



Queensland

Environmental Protection and Other Acts Amendment Act 2011

Act No. 3 of 2011



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Environmental Protection and Other Acts Amendment Act 2011

Act No. 3 of 2011

**An Act to amend the Environmental Protection Act 1994, Fisheries Act 1994,
Nature Conservation Act 1992 and Sustainable Planning Act 2009 for
particular purposes**

[Assented to 4 April 2011]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Environmental Protection and Other Acts Amendment Act 2011*.

2 Commencement

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

Part 2 Amendment of Environmental Protection Act 1994

3 Act amended

This part amends the *Environmental Protection Act 1994*.

4 Amendment of s 73G (When registration certificate takes effect)

(1) Section 73G(1)(c), ‘section 73F(7)’—

omit, insert—

‘section 73F(8)’.

(2) Section 73G(2), ‘section 73F(4)’—

omit, insert—

‘section 73F(5)’.

5 Amendment of s 154 (General requirements for application)

Section 154(3), after ‘extent to’—

insert—

‘which’.

6 Amendment of s 210 (Conditions that may and must be included in draft environmental authority)

(1) Section 210(4), ‘subsection (3)’—

omit, insert—

‘subsection (7)’.

(2) Section 210(3) and (4)—

renumber as section 210(7) and (8).

(3) Section 210—

insert—

‘(3) The administering authority may include in the draft a condition that requires or otherwise relates to an environmental offset (an *environmental offset condition*) if the administering authority is satisfied that all cost-effective on-site mitigation measures for the relevant mining activities have been, or will be, undertaken.

‘(4) An environmental offset condition may require works or activities to be undertaken on land on which a relevant mining activity is carried out or on other land in the State.

‘(5) An environmental offset condition may require a monetary payment to an environmental offset trust.

‘(6) If the applicant has entered into an agreement about an environmental offset for this section, an environmental offset condition may require the authority holder to comply with the agreement.’.

(4) Section 210—

insert—

[s 7]

- ‘(9) The applicant may enter into an agreement with the administering authority or another entity to establish the obligations, or secure the performance, of a party to the agreement about a condition.
- ‘(10) In this section—
- environmental offset* means works or activities undertaken to counterbalance the impacts of a relevant mining activity on the natural environment.
- on-site mitigation measure*, for a relevant mining activity, means a measure, undertaken on land to which the activity relates, to avoid or minimise negative impacts of the activity on the natural environment.’.

7 Amendment of s 305 (Conditions that may be made)

- (1) Section 305(2)(d)—
- renumber* as section 305(2)(e).
- (2) Section 305(2)—
- insert*—
- ‘(d) if the entity doing or making the relevant act is satisfied that all cost-effective on-site mitigation measures for an authorised activity have been, or will be, undertaken—include a condition requiring or otherwise relating to an environmental offset (an *environmental offset condition*); or’.
- (3) Section 305—
- insert*—
- ‘(5) An environmental offset condition may require works or activities to be undertaken on land on which an authorised activity is carried out or on other land in the State.
- ‘(6) An environmental offset condition may require a monetary payment to an environmental offset trust.
- ‘(7) If the environmental authority holder has entered into an agreement about an environmental offset for this section, an

environmental offset condition may require the holder to comply with the agreement.

- ‘(8) The environmental authority holder may enter into an agreement with the entity doing or making the relevant act or another entity to establish the obligations, or secure the performance, of a party to the agreement about a condition.
- ‘(9) A reference in subsection (7) or (8) to the holder of an environmental authority entering into an agreement includes the holder entering into an agreement before the authority is granted.
- ‘(10) In this section—

authorised activity means an activity carried out under the environmental authority to which the relevant act relates.

environmental offset means works or activities undertaken to counterbalance the impacts of an authorised activity on the natural environment.

on-site mitigation measure, for an authorised activity, means a measure, undertaken on land to which the activity relates, to avoid or minimise negative impacts of the activity on the natural environment.’

8 Amendment of s 310O (Conditions that may and must be imposed)

- (1) Section 310O(3)(b) and (c)—

renumber as section 310O(3)(c) and (d).

- (2) Section 310O(3)—

insert—

‘(b) if the administering authority is satisfied that all cost-effective on-site mitigation measures for a relevant chapter 5A activity have been, or will be, undertaken—require or otherwise relate to an environmental offset (an *environmental offset condition*); or’.

[s 9]

(3) Section 310O—

insert—

- ‘(6) An environmental offset condition may require works or activities to be undertaken on land on which a relevant chapter 5A activity is carried out or on other land in the State.
- ‘(7) An environmental offset condition may require a monetary payment to an environmental offset trust.
- ‘(8) If the applicant has entered into an agreement about an environmental offset for this section, an environmental offset condition may require the environmental authority holder to comply with the agreement.
- ‘(9) The environmental authority holder may enter into an agreement with the administering authority or another entity to establish the obligations, or secure the performance, of a party to the agreement about a condition.
- ‘(10) In this section—

environmental offset means works or activities undertaken to counterbalance the impacts of a relevant chapter 5A activity on the natural environment.

on-site mitigation measure, for a relevant chapter 5A activity, means a measure, undertaken on land to which the activity relates, to avoid or minimise negative impacts of the activity on the natural environment.’.

9 Amendment of s 363H (Administering authority may issue clean-up notice)

(1) Section 363H(1), after ‘stated action to’—

insert—

‘do all or any of the following’.

(2) Section 363H(1)(a) to (c), ‘; or’

omit, insert—

‘;’.

10 Amendment of s 363I (Offence not to comply with clean-up notice)

Section 363I(3)(b)—

omit, insert—

‘(b) that—

- (i) the relevant contamination incident was caused by a natural disaster; 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 probability of the natural disaster; or’.

11 Amendment of s 363N (Administering authority may issue cost recovery notice)

Section 363N(5)(b)—

omit, insert—

‘(b) if—

- (i) the contamination incident was caused by a natural disaster; 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 probability of the natural disaster; or’.

12 Amendment of s 478 (Failure to comply with authorised person’s direction in emergency)

Section 478, penalty—

omit, insert—

‘Maximum penalty—2000 penalty units.’.

[s 13]

13 Amendment of s 480 (False, misleading or incomplete documents)

Section 480(4)(a), ‘section 90(c) or 132(2)’—

omit, insert—

‘section 309Q(c) or 311F(2)’.

14 Amendment of s 540 (Required registers)

Section 540(1)(k), ‘paragraph (h)’—

omit, insert—

‘paragraph (j)’.

15 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definition *regulatory requirement*—

omit.

(2) Schedule 4—

insert—

‘Balance the Earth Trust means the trust by that name established under a trust deed entered into by the State on 9 October 2009.

environmental offset trust means the Balance the Earth Trust or another trust established to accept and manage amounts to fund the undertaking of works or activities to counterbalance the impacts of environmentally relevant activities or other activities on the natural environment.

regulatory requirement means a requirement under an environmental protection policy or a regulation for—

(a) the administering authority to—

(i) grant or refuse to grant, or follow stated procedures for evaluating, any of the following applications—

(A) a development application for which the administering authority is the assessment

[s 18]

- (a) works or activities to enhance or rehabilitate a fish habitat; and
 - (b) the exchange of another fish habitat for a fish habitat affected by the development; and
 - (c) a contribution to fish habitat research.
- ‘(3) With the agreement of the applicant for the approval, an environmental offset condition may require a monetary payment to the Fisheries Research Fund under section 117.’.

18 Amendment of s 117 (Fisheries Research Fund)

- (1) Section 117(4)(c)—
renumber as section 117(4)(d).
- (2) Section 117(4)—
insert—
‘(c) amounts received for payment into the fund under environmental offset conditions mentioned in section 76IA; and’.
- (3) Section 117(5)(b)—
renumber as section 117(5)(c).
- (4) Section 117(5)—
insert—
‘(b) fish habitat enhancement, rehabilitation or exchange; or’.

19 Amendment of schedule (Dictionary)

- Schedule—
insert—
‘*environmental offset condition* see the Planning Act, section 346A(1).’.

-
- ‘(6) An environmental offset condition may require works or activities to be undertaken on land on which the development is undertaken or on other land in the State.
- ‘(7) An environmental offset condition may require a monetary payment to an environmental offset trust.
- ‘(8) In this section—

Balance the Earth Trust means the trust by that name established under a trust deed entered into by the State on 9 October 2009.

environmental offset means works or activities undertaken to counterbalance the impacts of a development on the natural environment.

environmental offset trust means the Balance the Earth Trust or another trust established to accept and manage amounts to fund the undertaking of works or activities to counterbalance the impacts of development or other activities on the natural environment.

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.

on-site mitigation measure, for a development, means a measure, undertaken on land to which the development relates, to avoid or minimise negative impacts of the development on the natural environment.’