waters or onto the place.

- 
- ‘(2) A person *deposits* a contaminant at a place if—
- (a) the person is an occupier of the place or the contaminant is under the person’s control; and
  - (b) someone deposits the contaminant at the place in a way mentioned in subsection (1); and
  - (c) the person does not remove the contaminant from the place within a reasonable time after becoming aware that the contaminant has been deposited at the place.
- ‘(3) A person *deposits* earth at a place if the person carries on earthworks or another activity that exposes the earth at the place.
- ‘(4) A person *deposits* earth at a place if—
- (a) the person is an occupier of the place; and
  - (b) someone deposits the earth at the place in a way mentioned in subsection (3); and
  - (c) the person does not stop the earth being exposed at the place within a reasonable time after becoming aware that the earth has been exposed at the place.
- ‘(5) A reference in subsections (2) to (4) to a place does not include waters.
- ‘(6) For subsections (1) to (4), none of the subsections limits any of the other subsections.

#### **‘440ZF Prescribed water contaminants**

- ‘(1) A regulation may prescribe a contaminant for this part.
- ‘(2) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied the contaminant is likely to cause environmental harm if it enters waters.

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### **‘440ZG Depositing prescribed water contaminants in waters and related matters**

‘A person must not—

- (a) unlawfully deposit a prescribed water contaminant—
  - (i) in waters; or
  - (ii) in a roadside gutter or stormwater drainage; or
  - (iii) at another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage; or

*Example of a place for subparagraph (iii)—*

a building site where soil may be washed into an adjacent roadside gutter

- (b) unlawfully release stormwater run-off into waters, a roadside gutter or stormwater drainage that results in the build-up of earth in waters, a roadside gutter or stormwater drainage.

Maximum penalty—

- (a) if the deposit or release is done wilfully—835 penalty units; or
- (b) otherwise—300 penalty units.

*Note—*

See section 493A (When environmental harm or related acts are unlawful).

## **‘Part 3D                      Offences relating to releases from boats into non-coastal waters**

### **‘440ZH Definitions for pt 3D**

‘In this part—

*coastal waters* means the coastal waters of the State, and includes other waters within the limits of the State that are subject to the ebb and flow of the tide.

*harmful substance* has the meaning given by MARPOL.

*MARPOL* see the *Transport Operations (Marine Pollution) Act 1995*, section 6.

*non-coastal waters* means waters other than coastal waters.

*noxious liquid substance* has the meaning given by MARPOL.

*oil* has the meaning given by MARPOL and includes an oily mixture.

*sewage* has the meaning given by Annex IV to MARPOL and includes human faecal wastes.

#### **'440ZI Release of certain substances from boats into non-coastal waters**

'(1) A person must not release oil, a noxious liquid substance or a harmful substance from a boat into non-coastal waters.

Maximum penalty—

- (a) if the release is done wilfully—835 penalty units; or
- (b) otherwise—300 penalty units.

'(2) It is a defence for a person charged with an offence against subsection (1) to prove—

- (a) the release was necessary to secure the safety of the boat or to save someone's life; or
- (b) the release resulted from damage, other than wilful damage, to the boat or its equipment and all reasonable precautions were taken, after the damage happened or the release was discovered, to prevent or minimise the release.

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**‘440ZJ Release of sewage from boats into non-coastal waters**

- ‘(1) A person must not release sewage into non-coastal waters from a boat that has a sewage holding tank or is required by law to be fitted with a sewage holding tank.

Maximum penalty—

- (a) if the release is done wilfully—835 penalty units; or
- (b) otherwise—300 penalty units.

- ‘(2) A person must not release sewage from a boat into non-coastal waters at a place for mooring, docking or berthing boats.

Maximum penalty—

- (a) if the release is done wilfully—835 penalty units; or
- (b) otherwise—300 penalty units.

- ‘(3) It is a defence for a person charged with an offence against subsection (1) or (2) to prove—

- (a) the release was necessary to secure the safety of the boat or to save someone’s life; or
- (b) the release resulted from damage, other than wilful damage, to the boat or its equipment and all reasonable precautions were taken, after the damage happened or the release was discovered, to prevent or minimise the release.

**‘440ZK Depositing rubbish from boats into non-coastal waters**

- ‘(1) A person must not deposit rubbish from a boat into non-coastal waters.

Maximum penalty—

- (a) if the deposit is done wilfully—835 penalty units; or
- (b) otherwise—300 penalty units.



- 
- ‘(2) It is a defence for a person charged with an offence against subsection (1) to prove—
- (a) the deposit was made to secure the safety of the boat and persons on board the boat or to save someone’s life; or
  - (b) the deposit resulted from damage to the boat or its equipment and all reasonable precautions were taken, before and after the damage happened, to prevent or minimise the deposit; or
  - (c) if the rubbish is synthetic fishing net or synthetic material used in the repair of a synthetic fishing net—
    - (i) the deposit was the accidental loss of the net or material; and
    - (ii) all reasonable precautions were taken to prevent the loss; and
    - (iii) all reasonable attempts were made to recover the net or material.

## ‘Part 3E                      Offences relating to air contamination

### ‘440ZL Sale of solid fuel-burning equipment for use in residential premises and related matters

- ‘(1) A person must not sell solid fuel-burning equipment for use in residential premises unless—
- (a) a certificate (a *certificate of compliance*) has been issued by an accredited entity for the equipment stating—
    - (i) the entity has tested equipment that is the same as the equipment mentioned in the certificate under the test procedures set out in the prescribed standard; and

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- (ii) the equipment had a particle release factor not more than the allowable appliance release factor stated in the prescribed standard; and
  - (b) a plate or plates have been attached to the equipment under the prescribed standard.
- ‘(2) If an accredited entity issues a certificate of compliance for solid fuel-burning equipment, the manufacturer of the equipment must attach a plate or plates to the equipment under the prescribed standard before selling or otherwise transferring the equipment to another person.
- ‘(3) A person must not use, or transfer to another person, certified equipment if the person knows—
  - (a) a plate attached to the equipment under the prescribed standard has been defaced or removed, or the information on the plate has been altered; or
  - (b) there has been a material modification or alteration of—
    - (i) the structure, exhaust system or inlet air system of the equipment; or
    - (ii) a part of the equipment that is involved in the combustion process.
- ‘(4) However, subsection (3)(b) does not apply to modified or altered equipment—
  - (a) issued with a certificate of compliance by an accredited entity; or
  - (b) subject to a retesting exemption under the prescribed standard; or
  - (c) if the specifications of the replacement components are equivalent or superior to those used in the equipment for which a certificate of compliance issued by an accredited entity applies.
- ‘(5) A person who contravenes this section commits an offence.  
Maximum penalty—

- 
- (a) if the contravention is done wilfully—835 penalty units;  
or
- (b) otherwise—300 penalty units.
- ‘(6) The chief executive may, by gazette notice, declare an entity to be an accredited entity for this section if the chief executive is satisfied the entity is—
- (a) a recognised service provider in the industry for solid fuel-burning equipment; and
- (b) not a manufacturer or importer of solid fuel-burning equipment.
- ‘(7) In this section—
- accredited entity*** means—
- (a) the Australian Home Heating Association Inc; or
- (b) an entity declared to be an accredited entity under subsection (6).

*Note—*

See also section 646 in relation to the Energy Information Centre in South Australia.

***certified equipment*** means solid fuel-burning equipment to which a plate or plates have been attached under the prescribed standard.

***solid fuel-burning equipment*** means fuel-burning equipment to which the prescribed standard applies.

#### ‘440ZM Permitted concentration of sulfur in liquid fuel for use in stationary fuel-burning equipment

- ‘(1) A person must not knowingly use, in stationary fuel-burning equipment, liquid fuel containing more than the permitted concentration of sulfur.
- Maximum penalty—300 penalty units.
- ‘(2) A person (the ***distributor***) must not distribute or sell liquid fuel containing more than the permitted concentration of sulfur to another person (the ***purchaser***) unless—

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- (a) the purchaser is authorised under a relevant authority to use the liquid fuel; and
- (b) the concentration of sulfur in the liquid fuel is not more than the amount stated in the relevant authority; and
- (c) at the time of distributing or selling the liquid fuel, the distributor gives a report about the liquid fuel to the purchaser in the approved form.

Maximum penalty—

- (a) if the offence is committed wilfully—835 penalty units; or
  - (b) otherwise—300 penalty units.
- ‘(3) For this section, the concentration of sulfur in liquid fuel is to be worked out under a protocol.
- ‘(4) In this section—

*permitted concentration of sulfur*, for liquid fuel for use in stationary fuel-burning equipment, means a concentration of sulfur or a sulfur compound of not more than 3% by weight.

*relevant authority* means a thing mentioned in section 493A(2)(a) to (g).

*stationary fuel-burning equipment*—

- (a) means a machine, furnace, boiler, oven, fireplace, chimney or other thing, the operation of which involves burning fuel or other combustible material; and
- (b) does not include a vehicle.

## ‘Part 3F                      Offences relating to fuel standards

### ‘Division 1                  Preliminary

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### **‘440ZN Purpose of pt 3F**

‘The purpose of this part is to provide for quality standards for fuel to reduce emission of contaminants into Queensland’s air environment.

### **‘440ZO Definitions for pt 3F**

‘In this part—

*ASTM* means an American Society for Testing and Materials standard.

*Commonwealth fuel standard determination* means a determination in force under the *Fuel Quality Standards Act 2000* (Cwlth), section 21.

*fuel* means any of the following—

- (a) petrol;
- (b) automotive diesel;
- (c) liquefied petroleum gas;
- (d) liquefied natural gas;
- (e) compressed natural gas;
- (f) diesohol (that is, a blend primarily comprising diesel and an alcohol);
- (g) biodiesel (that is, a diesel fuel obtained by esterification of oil derived from plants or animals);
- (h) ethanol;
- (i) any substance that is used as a substitute for a fuel mentioned in paragraphs (a) to (h);
- (j) any substance that is supplied or represented as—
  - (i) a fuel mentioned in paragraphs (a) to (h); or
  - (ii) a substitute substance under paragraph (i).

*import* means bring into the State (whether from another State or from outside Australia) for supply or for use in manufacturing fuel.

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***low volatility zone*** means the area consisting of the local government areas of the following local governments—

- Brisbane City Council
- Gold Coast City Council
- Ipswich City Council
- Lockyer Valley Regional Council
- Logan City Council
- Moreton Bay Regional Council
- Redland City Council
- Somerset Regional Council
- Sunshine Coast Regional Council
- Toowoomba Regional Council.

***manufacture***, for fuel, includes produce, blend, treat and add additives to the fuel.

***Reid vapour pressure***, of fuel, means the fuel's volatility at 37.8°C measured using—

- (a) the testing method under ASTM D323-99a; or
- (b) another method that measures volatility at least as accurately as the method mentioned in paragraph (a).

***summer month*** means any of the following periods—

- the period from 15 November to 14 December inclusive
- the period from 15 December to 14 January inclusive
- the period from 15 January to 14 February inclusive
- the period from 15 February to 15 March inclusive.

***summer period*** means the period from 15 November in a year to 15 March in the following year inclusive.

***supply*** means supply (including re-supply) by way of sale, exchange or gift.

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## **‘Division 2                    Offences**

### **‘440ZP Non-application of div 2**

‘This division does not apply to a person to the extent provided by an exemption in force under division 3.

### **‘440ZQ Supply of fuel that does not comply with Commonwealth fuel standard determinations**

- ‘(1) A person who manufactures or imports fuel must not supply the fuel in the State if the fuel does not comply with a Commonwealth fuel standard determination.

Maximum penalty—165 penalty units.

- ‘(2) This section does not apply to the supply of fuel for use in a motor vehicle used only for motor racing on a racing circuit or track under a registration certificate for the activity.

### **‘440ZR Permitted Reid vapour pressure—fuel with particular ethanol content**

- ‘(1) This section applies in relation to fuel with an ethanol content of more than 9% but not more than 10% by volume.

- ‘(2) A person who manufactures or imports fuel must not supply the fuel in the low volatility zone in the summer period if the Reid vapour pressure of the fuel is more than 76kPa.

Maximum penalty—165 penalty units.

- ‘(3) A person who manufactures or imports fuel must ensure that, for each summer month, the volumetric monthly average Reid vapour pressure of the fuel supplied by the person in the low volatility zone is not more than 74kPa.

Maximum penalty—165 penalty units.

- ‘(4) For working out the volumetric monthly average Reid vapour pressure of fuel mentioned in subsection (3), fuel with a Reid vapour pressure of less than 72kPa is taken to have a Reid vapour pressure of 72kPa.

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### **‘440ZS Permitted Reid vapour pressure—other fuel**

- ‘(1) This section applies in relation to fuel other than fuel to which section 440ZR applies.
- ‘(2) A person who manufactures or imports fuel must not supply the fuel in the low volatility zone in the summer period if the Reid vapour pressure of the fuel is more than 69kPa.  
Maximum penalty—165 penalty units.
- ‘(3) A person who manufactures or imports fuel must ensure that, for each summer month, the volumetric monthly average Reid vapour pressure of the fuel supplied by the person in the low volatility zone is not more than 67kPa.  
Maximum penalty—165 penalty units.
- ‘(4) For working out the volumetric monthly average Reid vapour pressure of fuel mentioned in subsection (3), fuel with a Reid vapour pressure of less than 65kPa is taken to have a Reid vapour pressure of 65kPa.

## **‘Division 3 Exemptions**

### **‘440ZT Making applications**

- ‘(1) A person may apply to the chief executive to exempt the person from complying with a provision of division 2.
- ‘(2) The application must contain the information necessary to enable the chief executive to decide the application.

### **‘440ZU Request for further information**

- ‘(1) The chief executive may, by written notice, ask the applicant to give the chief executive further reasonable information or documents about the application by the reasonable date stated in the notice.
- ‘(2) The notice must be accompanied by, or include, an information notice about the chief executive’s decision to make the request.



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- ‘(3) The chief executive may refuse the application if the applicant does not give the chief executive the further information or documents by the stated day, without reasonable excuse.

#### **‘440ZV Deciding applications**

- ‘(1) The chief executive must consider the application and either give the exemption, with or without conditions, or refuse the application.
- ‘(2) The chief executive may give an exemption only if satisfied—
- (a) the exemption is necessary—
    - (i) to prevent a significant disruption to the supply of fuel in the State or a part of the State; or
    - (ii) to allow the applicant to supply fuel in the State or a part of the State; and
  - (b) the applicant has no reasonable way of complying with the provision; and
  - (c) the exemption is in the public interest.
- ‘(3) Without limiting subsection (1), a condition may be about how the applicant must prevent or minimise environmental harm that may be caused if the exemption is given.

#### **‘440ZW Giving exemptions**

- ‘(1) If the chief executive decides to give the exemption, the chief executive must give the applicant a written notice stating—
- (a) the person to whom the exemption is given; and
  - (b) the provision from which the person is exempted; and
  - (c) the term for which the exemption is given; and
  - (d) any conditions on which the exemption is given.
- ‘(2) If the chief executive decides to impose conditions on the exemption, the notice must be accompanied by, or include, an information notice about the decision to impose the conditions.

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- ‘(3) An exemption given on conditions operates only if the conditions are complied with.

#### **‘440ZX Refusing applications**

‘If the chief executive decides to refuse the application the chief executive must, within 7 days after making the decision, give the applicant an information notice about the decision.

### **‘Division 4                      Record keeping**

#### **‘440ZY Record keeping requirements**

- ‘(1) This section applies in relation to fuel supplied in the State, by a person who manufactures or imports the fuel, if—
- (a) a Commonwealth fuel standard determination applies to the fuel; and
  - (b) the person is not required to keep a record for the supply of the fuel under the *Fuel Quality Standards Act 2000* (Cwlth), section 66.
- ‘(2) The person must keep the records relating to the fuel that are prescribed under a regulation.
- Maximum penalty—50 penalty units.
- ‘(3) A requirement under subsection (2) to keep a record is a requirement to keep a record for 2 years after the supply of the fuel.’.

#### **42                      Omission of s 441 (Offences of contravention of environmental protection policy or regulation)**

Section 441—

*omit.*

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**43 Amendment of s 452 (Entry of place—general)**

Section 452(1)(a) and (f), ‘part 8’—

*omit, insert—*

‘part 5B or 8’.

**44 Amendment of s 453 (Entry of land—search, test, sample etc. for release of contaminant)**

Section 453(1), definition *land*, ‘or structure of any kind’—

*omit.*

**45 Amendment of s 454 (Entry of land—preliminary investigation)**

Section 454(6), ‘structure, or part of a structure,’—

*omit, insert—*

‘building’.

**46 Amendment of s 455 (Entry of land for access)**

Section 455(5), ‘structure, or part of a structure,’—

*omit, insert—*

‘building’.

**47 Amendment of s 458 (Order to enter land to conduct investigation or conduct work)**

(1) Section 458(1)(b) and (c)—

*renumber* as section 458(1)(c) and (d).

(2) Section 458(1)—

*insert—*

‘(b) if the land is land to which a clean-up notice applies and the recipient of the notice has failed to comply with the

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notice—to take the actions required under the notice;  
or’.

(3) Section 458(2)—

*insert—*

‘(d) if the application is for an order to take actions required  
under a clean-up notice—the recipient of the notice.’.

(4) Section 458(5)(b) and (c)—

*renumber* as section 458(5)(c) and (d).

(5) Section 458(5)—

*insert—*

‘(b) for an order to take actions required under a clean-up  
notice, the entry sought is reasonable and necessary to  
take the actions; or’.

(6) Section 458(6)(a), before ‘investigation’—

*insert—*

‘actions,’.

(7) Section 458—

*insert—*

‘(8) In this section—

**land** includes a place to which a clean-up notice applies.’.

**48 Replacement of s 478 (Failure to comply with authorised  
person’s direction in emergency)**

Section 478—

*omit, insert—*

**‘478 Failure to comply with authorised person’s direction  
in emergency**

‘A person to whom a notice is given under section 467(2)(a)  
must—

- 
- (a) comply with the notice, unless the person has a reasonable excuse for not complying with it; and
  - (b) take all reasonable and practicable precautions to prevent or minimise—
    - (i) environmental harm being caused; and
    - (ii) the risk of death or injury to humans and animals; and
    - (iii) loss or damage to property.

Maximum penalty—

- (a) for an individual—2000 penalty units; or
- (b) for a corporation—4000 penalty units.’.

#### **49 Replacement of s 482 (Obstruction of authorised persons)**

Section 482—

*omit, insert—*

#### **‘482 Obstruction of authorised persons**

- ‘(1) A person must not obstruct an authorised person in the exercise of a power under this chapter, unless the person has a reasonable excuse for obstructing the authorised person.

Maximum penalty—165 penalty units.

- ‘(2) In this section—

*authorised person* includes a person who is—

- (a) acting under an authorised person’s direction under section 363K; or
- (b) authorised by an authorised person to take action under section 467(2)(b); or
- (c) helping an authorised person under this chapter.’.

[s 50]

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**50 Amendment of s 486 (Authorised person to give notice of seizure or damage)**

(1) Section 486(1)(b)—

*renumber* as section 486(1)(c).

(2) Section 486(1)—

*insert*—

‘(b) a person acting under an authorised person’s direction under section 363K damages anything in the exercise of a power under that section; or’.

**51 Amendment of s 487 (Compensation)**

(1) Section 487(2)(a), after ‘section’—

*insert*—

‘458 or’.

(2) Section 487(2) to (4)—

*renumber* as section 487(3) to (5).

(3) Section 487—

*insert*—

‘(2) Subsection (1) does not apply to a prescribed person for a contamination incident in relation to the exercise of a power relating to the incident.’.

**52 Amendment of s 488 (Administering authority to reimburse costs and expenses incurred)**

Section 488(2), after ‘happen’—

*insert*—

‘or, in the case of a contamination incident, a prescribed person for the incident’.

---

**53 Replacement of s 491 (Special evidentiary provision—environmental nuisance)**

Section 491—

*omit, insert—*

**‘491 Special evidentiary provision—particular emissions**

‘(1) This section applies to a proceeding for an offence against section 440 or 440Q in which it is claimed the defendant caused environmental nuisance or contravened a noise standard by an emission made from a person, place or thing (the *alleged source*).

*Editor’s note—*

section 440 (Offence of causing environmental nuisance) or 440Q (Offence of contravening a noise standard)

‘(2) An authorised person may give evidence, without any need to call further opinion evidence, that the authorised person formed the opinion based on the authorised person’s own senses that—

- (a) the emission was made from the alleged source and travelled to another place; and
- (b) for an offence against section 440—the level, nature or extent of the emission within the other place was an unreasonable interference with an environmental value.

‘(3) Evidence may be given under subsection (2) whether or not another emission was made to the other place from a person, place or thing other than the alleged source.

‘(4) In this section—

*emission* means an emission of aerosols, fumes, light, noise, odour, particles or smoke.

**‘491A Further special evidentiary provisions for noise**

‘(1) This section applies if, in a proceeding for an offence against this Act, it is claimed audible noise was made.

[s 53]

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- ‘(2) If it is claimed the noise was made from a particular person, place or thing (the *alleged source*)—
- (a) an individual (the *occupier*) who was, when the noise was made (the *relevant time*), an occupier of a building may give evidence that—
    - (i) the occupier could, at the relevant time, hear the noise at the building; and
    - (ii) the occupier formed the opinion, based on the occupier’s own senses, that the noise was made from the alleged source and travelled to the building; and
  - (b) an authorised person who, at the relevant time, was present at the building with the occupier and could hear the noise at the building may give evidence—
    - (i) that the authorised person could, at the relevant time, hear the noise at the building; and
    - (ii) that the authorised person formed the opinion, based on the person’s own senses, that the noise was made from the alleged source and travelled to the building.
- ‘(3) Evidence may be given under subsection (2)(b)—
- (a) without any need to call the occupier; and
  - (b) whether or not other audible noise was made to the building from a person, place or thing other than the alleged source.
- ‘(4) Opinion evidence mentioned in this section may be given without any need to call further opinion evidence.
- ‘(5) Evidence mentioned in this section may be given without any requirement for the noise to have been measured.
- ‘(6) If the noise is established as audible noise, the rate of its audibility is not required to be established.
- ‘(7) The noise may be measured in a way prescribed under a regulation.’



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**54 Insertion of new ch 10, pt 2A**

Chapter 10—

*insert—*

**‘Part 2A Unlawfulness of particular acts**

**‘493A When environmental harm or related acts are unlawful**

- ‘(1) This section applies in relation to any of the following acts (*relevant acts*)—
- (a) an act that causes serious or material environmental harm or an environmental nuisance;
  - (b) an act that contravenes a noise standard;
  - (c) a deposit of a contaminant, or release of stormwater run-off, mentioned in section 440ZG.

*Editor’s note—*

See chapter 8, part 3 (Offences relating to environmental harm), section 440Q (Offence of contravening a noise standard) and section 440ZG (Depositing prescribed water contaminants in waters and related matters).

- ‘(2) A relevant act is unlawful unless it is authorised to be done under—
- (a) an environmental protection policy; or
  - (b) a transitional environmental program; or
  - (c) an environmental protection order; or
  - (d) an environmental authority; or
  - (e) a development condition of a development approval; or
  - (f) a standard environmental condition of a code of environmental compliance for a chapter 4 activity; or
  - (g) an emergency direction.
- ‘(3) However, it is a defence to a charge of unlawfully doing a relevant act to prove—

[s 55]

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- (a) the relevant act was done while carrying out an activity that is lawful apart from this Act; and
  - (b) the defendant complied with the general environmental duty.
- ‘(4) The defendant is taken to have complied with the general environmental duty if the defendant proves—
- (a) an approved code of practice applies to the doing of the relevant act; and
  - (b) to the extent it is relevant, the defendant complied with the code.
- ‘(5) A reference in this section to an act includes an omission and a reference to doing an act includes making an omission.’.

**55 Amendment of s 505 (Restraint of contraventions of Act etc.)**

Section 505(6)—

*insert—*

- ‘(d) may include an order for the defendant to pay the costs reasonably incurred by the administering authority in monitoring the defendant’s actions in relation to the offence.’.

**56 Amendment of s 514 (Devolution of powers)**

- (1) Section 514(2), ‘an environmentally relevant activity carried out in’  
*omit, insert—*  
‘a matter relating to’.
- (2) Section 514(4)—  
*omit, insert—*
- ‘(4) If the devolved matter relates to a matter mentioned in subsection (2), the local government’s area is, for subsection (3)(c), taken to include the area to which the matter relates.’.

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**57 Amendment of s 520 (Dissatisfied person)**

(1) Section 520(1)—

*insert—*

‘(fa) if the decision is to issue a direction notice, clean-up notice or cost recovery notice—the recipient; or’.

(2) Section 520(1)—

*insert—*

‘(oa) if the decision is about an exemption under chapter 8, part 3F, division 3—the person applying for, or given, the exemption; or’.

**58 Amendment of s 521 (Procedure for review)**

Section 521—

*insert—*

‘(13) Also, this section does not apply to an original decision to issue a clean-up notice.’.

**59 Insertion of new s 535A**

After section 535—

*insert—*

**‘535A Stay of decision to issue a clean-up notice**

‘(1) This section applies to an application under section 535 for a stay of a decision to issue a clean-up notice.

‘(2) In deciding the application, the Court must have regard to—

(a) the quantity and quality of contamination of the environment that is likely to be caused if the stay is granted; and

(b) the proximity of the place at or from which the contamination incident is happening or happened to a place with environmental values that may be adversely affected by the contamination.’.

[s 60]

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**60 Amendment of s 540 (Required registers)**

- (1) Section 540(1)(l) to (p)—  
*renumber* as section 540(o) to (s).
- (2) Section 540(1)—  
*insert*—
- ‘(l) direction notices;
  - (m) clean-up notices;
  - (n) cost recovery notices;’.

**61 Amendment of s 575 (Entry orders)**

Section 575(6), ‘structure, or part of a structure,’—  
*omit, insert*—  
‘building’.

**62 Insertion of new ch 12, pt 4B**

Chapter 12—  
*insert*—

**‘Part 4B Protocols and standards**

**‘579B Protocols**

- ‘(1) A *protocol* is a procedure to be followed in—
- (a) developing or carrying out a monitoring program; or
  - (b) taking samples; or
  - (c) making tests or measurements; or
  - (d) preserving or storing samples; or
  - (e) performing analyses on samples; or
  - (f) performing statistical analysis of the results of sample analyses and interpreting the results of the analyses; or

- (g) reporting the results and interpretation of the analyses;  
or
  - (h) developing or applying a predictive model; or
  - (i) carrying out a risk assessment to predict or estimate the risk of adverse effects of contamination on human health or another part of the environment; or
  - (j) assessing the toxic characteristics of an element, compound or combination of compounds.
- (2) If this Act provides that, in a particular case, a thing is to be done under a protocol, without identifying a particular protocol, then the thing must be done under—
- (a) a protocol of the department that the department publishes and makes available for inspection by members of the public; or
  - (b) if there is no protocol mentioned in paragraph (a) that applies to the case—a protocol issued, before the commencement of this section, by the Australian and New Zealand Environment Conservation Council; or
  - (c) if there is no protocol mentioned in paragraph (a) or (b) that applies to the case—a protocol under an Australian Standard or joint Standards Australia and Standards New Zealand standard; or
  - (d) if there is no protocol mentioned in paragraphs (a) to (c) that applies to the case—a protocol issued by a Ministerial Council established by the Council of Australian Governments; or
  - (e) if there is no protocol mentioned in paragraphs (a) to (d) that applies to the case—a protocol of an entity other than the department that the department publishes and makes available for inspection by members of the public.

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**‘579C Prescribed standards**

‘A reference in a provision of this Act to a *prescribed standard* is a reference to an Australian Standard, or joint Standards Australia and Standards New Zealand standard, prescribed under a regulation for the provision.’.

**63 Amendment of s 580 (Regulation-making power)**

Section 580(3)(a), after ‘fees’—

*insert—*

‘, or a score, assigned by the regulation to an activity to which the fees relate, that reflects the factors’.

**64 Amendment of s 593 (Transitional authority taken to be non-code compliant)**

Section 593, ‘mining activities that are level 1 environmentally relevant activities’—

*omit, insert—*

‘a level 1 mining project’.

**65 Insertion of new ch 13, pt 10**

Chapter 13—

*insert—*

**‘Part 10 Savings provision for  
Environmental Protection and  
Other Legislation Amendment  
Act (No. 2) 2008**

**‘645 Definition for pt 10**

‘In this part—

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*commencement day* means the day of commencement of the provision in which the term appears.

**‘646 Accrediting entity for s 440ZL**

‘A reference in section 440ZL to a certificate issued by an accredited entity includes a certificate issued, before the commencement day, by the Energy Information Centre in South Australia.

*Editor’s note—*

section 440ZL (Sale of solid fuel-burning equipment for use in residential premises and related matters)’.

**66 Insertion of new sch 1AA**

After chapter 13—

*insert—*

**‘Schedule 1AA Exclusions relating to environmental nuisance or environmental harm**

sections 17A, 440 and 440Q

**‘Part 1 Environmental nuisance excluded from ss 440 and 440Q**

**‘1 Safety and transport noise**

‘Environmental nuisance caused by any of the following types of noise—

- (a) noise from an audible traffic signal, at pedestrian lights under the Queensland Road Rules, that complies with

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AS 1742.10—1990 ‘Pedestrian control and protection’;  
or

*Editorial note—*

A copy of AS 1742.10 may be inspected, free of charge, at the department’s office at 160 Ann Street, Brisbane.

- (b) noise from a warning signal for a railway crossing;
- (c) safety signal noise from a reversing vehicle;
- (d) noise from operating a ship, including noise from—
  - (i) machinery and equipment; or
  - (ii) shore and ship based port operations for loading onto a ship, or unloading from a ship, items other than bulk goods; or
  - (iii) ship to shore communications relating to safe berthing and cargo handling; or
  - (iv) a ship’s horn;
- (e) noise from aircraft movement;
- (f) noise from the ordinary use of a public road or State-controlled road;
- (g) noise from the ordinary use of a busway, light rail or rail transport infrastructure.

## **‘2 Government activities and public infrastructure**

‘Environmental nuisance caused in the course of any of the following activities—

- (a) maintaining a public road, State-controlled road, railway or other infrastructure for public transport;
- (b) maintaining a public infrastructure facility, including—
  - (i) infrastructure for a water or sewerage service; and
  - (ii) a facility for a telecommunication or electricity system;



- (c) performing a function under the *Disaster Management Act 2003*;
- (d) in the case of the State or a local government—preventing or removing, or reducing the risk to public health from, a public health risk under the *Public Health Act 2005*.

### **‘3 Nuisance regulated by other laws**

‘Environmental nuisance caused by any of the following—

- (a) an act or omission that is a contravention of a local law;
- (b) an act done, or omission made, under an authority given under a local law;
- (c) noise to which the *Police Powers and Responsibilities Act 2000*, chapter 19, part 3 applies;
- (d) an emission of a contaminant at a workplace, within the meaning given by the *Workplace Health and Safety Act 1995*, section 9, that does not extend beyond the workplace;
- (e) a public health risk within the meaning given by the *Public Health Act 2005*, section 11;
- (f) development carried out under an approval under the *Integrated Planning Act 1997* that authorises the environmental nuisance;
- (g) the use, for a fireworks display, of explosives within the meaning given by the *Explosives Act 1999*;
- (h) smoking within the meaning given by the *Tobacco and Other Smoking Products Act 1998*.

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## **‘Part 2                                      Exclusions from environmental harm and environmental nuisance**

### **‘4            Non-domestic animal noise**

‘Animal noise from a non-domestic animal.

### **‘5            Particular cooking odours**

‘A cooking odour from cooking carried out on land on which a class 1, 2 or 3 building under the Building Code of Australia is constructed.’.

### **67          Amendment of sch 1 (Original decisions)**

(1) Schedule 1, part 2, division 2—

*insert—*

‘73FA                  decision to cancel a single registration certificate for activities and issue 2 or more registration certificates for the activities’.

(2) Schedule 1, part 2, division 5—

*insert—*

‘363B                  decision to issue a direction notice

363H                  decision to issue a clean-up notice

363N                  decision to issue a cost recovery notice’.

(3) Schedule 1, part 2—

*insert—*

---

## ‘Division 5A            Decisions under chapter 8

Section	Description of decision
440ZU	request for information or documents about an application for an exemption
440ZV	imposition of conditions on an exemption
440ZV	refusal of application for an exemption’.

### 68      Amendment of sch 2 (Notifiable activities)

Schedule 2, item 10—

*omit.*

### 69      Amendment of sch 3 (Dictionary)

(1) Schedule 3, definitions *deposit*, *level 1 environmentally relevant activity*, *level 1 petroleum activity*, *level 2 chapter 4 activity*, *level 2 environmentally relevant activity*, *level 2 petroleum activity*, *place*, *premises* and *prescribed person*—  
*omit.*

(2) Schedule 3—

*insert—*

**‘affected building**, for chapter 8, part 3B, see section 440K.

**aircraft movement** means a landing, departure or ground movement of aircraft, whether on or from land, water, a building or a vehicle.

**at**, for chapter 8, part 3B, see section 440K.

**audible noise**, for chapter 8, part 3B, see section 440L.

**background level**, for chapter 8, part 3B, see section 440K.

**building** includes—

- (a) any kind of structure; and
- (b) part of a building.

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**building work**, for chapter 8, part 3B, see section 440K.

**busway** see the *Transport Infrastructure Act 1994*, schedule 6.

**clean-up notice** see section 363H(1).

**coastal waters**, for chapter 8, part 3D, see section 440ZH.

**contamination incident** see section 363F.

**contravention**, of a prescribed provision, for chapter 7, part 5A, includes, in the context of a direction notice relating to the contravention issued by an authorised person, a reference to a contravention that the authorised person believes is happening or has happened.

**cost recovery notice** see section 363N(1).

**deposit**—

(a) for chapter 8, part 3A, see section 440A; or

(b) for chapter 8, part 3C, see section 440ZE.

**direction notice** see section 363B(2).

**earth**, for chapter 8, part 3C, see section 440ZD.

**educational institution**, for chapter 8, part 3B, see section 440K.

**harmful substance**, for chapter 8, part 3D, see section 440ZH.

**indoor venue**, for chapter 8, part 3B, see section 440K.

**L<sub>A90, T</sub>**, for chapter 8, part 3B, see section 440K.

**level 1 petroleum activity** means a petroleum activity prescribed by a regulation under section 77(2) as a level 1 petroleum activity.

**level 2 petroleum activity** means a petroleum activity prescribed by a regulation under section 77(2) as a level 2 petroleum activity.

**licensed premises**, for chapter 8, part 3B, see section 440K.

**light rail** see the *Transport Infrastructure Act 1994*, schedule 6.

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**MARPOL** see the *Transport Operations (Marine Pollution) Act 1995*, section 6.

**natural disaster** does not include an event that can be prevented by human action.

**natural environment**—

- (a) means living and non-living things that occur naturally at 1 or more places on Earth; and
- (b) does not include amenity or aesthetic, cultural, economic or social conditions.

**noise standard**, for chapter 8, part 3B, see section 440K.

**nominated section**, for chapter 8, part 3B, division 2, see section 440O(2)(b).

**non-coastal waters**, for chapter 8, part 3D, see section 440ZH.

**noxious liquid substance**, for chapter 8, part 3D, see section 440ZH.

**oil**, for chapter 8, part 3D, see section 440ZH.

**open-air event**, for chapter 8, part 3B, see section 440K.

**owner-builder permit** means an owner-builder permit under the *Queensland Building Services Authority Act 1991*.

**parent corporation**, of another corporation, means a corporation of which the other corporation is a subsidiary under the Corporations Act.

**particles** includes dust and ash.

**peak particle velocity**, for chapter 8, part 3B, see section 440K.

**place**—

- (a) for chapter 7, parts 5B and 5C, see section 363F; or
- (b) for chapter 8, part 3A, see section 440A.

**power boat**, for chapter 8, part 3B, see section 440K.

***premises*** includes a building and the land on which a building is situated.

***prescribed person***—

- (a) for a contamination incident—
  - (i) for chapter 7, part 5B, see section 363G; or
  - (ii) for chapter 7, part 5C, see section 363M; or
  - (iii) for sections 487 and 488, has the meaning given by section 363G; or
- (b) for chapter 8, part 3A, division 3, see section 440E.

***prescribed provision***, for chapter 7, part 5A, see section 363A.

***prescribed standard*** see section 579C.

***prescribed water contaminant***, for chapter 8, part 3C, see section 440ZD.

***protocol*** see section 579B.

***public road*** means a road that is open to the public, whether or not on payment of money.

***rail transport infrastructure*** see the *Transport Infrastructure Act 1994*, schedule 6.

***railway*** means a private or public railway or railway facility.

*Examples of a railway facility—*

railway bridge, railway communications system, railway marshalling station and yard, railway track, works built for a railway

***receiving environment***, in relation to an activity that causes or may cause environmental harm, means the part of the environment to which the harm is, or may be, caused.

***sewage***, for chapter 8, part 3D, see section 440ZH.

***State-controlled road*** means a road or route, or part of a road or route, declared under the *Transport Infrastructure Act 1994*, section 24 to be a State-controlled road.

*stormwater* includes a run-off of rainwater from an urban or rural source.

*stormwater drainage*, for chapter 8, part 3C, see section 440ZD.

*Z Peak*, for chapter 8, part 3B, see section 440K.

*Z Peak Hold*, for chapter 8, part 3B, see section 440K.’.

- (3) Schedule 3, definition *development condition*—

*insert*—

- ‘3 To remove any doubt, it is declared that if a condition mentioned in clause 1 was imposed on a development approval because the approval related to an environmentally relevant activity, the condition does not stop being a development condition only because the activity stops being an environmentally relevant activity.’.

- (4) Schedule 3, definition *environmental requirement*, paragraphs (c) and (d)—

*renumber* as paragraphs (d) and (e).

- (5) Schedule 3, definition *environmental requirement*—

*insert*—

‘(c) a clean-up notice; or’.

- (6) Schedule 3, definition *hazardous contaminant*, after ‘a contaminant’—

*insert*—

‘, other than an item of explosive ordnance,’.

- (7) Schedule 3, definition *hazardous contaminant*, paragraph (a), ‘carcinogenicity’—

*omit, insert*—

‘carcinogenicity’.

- (8) Schedule 3, definition *notifiable activity*, ‘schedule 2’—

*omit, insert*—

‘schedule 3’.

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- (9) Schedule 3, definition *obstruct*, after ‘hinder,’—  
*insert*—  
‘delay,’.
- (10) Schedule 3, definition *recipient*, paragraphs (c) to (e)—  
*renumber* as paragraphs (d) to (f).
- (11) Schedule 3, definition *recipient*—  
*insert*—  
‘(c) for a direction notice, clean-up notice or cost recovery notice—the person to whom the notice is issued; or’.
- (12) Schedule 3, definition *regulatory requirement*, paragraph (a)(i)—  
*omit, insert*—  
‘(i) a development application for which the administering authority is the assessment manager or a referral agency;’.
- (13) Schedule 3, definition *regulatory requirement*, paragraph (c)—  
*omit*.
- (14) Schedule 3, definition *unlawful environmental harm*, ‘section 436(1)’—  
*omit, insert*—  
‘section 493A’.

## 70 Renumbering of schedules

Schedules 1AA to 3—  
*renumber* as schedules 1 to 4.



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## Part 3 **Amendment of Dangerous Goods Safety Management Act 2001**

### 71 **Act amended in pt 3**

This part amends the *Dangerous Goods Safety Management Act 2001*.

### 72 **Amendment of s 107 (Recovery of costs of government action)**

(1) Section 107(3) and (4)—

*omit, insert—*

- ‘(3) For recovering the costs, the State or a local government must act under section 107A and the right to recover the costs is subject to section 107A(4).
- ‘(4) The costs are recoverable jointly and severally from the following (each a *prescribed person*)—
- (a) a person who caused or permitted the dangerous situation;
  - (b) a person who, at the time the dangerous situation existed, was—
    - (i) an occupier of the place where the dangerous situation existed; or
    - (ii) a person who owned, or was in control of, the hazardous materials involved in the dangerous situation;
  - (c) if a cost recovery notice is issued to a corporation (the *first corporation*) in relation to a dangerous situation and it fails to pay the amount claimed under the notice—
    - (i) a parent corporation of the first corporation; or
    - (ii) an executive officer of the first corporation.’.

[s 73]

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(2) Section 107—

*insert—*

‘(6) In this section—

**costs** includes labour, equipment and administrative costs and expenses.’.

### 73 Insertion of new ss 107A and 107B

Part 6, division 4—

*insert—*

#### ‘107A Cost recovery notice

‘(1) If the State or a local government (the **claimant**) may recover costs under section 107, it may issue a notice (a **cost recovery notice**) to a person the claimant reasonably believes to be a prescribed person claiming a stated amount for the costs.

‘(2) The notice must state the following—

- (a) the name of the person to whom the notice is issued;
- (b) a description of the dangerous situation to which the notice relates;
- (c) the place where the dangerous situation existed;
- (d) the amount claimed;
- (e) a description of costs giving rise to the claimed amount;
- (f) that if the person does not pay the amount to the claimant within 30 days after the day the notice is issued, the claimant may claim the amount from the person as a debt;
- (g) the name, address and contact details of the claimant;
- (h) that the person may appeal against the decision to issue the notice;
- (i) how the person may appeal.

‘(3) Subject to subsection (4), if the person does not pay the amount to the claimant within 30 days after the day the notice

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is issued, the claimant may claim the amount from the person as a debt.

- ‘(4) The amount is not payable—
- (a) if the person to whom the cost recovery notice was issued (the *recipient*) is not a prescribed person; or
  - (b) if the dangerous situation was caused by a natural disaster; or
  - (c) if—
    - (i) the dangerous situation was caused by a terrorist act or other deliberate act of sabotage by someone other than the recipient; and
    - (ii) the recipient had taken all measures it would be reasonable for the recipient to have taken to prevent the dangerous situation, having regard to all the circumstances including the nature of the recipient’s connection with the situation; or
  - (d) for a recipient who is a prescribed person mentioned in section 107(4)(c)(i), if the recipient took all reasonable steps to ensure the first corporation paid the amount claimed under the notice served on the first corporation; or
  - (e) for a recipient who is a prescribed person mentioned in section 107(4)(c)(ii), if—
    - (i) the recipient took all reasonable steps to ensure the first corporation paid the amount claimed under the notice served on the first corporation; or
    - (ii) the recipient was not in a position to influence the conduct of the first corporation in relation to its paying the amount claimed under the notice served on the first corporation.
- ‘(5) To the extent that the recipient pays an amount in compliance with the cost recovery notice but did not cause or permit the dangerous situation to happen, the recipient may recover the amount as a debt from another person who caused or permitted the dangerous situation to happen.

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‘(6) In this section—

*first corporation* see section 107(4)(c).

### **‘107B Cost recovery notice issued to several persons**

‘If a cost recovery notice is issued to 2 or more persons—

- (a) a copy of the notice must be given to each person; and
- (b) the amount claimed in the notice is payable by the persons jointly and severally.’

## **74 Insertion of new pt 9, div 1A**

After section 154—

*insert—*

### **‘Division 1A Appeals against decision to issue cost recovery notice**

#### **‘154A Who may appeal**

‘A person issued a cost recovery notice under section 107A may appeal against the decision to issue the notice.

#### **‘154B Court to which appeal may be made**

‘An appeal under this division may be made to the Magistrates Court nearest the place where the dangerous situation, to which the cost recovery notice applies, existed.

#### **‘154C Application of ss 150–154 to an appeal under this division**

- ‘(1) Sections 150 to 154 apply to an appeal under this division.
- ‘(2) In applying sections 150 to 154 in relation to a cost recovery notice issued by a local government, a reference to the chief executive is to be read as a reference to the local government’s chief executive officer.’

**75 Insertion of new pt 13**

After part 12—

*insert—*

**‘Part 13 Transitional provision for  
Environmental Protection and  
Other Legislation Amendment  
Act (No. 2) 2008**

**‘189 Proceedings started before commencement of  
this section**

‘(1) This section applies if, before the commencement, the State or a local government started court proceedings to recover an amount of costs under section 107 of the pre-amended Act.

‘(2) The State or local government may continue to recover the amount under that section and for that purpose the pre-amended Act continues to apply.

‘(3) In this section—

*pre-amended Act* means this Act as in force immediately before the commencement of this section.’.

**76 Amendment of sch 2 (Dictionary)**

Schedule 2—

*insert—*

‘*claimant*, for part 6, division 4, see section 107A(1).

*cost recovery notice* see section 107A(1).

*costs*, for part 6, division 4, see section 107(6).

*natural disaster* does not include an event that can be prevented by human action.

[s 77]

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*parent corporation*, of another corporation, means a corporation of which the other corporation is a subsidiary under the Corporations Act.

*prescribed person*, for part 6, division 4, see section 107(4).’.

## **Part 4**                      **Amendment of Environmental Protection and Other Legislation Amendment Act 2007**

### **77**      **Act amended in pt 4**

This part amends the *Environmental Protection and Other Legislation Amendment Act 2007*.

### **78**      **Amendment of s 26 (Amendment of s 514 (Devolution of powers))**

Section 26(2)—

*omit.*

*Editor’s note—*

The legislation ultimately amended is the *Environmental Protection Act 1994*.

## **Part 5**                      **Amendment of Integrated Planning Act 1997**

### **79**      **Act amended in pt 5**

This part amends the *Integrated Planning Act 1997*.

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**80 Amendment of s 1.3.5 (Definitions for terms used in development)**

Section 1.3.5(1), definition *material change of use*—

*insert*—

- ‘(d) the continuation, on the premises, of an environmentally relevant activity carried out under an approval mentioned in the *Environmental Protection Act 1994*, section 624(1)(b); or
- (e) the continuation of an activity on the premises, after the activity becomes an environmentally relevant activity, if—
  - (i) there is no development approval for the activity; and
  - (ii) the activity was, at any time before it became an environmentally relevant activity, lawfully carried out on the premises while there was no development approval for the activity.’

**81 Amendment of s 4.1.28A (Additional and extended appeal rights for submitters for particular development applications)**

Section 4.1.28A(3)(a), ‘environmentally relevant activity mentioned in the *Environmental Protection Regulation 1998*, schedule 1, item 1’—

*omit, insert*—

‘aquacultural ERA’.

**82 Insertion of new ch 6, pt 9**

Chapter 6—

*insert*—

[s 83]

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## **‘Part 9                      Transitional provisions for Environmental Protection and Other Legislation Amendment Act (No. 2) 2008**

### **‘6.9.1 Particular activities not a material change of use**

‘Section 1.3.5(1), definition *material change of use*, paragraph (e) does not apply to an activity carried out as part of—

- (a) the project for the North-South Bypass Tunnel for which a development approval, held by the Brisbane City Council, was in force immediately before the commencement of this section; or
- (b) the project for the Airport Link Tunnel Project for which a development approval, held by BrisConnections, was in force immediately before the commencement of this section.

### **‘6.9.2 Deferment of application of s 4.3.1 to particular material changes of use**

‘(1) Section 4.3.1 does not apply to the carrying out of a material change of use of premises mentioned in section 1.3.5, definition *material change of use*, paragraph (d), until 1 year after the commencement of that paragraph.

‘(2) Section 4.3.1 does not apply to the carrying out of a material change of use of premises mentioned in section 1.3.5, definition *material change of use*, paragraph (e), until 1 year after the day the activity becomes an environmentally relevant activity.’.

## **83                      Amendment of sch 8 (Assessable development and self-assessable development)**

- (1) Schedule 8, part 1, table 2, item 1(d), ‘the *Environmental Protection Regulation 1998*’—



*omit, insert—*

‘a regulation under the *Environmental Protection Act 1994*’.

- (2) Schedule 8, part 1, table 5, items 3 and 4, ‘the *Environmental Protection Regulation 1998*’—

*omit, insert—*

‘a regulation under the *Environmental Protection Act 1994*’.

- (3) Schedule 8, part 2, table 5, item 1, ‘the *Environmental Protection Regulation 1998*’—

*omit, insert—*

‘a regulation under the *Environmental Protection Act 1994*’.

#### **84 Amendment of sch 8A (Assessment manager for development applications)**

- (1) Schedule 8A, table 4, item 3(a)—

*omit, insert—*

‘(a) development for—

- (i) a dredging ERA; or
- (ii) an extraction ERA; or
- (iii) a combination of a dredging ERA and an extraction ERA; or
- (iv) a combination of a dredging ERA and a screening ERA; or
- (v) a combination of an extraction ERA and a screening ERA; or
- (vi) a combination of a dredging ERA, an extraction ERA and a screening ERA; and’.

- (2) Schedule 8A, table 4, item 6(b)(i)—

*omit, insert—*

‘(i) development for an aquacultural ERA;’.

[s 85]

---

**85 Amendment of sch 9 (Development that is exempt from assessment against a planning scheme)**

Schedule 9, table 5, item 3, ‘section 75’—

*omit, insert—*

‘section 77(1)’.

**86 Amendment of sch 10 (Dictionary)**

(1) Schedule 10—

*insert—*

***‘aquacultural ERA*** means an environmentally relevant activity, prescribed under a regulation for this definition, relating to aquaculture.

***dredging ERA*** means an environmentally relevant activity, prescribed under a regulation for this definition, relating to dredging material.

***environmental nuisance*** see the *Environmental Protection Act 1994*, section 15.

***extraction ERA*** means an environmentally relevant activity, prescribed under a regulation for this definition, relating to extracting rock or other material.

***screening ERA*** means an environmentally relevant activity, prescribed under a regulation for this definition, relating to screening, washing, crushing, grinding, milling, sizing or separating material extracted from the earth or dredged.’.

(2) Schedule 10, definitions *hazardous contaminant, mobile and temporary environmentally relevant activity, notifiable activity, petroleum activity, site management plan* and *suitability statement*, ‘schedule 3’—

*omit, insert—*

‘schedule 4’.

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## **Part 6**                                      **Amendment of Nature Conservation Act 1992**

### **87**      **Act amended in pt 6**

This part amends the *Nature Conservation Act 1992*.

### **88**      **Amendment of s 33 (Amalgamation etc. of protected areas)**

Section 33(2)(b), after ‘with’—

*insert*—

‘the same or’.

### **89**      **Amendment of s 36 (Authorities for new national park or national park (recovery))**

(1) Section 36(3), ‘section 46’—

*omit, insert*—

‘section 56’.

(2) Section 36(6), definition *allowable term*, paragraph (a)(iv), ‘section 46’—

*omit, insert*—

‘section 56’.

### **90**      **Amendment of s 46 (Declaration of protected area)**

(1) Section 46(5), ‘Subsection (4)’—

*omit, insert*—

‘Subsection (5)’.

(2) Section 46(3) to (6)—

*renumber* as section 46(4) to (7).

(3) Section 46—

[s 91]

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*insert—*

- ‘(3) For subsection (2)(b), a reference in the regulation to the duration of the conservation agreement for the area is, if the agreement is terminated and replaced by another agreement under section 48, a reference to the duration of the other agreement.’.

**91 Amendment of s 47 (Duration and termination of conservation agreements)**

- (1) Section 47(1)(a), after ‘subsection (2)’—

*insert—*

‘or by another agreement under section 48’.

- (2) Section 47(2), ‘A conservation agreement’—

*omit, insert—*

‘Subject to section 48, a conservation agreement’.

**92 Amendment of s 48 (Variation of conservation agreements)**

- (1) Section 48, heading, after ‘Variation’—

*insert—*

‘**or replacement**’.

- (2) Section 48, from ‘A conservation’ to ‘example—’—

*omit, insert—*

- ‘(1) The State and the landholders bound by a conservation agreement for a protected area (the *earlier agreement*) may enter into another conservation agreement for the area (the *later agreement*) that varies, or terminates and replaces, the earlier agreement.

- ‘(2) The earlier agreement may be varied, for example—’.

- (3) Section 48—

*insert—*

- ‘(3) Section 45(2) to (5) applies to the later agreement.
- ‘(4) However, section 45(2) does not apply in relation to a person whose rights will only be affected by the later agreement in the same way as by the earlier agreement.’.

### **93 Amendment of s 70B (Definitions for pt 4A)**

Section 70B—

*insert—*

‘*SEQ horse riding trail network* see section 70BA.’.

### **94 Insertion of new s 70BA**

After section 70B—

*insert—*

#### **‘70BA SEQ horse riding trail network**

- ‘(1) The *SEQ horse riding trail network* is the network of horse riding trails in South East Queensland designated as ‘finalised horse trails’ on maps held by the department for this section.
- ‘(2) Copies of the maps may be inspected, free of charge, on the department’s website and, during office hours on business days, at the department’s head office.

*Editor’s note—*

The department’s website is <[www.epa.qld.gov.au](http://www.epa.qld.gov.au)>.’.

### **95 Insertion of new ss 70JA and 70JB**

After section 70J—

*insert—*

#### **‘70JA Review of impact of horse riding trails**

- ‘(1) The chief executive must review the areas within forest reserves that comprise horse riding trails in the SEQ horse riding trail network.
- ‘(2) In conducting the review, the chief executive must—

[s 95]

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- (a) have assessments conducted under section 70JB; and
  - (b) consider how to address any significant adverse impacts identified by the assessments including, if appropriate, removing a trail from the SEQ horse riding trail network.
- ‘(3) The review must start as soon as practicable after the commencement of this section and must be completed for all areas by 31 December 2025.

### **‘70JB Assessment by independent scientific advisory committee**

- ‘(1) This section applies to an assessment required under section 70JA(2)(a).
- ‘(2) The assessment must be of the impact, on horse riding trails and adjacent areas, of horse riding use.
- ‘(3) The assessment must be conducted by an advisory committee, established under section 132, comprising members who—
- (a) have expertise in relevant disciplines for the assessment; and
- Examples of disciplines that may be relevant—*
- aquatic science, conservation biology, conservation management, environmental impact assessment, social science, soil science, statistical analysis, sustainable recreation, weed management
- (b) are independent of government or non-government entities that might reasonably be perceived to be particularly interested in decisions affecting horse riding in forest reserves.
- ‘(4) The assessment must be based on monitoring and evaluation conducted over a period long enough to assess the likely impacts of horse riding use.
- ‘(5) The assessment must take account of the cumulative impacts of horse riding and other activities conducted in the areas to which the assessment relates.

- ‘(6) To the extent the assessment relates to a particular horse riding trail, the assessment need not be based on measurement or monitoring of the trail, or of every part of the trail, but may be based on appropriate information obtained from measuring or monitoring, and evaluating, other trails or parts of the trail with relevant characteristics.
- ‘(7) In this section—  
*adjacent areas*, in relation to horse riding trails, means areas adjacent to the trails whether or not the areas are part of a forest reserve.’.

## 96 Amendment of s 70K (Designation)

- (1) Section 70K(1)(b)—  
*renumber* as section 70K(1)(c).
- (2) Section 70K(1)—  
*insert*—  
‘(b) for a proposed protected area that includes a horse riding trail in the SEQ horse riding trail network, the chief executive has completed the review under section 70JA to the extent the review relates to the proposed protected area; and’.

## 97 Amendment of schedule (Dictionary)

- (1) Schedule, definition *conservation agreement*—  
*omit*.
- (2) Schedule—  
*insert*—  
‘*conservation agreement* means a conservation agreement under section 45 or 48.  
*forest reserve* see section 70B.  
*SEQ horse riding trail network* see section 70BA.’.

[s 98]

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## **Part 7**                      **Amendments of other Acts**

### **98**      **Other Acts amended**

Schedule 2 amends the Acts it mentions.



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# Schedule 1      Minor amendments of Environmental Protection Act 1994

section 3

- 1      **Section 7, ‘schedule 3’—**  
*omit, insert—*  
‘schedule 4’.
  
- 2      **Section 129(2)(a), ‘division’—**  
*omit, insert—*  
‘part’.
  
- 3      **Section 136(2)(b), ‘division’—**  
*omit, insert—*  
‘decision’.
  
- 4      **Section 269A(2)(b), ‘a’—**  
*omit.*
  
- 5      **Section 440A, definition *place*, note, ‘schedule 3’—**  
*omit, insert—*  
‘schedule 4’.
  
- 6      **Section 460(6), from ‘Subsection’ to ‘does’—**  
*omit, insert—*  
‘Subsection (5) does’.

- 7 Section 462(6), ‘subsection (4)’—**  
*omit, insert—*  
‘subsection (5)’.
- 8 Section 519(1), ‘schedule 1’—**  
*omit, insert—*  
‘schedule 2’.
- 9 Section 522(1)(a) and (b), ‘schedule 1’—**  
*omit, insert—*  
‘schedule 2’.
- 10 Section 523, ‘schedule 1’—**  
*omit, insert—*  
‘schedule 2’.
- 11 Section 584, definition *special agreement Act*, paragraphs (h), (i) and (k)—**  
*omit.*
- 12 Section 584, definition *special agreement Act*, paragraphs (c) to (o)—**  
*renumber* as paragraphs (b) to (k).
- 13 Amendment of s 616Q (Reference to State government agreement includes particular rights)**  
Section 616Q(2), ‘schedule 3’—  
*omit, insert—*  
‘schedule 4’.

**14 Amendment of s 616U (Reference to State government agreement includes particular rights)**

Section 616U(2), ‘schedule 3’—

*omit, insert*—

‘schedule 4’.

**15 Amendment of sch 2 (Notifiable activities)**

Schedule 2, heading, ‘schedule 3, dictionary’—

*omit, insert*—

‘schedule 4, dictionary’.

## **Schedule 2      Consequential and minor amendments of other Acts**

section 98

### **Coastal Protection and Management Act 1995**

- 1      Schedule, definition *chapter 4 activity*, ‘schedule 3’—**  
*omit, insert—*  
‘schedule 4’.
  
- 2      Schedule, definition *environmental authority*, ‘schedule 3’—**  
*omit, insert—*  
‘schedule 4’.

### **Industrial Development Act 1963**

- 1      Schedule, definition *hazardous contaminant*, ‘schedule 3’—**  
*omit, insert—*  
‘schedule 4’.

## **Mineral Resources Act 1989**

- 1**      **Schedule, definition *special agreement Act*, paragraphs (g), (h) and (j)—**

*omit.*

- 2**      **Schedule, definition *special agreement Act*, paragraphs (i) to (n)—**

*renumber* as paragraphs (g) to (k).

## **State Development and Public Works Organisation Act 1971**

- 1**      **Section 54D(3), ‘and 436 to 440’—**

*omit, insert—*

‘, 437 to 440 and 493A’.

- 2**      **Section 54D(5)(b), ‘and 436 to 440’—**

*omit, insert—*

‘, 437 to 440 and 493A’.

## **Water Act 2000**

- 1**      **Section 1065AA(2), ‘section 130, 291’—**

*omit, insert—*

‘section 290A’.

- 2**      **Schedule 4, definition *residential complex*, ‘schedule 3’—**  
            *omit, insert—*  
            ‘schedule 4’.

## **Wild Rivers Act 2005**

- 1**      **Schedule, definition *special agreement Act*, ‘section 614(2)’—**  
            *omit, insert—*  
            ‘section 584’.

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