

Queensland



**ENVIRONMENTAL
LEGISLATION
AMENDMENT ACT (No. 2)
1995**

Act No. 52 of 1995

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Queensland



**Environmental Legislation Amendment Act
(No. 2) 1995**

Act No. 52 of 1995

**An Act to amend the *Environmental Protection Act 1994* and other
Acts**

[Assented to 22 November 1995]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Environmental Legislation Amendment Act (No. 2) 1995*.

Commencement

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

PART 2—AMENDMENT OF ENVIRONMENTAL PROTECTION ACT 1994

Act amended

3. This part amends the *Environmental Protection Act 1994*.

Replacement of s 13 (Waste)

4. Section 13—

omit, insert—

‘Waste

‘13.(1) “Waste” includes any thing that is—

- (a) left over, or an unwanted by-product, from an industrial, commercial, domestic or other activity; or
- (b) surplus to the industrial, commercial, domestic or other activity generating the waste.

Example of paragraph (a)—

Abandoned or discarded material from an activity is left over, or an unwanted by-product, from the activity.

‘(2) **“Waste”** can be a gas, liquid, solid or energy, or a combination of any of them.

‘(3) A thing can be waste whether or not it is of value.’

Insertion of new ch 3, pt 9A

5. After section 118—

insert—

‘PART 9A—SPECIAL PROVISIONS ABOUT WASTE MANAGEMENT

‘Chief executive may require local government to remove waste etc.

‘118A.(1) The chief executive may, by written notice given to a local government, require the local government to—

- (a) carry out any of the following works (**“waste management works”**)—
 - (i) remove, collect, transport, store, treat or dispose of waste;
 - (ii) clean streets;
 - (iii) clean sanitary conveniences; or
- (b) provide a place, containers or equipment for depositing or disposing of waste.

‘(2) The notice must state whether the notice applies to the whole or part of the local government’s area.

‘(3) If the notice requires the disposal of waste, the notice may state the way it is to be disposed.

‘(4) The notice may apply for a period or without limit of time.

‘(5) The local government must comply with the notice.

‘Waste removal etc. by private contractors

‘118B.(1) A person must not, for fee or reward, perform waste management works in a local government area other than under—

- (a) a written contract with the local government; or
- (b) the local government’s written approval under this section.

Maximum penalty—100 penalty units.

‘(2) An application for an approval must be made to a local government in the approved form.

‘(3) The local government must promptly consider an application for an approval and grant, or refuse to grant, the application.

‘(4) If the local government fails to decide the application within 60 days after its receipt, the failure is taken to be a decision by the local government to refuse to grant the application.

‘(5) The local government may impose relevant conditions on the approval that it considers to be necessary or desirable.

‘(6) The local government may, by written notice given to the holder of the approval—

- (a) revoke it; or
- (b) impose stated conditions on it; or
- (c) vary its conditions in a stated way.

‘(7) The notice must state—

- (a) the grounds for the action; and
- (b) the facts and circumstances forming the basis for the grounds.

‘(8) However, the local government may revoke the approval only if the person does not comply with its conditions.’.

Amendment of s 200 (Dissatisfied person)

6. Section 200(1)—

insert—

‘(e) if the decision is about an approval under section 118B—the applicant for, or holder of, the approval.’.

Amendment of s 220 (Regulations)

7.(1) Section 220(2)(h) to (j)—

renumber as section 220(2)(i) to (k).

(2) Section 220(2)—

insert—

‘(h) the removal, collection, transport, deposit, storage or disposal of waste;’.

Insertion of new s 233A

8. After section 233—

insert—

‘Orders and approvals under Health Act

‘233A.(1) The order made by the Director-General of Health and Medical Services under the *Health Act 1937*, section 95, on 23 December 1982 ordering the Brisbane City Council to maintain the hazardous industrial refuse facility at Willawong and in force immediately before the commencement of this section is taken to be a notice given under section 118A.

‘(2) An approval granted under the *Health Act 1937*, section 98A, and in force immediately before the commencement is taken to be an approval under section 118B.

‘(3) This section expires the day it commences.’.

Amendment of s 234 (Expiry of division)

9. Section 234, after ‘division’—

insert—

‘(other than section 233A)’.

Amendment of sch 1 (Original decisions)**10.** Schedule 1—*insert—*

- ‘118B(3) Refusal to grant an application for an approval
118B(5) and (6) Imposition of conditions on an approval
118B(6) Revocation, or varying conditions, of an approval’.

Amendment of sch 4 (Dictionary)**11.** Schedule 4—*insert—*

- ‘**“sanitary convenience”** means a urinal, water-closet, earth closet, cesspit, cesspool or other receptacle for human waste.
“waste management works” see section 118A.’.

PART 3—AMENDMENT OF HEALTH ACT 1937**Act amended**

- 12.** This part amends the *Health Act 1937*.

Amendment of s 5 (Interpretation)

- 13.** Section 5(1), definitions **“disposal”** and **“nightsoil”**—
omit.

Replacement of pt 3, div 13, heading

- 14.** Part 3, division 13, heading—
omit, insert—

‘Division 13—Sewers, stormwater drains, sanitary conveniences, camping grounds and moveable dwellings’.

Omission of ss 95–99A

15. Sections 95 to 99A—
omit.

Insertion of new s 183A

16. After section 183—
insert—

‘Validation of order under s 95

‘183A.(1) The order made by the Director-General of Health and Medical Services under section 95 on 23 December 1982 ordering the Brisbane City Council to maintain the hazardous industrial refuse facility at Willawong is valid as if it had been confirmed by the Minister and published in the gazette.

‘(2) The order is taken to have had force from the day it was made.

‘(3)This section expires the day it commences.’.

PART 4—AMENDMENT OF WET TROPICS WORLD HERITAGE PROTECTION AND MANAGEMENT ACT 1993

Act amended

17. This part amends the *Wet Tropics World Heritage Protection and Management Act 1993*.

Amendment of s 35 (Delegation of Authority's powers)**18.** Section 35(1)—*insert—*

- '(d) the chief executive of a department; or
- (e) an officer of the public service; or
- (f) the chief executive officer or an employee of a local government.'

**PART 5—AMENDMENT OF SEWERAGE AND
WATER SUPPLY ACT 1949****Act amended****19.** This part amends the *Sewerage and Water Supply Act 1949*.**Amendment of s 5 (Standard Sewerage Law)****20.** Section 5(3)(c), '40'—*omit, insert—*

'165'.

Amendment of s 6 (Standard Water Supply Law)**21.** Section 6(3)(c), '40'—*omit, insert—*

'165'.

Amendment of s 16 (Offences by persons not holding appropriate licences, etc.)**22.** Section 16(1), penalty, '1 penalty unit'—

omit, insert—

‘165 penalty units’.

Amendment of s 17 (Cancellation and suspension of licences)

23.(1) Section 17, heading—

omit, insert—

‘Cancellation and suspension of licences etc.’.

(2) Section 17(2), heading—

omit.

(3) Section 17(2), ‘If default’ to ‘aforementioned’—

omit, insert—

‘Maximum penalty—4 penalty units.’.

Insertion of new pts 3A and 3B

24. After section 17—

insert—

‘PART 3A—PROHIBITED SUBSTANCES AND TRADE WASTE

‘Prohibition on discharge of prohibited substances and trade waste

‘17A.(1) In this section—

“prohibited substance” means a substance prescribed under the Standard Sewerage Law as a prohibited substance for this section.

“sewerage” means a sewer, access chamber, vent, engine, pump, structure, machinery, outfall or other work used to receive, store, transport or treat sewage.

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

“trade waste” means water-borne waste from business, trade or manufacturing premises, other than—

- (a) waste that is a prohibited substance; and
- (b) human waste; and
- (c) stormwater.

‘(2) A person must not discharge a prohibited substance into sewerage or stormwater drainage.

Maximum penalty—1 000 penalty units.

‘(3) A person must not discharge trade waste into—

- (a) stormwater drainage; or
- (b) sewerage other than under a permit or approval issued or given by a local government under the Standard Sewerage Law.

Maximum penalty—1 000 penalty units.

‘(4) This section is to be administered by local governments for their areas.

‘PART 3B—LEGAL PROCEEDINGS

‘Indictable and summary offences

‘17B.(1) An offence against section 17A¹ is an indictable offence.

‘(2) Any other offence against this Act is a summary offence.

‘Proceedings for indictable offences

‘17C.(1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

- (a) by way of summary proceedings under the *Justices Act 1886*; or

¹ Section 17A (Prohibition on discharge of prohibited substances and trade waste)

(b) on indictment.

‘(2) A magistrate must not hear an indictable offence summarily if—

- (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or
- (b) the magistrate considers that the charge should be prosecuted on indictment.

‘(3) If subsection (2) applies—

- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
- (b) a plea of the person charged at the start of the proceeding must be disregarded; and
- (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
- (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).

‘(4) The maximum penalty that may be summarily imposed for an indictable offence is 165 penalty units.

‘Limitation on who may summarily hear indictable offence proceedings

‘17D.(1) A proceeding must be before a magistrate if it is a proceeding—

- (a) for the summary conviction of a person on a charge for an indictable offence; or
- (b) for an examination of witnesses for a charge for an indictable offence.

‘(2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

‘Limitation on time for starting summary proceedings

‘17E. A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

- (a) within 1 year after the commission of the offence; or
- (b) within 1 year after the offence comes to the complainant’s knowledge, but within 2 years after the commission of the offence.’.

Amendment of s 18 (Offences)

25.(1) Section 18, heading—

omit, insert—

‘Notice of offence about water supply’.

(2) Section 18(1) to (3)—

omit.

Amendment of s 18A (Obtaining licence or interim licence by misrepresentation, etc.)

26.(1) Section 18A(2), heading—

omit.

(2) Section 18A(2)—

insert—

‘Maximum penalty—4 penalty units.’.

Insertion of new s 26

27. After section 25—

insert—

‘Numbering and renumbering of Act

‘26. In the reprint of this Act produced under the *Reprints Act 1992*, the

provisions of this Act must be numbered and renumbered as permitted by the *Reprints Act 1992*, section 43.’.