

Queensland



**ENVIRONMENTAL
PROTECTION AND OTHER
LEGISLATION AMENDMENT
ACT 2002**

Act No. 45 of 2002

Queensland



**ENVIRONMENTAL PROTECTION AND
OTHER LEGISLATION AMENDMENT
ACT 2002**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	6
2	Commencement	6
PART 2—AMENDMENT OF ENVIRONMENTAL PROTECTION ACT 1994		
3	Act amended in pt 2 and schedule	6
4	Amendment of s 109 (Requirements for application)	6
5	Amendment of s 111 (Criteria for decision)	7
6	Amendment of s 115 (Information notice about decision on conversion application)	7
7	Replacement of ch 4, pts 5 and 6.	7
PART 5—AMENDING ENVIRONMENTAL AUTHORITIES BY APPLICATION		
<i>Division 1—Making amendment application</i>		
116	Who may apply for amendment	7
117	Exclusions from amendment under pt 5	7
118	Requirements for amendment application	7
<i>Division 2—Processing amendment applications</i>		
119	Public notice may be required for amendment of licence (without development approval)	8
120	Public notice process	8
121	Deciding application	9
122	Criteria for decision	9

123	Refusal on ground that replacement environmental authority needed	10
<i>Division 3—Miscellaneous provisions</i>		
124	Steps after making decision	10
125	When amendment takes effect	10
126	Information notice about decision	11
PART 6—DEALINGS WITH ENVIRONMENTAL AUTHORITIES		
<i>Division 1—Required notice to proposed transferee</i>		
127	Notice of disposal by environmental authority holder	11
128	Additional consequences of not giving notice	12
<i>Division 2—Transfers</i>		
128A	Transfer only by approval	12
128B	Requirements for transfer application	12
128C	Amendment application may accompany transfer application	13
128D	Audit statement may be required	13
128E	Deciding application	13
128F	Additional ground for refusal	14
128G	Steps after making decision	14
<i>Division 3—Surrenders</i>		
<i>Subdivision 1—General provisions for surrender</i>		
128H	Surrender only by approval	15
128I	Surrender application must be for whole authority	15
128J	When surrender application required	15
128K	Notice by administering authority to make surrender application	16
128L	Failure to comply with surrender notice	16
<i>Subdivision 2—Making surrender application</i>		
128M	Requirements for surrender application	16
<i>Subdivision 3—Processing surrender applications</i>		
128N	Deciding application	17
128O	Criteria for decision	17
128P	Steps after making decision	18
8	Amendment of s 130 (Other amendments)	18

9	Amendment of s 131 (Conditions)	19
10	Omission of ss 143 and 144	19
11	Amendment of s 145 (Death of licence holder)	20
12	Replacement of ch 6, pt 1 (Integrated authorities)	20
	PART 1—INTEGRATED AUTHORITIES	
	<i>Division 1—Obtaining integrated authority</i>	
	311 Integrated authority may be issued	20
	312 Requirements for integrated authority application	21
	313 IEMS submission—content requirements	22
	314 Requirements for issuing integrated authority.	22
	315 Information notice about decision on integrated authority application	23
	<i>Division 2—Constituent parts</i>	
	315A Constituent parts continue to be environmental authorities.	23
	315B Additional requirement for amending or transferring constituent part	24
	<i>Division 3—Changing integrated authority</i>	
	315C Amendment or cancellation to reflect change to constituent part . . .	24
	315D Adding new constituent part	24
13	Insertion of new ss 318A and 318B	25
	318A Changing anniversary day	25
	318B Special provisions for changeover in anniversary day.	26
14	Amendment of s 322 (When environmental audit required).	26
15	Amendment of s 323 (When environmental investigation required)	26
16	Amendment of s 332 (Administering authority may require draft program)	26
17	Omission of s 341 (Extensions of time for decisions on submission of draft programs)	27
18	Amendment of s 346 (Effect of compliance with program)	27
19	Amendment of s 500 (Fines payable to local government).	27
20	Amendment of s 503 (Recovery of costs of investigation)	27
21	Replacement of ss 516–518.	28
	516 Delegation by chief executive	28

517	Delegation by administering executive or local government chief executive officer	28
	518 Delegation by administering authority.....	28
22	Amendment of s 520 (Dissatisfied person)	29
23	Amendment of s 540 (Required registers)	29
24	Amendment of s 546 (Annual reports)	30
25	Amendment of s 552 (What is the “application date” for application or EMP submission)	30
26	Insertion of new ch 13, pt 4.....	30
	PART 4—TRANSITIONAL PROVISION FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2002	
	618 Section 318A does not apply for transitional authority.....	30
27	Amendment of sch 1 (Original decisions).....	31
28	Amendment of sch 3 (Dictionary).....	31
29	Amendment to omit headings following cross references	33
	PART 3—AMENDMENT OF WATER ACT 2000	
30	Act amended in pt 3.	34
31	Amendment of s 1065 (Application of div 2).....	34
32	Insertion of new s 1065AA	34
	1065AA Additional ground for amending safety condition of environmental authority.....	34
33	Amendment of s 1065A (Transitional provision for dams containing hazardous waste).....	35
34	Insertion of new s 1065AB	36
	1065AB Application of sdiv 2.....	36
	SCHEDULE	37
	MINOR AMENDMENTS OF ENVIRONMENTAL PROTECTION ACT 1994	

Queensland



**Environmental Protection and Other
Legislation Amendment Act 2002**

Act No. 45 of 2002

**An Act to amend the *Environmental Protection Act 1994*, and for other
purposes**

[Assented to 24 September 2002]

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 2002*.

2 Commencement

(1) Part 3 commences, or is taken to have commenced, on 13 September 2002.

(2) The remaining provisions of this Act commence on a day to be fixed by proclamation.

PART 2—AMENDMENT OF ENVIRONMENTAL PROTECTION ACT 1994

3 Act amended in pt 2 and schedule

(1) This part amends the *Environmental Protection Act 1994*.

(2) The schedule also includes amendments of the *Environmental Protection Act 1994*.

4 Amendment of s 109 (Requirements for application)

Section 109—

insert—

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

5 Amendment of s 111 (Criteria for decision)

Section 111(2)(b), subparagraph (iv), second occurring—
omit.

6 Amendment of s 115 (Information notice about decision on conversion application)

Section 115(2)—
omit.

7 Replacement of ch 4, pts 5 and 6

Chapter 4, parts 5 and 6—
omit, insert—

**‘PART 5—AMENDING ENVIRONMENTAL
AUTHORITIES BY APPLICATION*****‘Division 1—Making amendment application*****‘116 Who may apply for amendment**

‘The holder of an environmental authority under this chapter may, at any time, apply to the administering authority to amend the environmental authority (an “**amendment application**”).

‘117 Exclusions from amendment under pt 5

‘A condition of an environmental authority under this chapter about requiring financial assurance can not be amended or discharged under this part.¹

‘118 Requirements for amendment application

‘An amendment application must be—

¹ See section 366 (Application for amendment or discharge of financial assurance).

- (a) in the approved form; and
- (b) supported by enough information to allow the administering authority to decide the application; and
- (c) accompanied by the fee prescribed under a regulation.

‘Division 2—Processing amendment applications

‘119 Public notice may be required for amendment of licence (without development approval)

‘(1) This section applies only if an amendment application relates to a licence (without development approval).

‘(2) The administering authority may, within 5 business days after the application date, by written notice to the applicant, decide that sections 89D to 89J apply for the application (a “**public notice requirement**”).

‘(3) However, a public notice requirement must not be made unless the administering authority is satisfied there is likely to be a substantial increase in the risk of environmental harm under the amended licence because of a substantial change in—

- (a) the quantity or quality of contaminant authorised to be released into the environment; or
- (b) the results of the release of a quantity or quality of contaminant authorised to be released into the environment.

‘(4) Without limiting subsection (3)(a), an increase of 10% or more in the quantity of a contaminant to be released into the environment is a substantial change.

‘(5) The notice must be accompanied by, or include, an information notice about the decision.

‘120 Public notice process

‘(1) If a public notice requirement is made for an amendment application, sections 89D to 89J apply for the application, with necessary changes, as if the application were an application for a licence (without development approval).

‘(2) However, for applying the following sections, the reference in the section to a number of business days after the application date is taken to be—

- (a) for section 89E—15 business days; or
- (b) for section 89G—19 business days.

‘121 Deciding application

‘(1) The administering authority must either grant or refuse each amendment application within the later of the following periods to end—

- (a) 20 business days after the application date;
- (b) if a public notice requirement has been made for the application, the later of the following periods—
 - (i) 20 business days after the authority receives the declaration of compliance;²
 - (ii) 8 business days after the submission period ends.

‘(2) The administering authority may decide to grant an amendment application subject to the applicant’s written agreement to the administering authority amending the environmental authority in a stated way that it considers necessary or desirable.³

‘122 Criteria for decision

‘(1) The administering authority may grant an amendment application if it is satisfied the amendment is necessary or desirable.

‘(2) However, in deciding the application, the administering authority must consider the criteria under part 3 or 4 for deciding an application to obtain the relevant environmental authority.

2 See sections 120 (Public notice process) and 89G (Declaration of compliance).

3 See section 130(1)(a) (Other amendments).

‘123 Refusal on ground that replacement environmental authority needed

‘(1) The administering authority may refuse an amendment application on the ground that it would be more appropriate for the applicant to seek the amendment by replacement of the environmental authority.

‘(2) Subsection (1) does not limit the grounds on which the application may be refused.

‘Division 3—Miscellaneous provisions

‘124 Steps after making decision

‘If the administering authority decides to grant an amendment application, it must do the following within 8 business days after the decision is made—

- (a) amend the environmental authority to give effect to the amendment;
- (b) record particulars of the amendment in the appropriate register;
- (c) give the applicant a copy of the amended environmental authority.

‘125 When amendment takes effect

‘An amendment made under section 124(a) takes effect on the later of the following days—

- (a) the day of the amendment;
- (b) a later day of effect stated in the amended environmental authority;
- (c) another day agreed to by the holder of the environmental authority;
- (d) if a public notice requirement has been made for the application and a properly made submission was made about the application—the day after the review date.

‘126 Information notice about decision

‘(1) The administering authority must, within 8 business days after making a decision as follows, give the applicant an information notice about the decision—

- (a) a decision to refuse an amendment application;
- (b) a decision under section 121(2) to grant an amendment application subject to the applicant’s written agreement to the administering authority amending the environmental authority in a stated way.

‘(2) Subsection (1)(b) does not apply if the applicant has given the written agreement.

‘(3) If the administering authority has made a public notice requirement for an amendment application, it must, within 8 business days after deciding to grant the application, give any submitter for the application an information notice about the decision.

‘PART 6—DEALINGS WITH ENVIRONMENTAL AUTHORITIES

‘Division 1—Required notice to proposed transferee

‘127 Notice of disposal by environmental authority holder

‘(1) This section applies if the holder of an environmental authority under this chapter proposes to dispose of the holder’s business to someone else (the “**proposed transferee**”).

‘(2) Before agreeing to dispose of the business, the holder must give the proposed transferee written notice that the proposed transferee must—

- (a) make a transfer application for the authority; or
- (b) apply for a new environmental authority.

Maximum penalty for subsection (2)—50 penalty units.

‘128 Additional consequences of not giving notice

‘(1) This section applies if section 127 applies and the environmental holder does not comply with section 127(2).

‘(2) The proposed transferee may, by written notice, rescind the agreement before the completion of the agreement or possession under the agreement, whichever is the earlier.

‘(3) On the rescission of the agreement—

- (a) a person who was paid amounts by the proposed transferee under the agreement must refund the amounts to the proposed transferee; and
- (b) the proposed transferee must return to the holder any documents about the disposal, other than the proposed transferee’s copy of the agreement.

‘(4) This section has effect despite any other Act or anything to the contrary in the agreement.

‘Division 2—Transfers

‘128A Transfer only by approval

‘An environmental authority under this chapter may be transferred only if—

- (a) an application for the transfer has been made under this division (a “**transfer application**”); and
- (b) the administering authority has approved the transfer.

‘128B Requirements for transfer application

‘A transfer application must be—

- (a) made to the administering authority in the approved form; and
- (b) made by the following (the “**applicants**”)—
 - (i) the holder of the environmental authority;
 - (ii) the proposed transferee; and

- (c) supported by enough information to allow the administering authority to decide the application; and
- (d) accompanied by the fee prescribed under a regulation.

‘128C Amendment application may accompany transfer application

‘(1) The applicants may, together with the transfer application, make an amendment application for the environmental authority.

‘(2) Part 5 applies, with necessary changes, to the amendment application as if a reference to the environmental authority holder included a reference to the proposed transferee.

‘(3) However, the amendment application must not be granted before the transfer application is granted or if the transfer application is refused.

‘128D Audit statement may be required

‘(1) The administering authority may, within 20 business days after the transfer application is made, require the applicants to give it an audit statement for the environmental authority.

‘(2) The audit statement must—

- (a) be made by or for the environmental authority holder; and
- (b) state the extent to which activities carried out under the environmental authority have complied with its conditions.

‘128E Deciding application

‘The administering authority must, within the later of the following periods to end, consider each transfer application and decide either to approve or refuse the transfer—

- (a) 20 business days after the application date;
- (b) if, under section 128D, an audit statement has been required in relation to the application—10 business days after the administering authority receives the statement.

‘128F Additional ground for refusal

‘(1) The administering authority may refuse a transfer application if—

- (a) the applicants did not, under section 128C(1), apply to amend the relevant environmental authority; and
- (b) the administering authority is satisfied that, if the application were to be granted, a ground for amending the environmental authority under section 130 would exist.

‘(2) This section does not limit or otherwise affect section 128E.

‘128G Steps after making decision

‘(1) If the administering authority decides to approve a transfer, it must, within 8 business days after the decision is made—

- (a) amend the environmental authority to give effect to the transfer; and
- (b) record particulars of the transfer in the appropriate register; and
- (c) give the transferee a copy of the transferred environmental authority.

‘(2) The transfer takes effect on the later of the following days—

- (a) the day the decision is made;
- (b) another day agreed to by the transferee;
- (c) a later day of effect stated in the transferred environmental authority.

‘(3) If the authority decides to refuse a transfer, it must, within 8 business days after the decision is made, give the applicants for the transfer an information notice about the decision.

‘Division 3—Surrenders

‘Subdivision 1—General provisions for surrender

‘128H Surrender only by approval

‘(1) An environmental authority under this chapter may, subject to section 128I, be surrendered only if—

- (a) an application for the surrender has been made under subdivision 2 (a “**surrender application**”); and
- (b) the administering authority has approved the surrender.

‘(2) A holder of an environmental authority under this chapter must make a surrender application if required under section 128K.

‘(3) The holder may make a surrender application at any other time.

‘128I Surrender application must be for whole authority

‘A surrender application must be for the whole of the relevant environmental authority.

‘128J When surrender application required

‘(1) If the holder of an environmental authority under this chapter abandons the carrying out of an environmentally relevant activity to which the authority relates, the holder must, within 22 business days, make a surrender application for the authority.

‘(2) For subsection (1), a holder is taken to have abandoned an activity to which a licence (with development approval) relates—

- (a) if the development approval lapses; or
- (b) if the development application for the development approval has been refused, on the later of the following to happen—
 - (i) the end of the period under the Integrated Planning Act to appeal against the refusal;
 - (ii) the ending of any appeal against the refusal.

‘(3) Subsection (2)(b) does not apply if, as a result of an appeal, the development approval is granted.

‘128K Notice by administering authority to make surrender application

‘(1) This section applies if section 128J applies to the holder of an environmental authority and the holder has not complied with the section.

‘(2) The administering authority may, by written notice (a “**surrender notice**”), require the holder to make a surrender application for the environmental authority within a stated period of at least 10 business days.

‘(3) The surrender notice must be accompanied by, or include, an information notice about the authority’s decisions to make the requirement and to fix the stated period.

‘128L Failure to comply with surrender notice

‘A person to whom a surrender notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘Subdivision 2—Making surrender application

‘128M Requirements for surrender application

‘(1) A surrender application must be—

- (a) in the approved form; and
- (b) supported by enough information to allow the administering authority to decide the application; and
- (c) accompanied by—
 - (i) an audit statement for the environmental authority; and
 - (ii) the fee prescribed under a regulation.

‘(2) The audit statement must—

- (a) be made by or for the environmental authority holder; and

- (b) state the extent to which activities carried out under the environmental authority have complied with the conditions of the authority.

‘Subdivision 3—Processing surrender applications

‘128N Deciding application

‘The administering authority must consider each surrender application and, within 20 business days after the application is received by the administering authority, either approve or refuse the surrender.

‘128O Criteria for decision

‘(1) In deciding a surrender application, the administering authority must—

- (a) comply with any relevant EPP requirement; and
- (b) subject to paragraph (a), consider—
 - (i) the standard criteria; and
 - (ii) the audit statement for the environmental authority the subject of the application; and
 - (iii) another matter prescribed under an environmental protection policy or regulation.

‘(2) The administering authority may grant the application only if—

- (a) it is satisfied the conditions of the environmental authority have been complied with; or
- (b) it is satisfied the land to which the surrender application relates has been satisfactorily rehabilitated; or
- (c) it has approved an environmental management program and it is satisfied the land will be satisfactorily rehabilitated under the program; or
- (d) a suitability statement has been given for the land and—

- (i) the land has been removed from the environmental management register; or
- (ii) a site management plan has been approved for the land.

‘128P Steps after making decision

‘The administering authority must, within 10 business days after deciding a surrender application—

- (a) if the decision is to approve the surrender—
 - (i) record particulars of the surrender in the appropriate register; and
 - (ii) give the applicant written notice of the decision; or
- (b) if the decision is to refuse the surrender—give the applicant an information notice about the decision.’.

8 Amendment of s 130 (Other amendments)

(1) Section 130(1), from ‘, other than’ to ‘level 2 approval,’—
omit.

(2) Sections 130(2)(g) and (h)—
renumber as sections 130(2)(h) and (i).

(3) Section 130(2)—
insert—

- ‘(g) a report made by or for, or approved by, a recognised entity if the report—
 - (i) is relevant to the environmental authority or an activity carried out under it; and
 - (ii) if the administering authority is not the chief executive—has been accepted by the chief executive;’.

(4) Section 130—
insert—

‘(3) In this section—

“recognised entity” means any of the following—

- (a) the administering authority;
- (b) the department in which the *Fisheries Act 1994* or *Water Act 2000* is administered;
- (c) a local government;
- (d) a public authority;
- (e) an agency, however called, established under a corresponding law with similar functions to the functions of the chief executive;
- (f) a ministerial council established by the Council of Australian Governments;
- (g) the Commonwealth Scientific and Industrial Research Organisation;
- (h) a cooperative research centre completely or partly funded by the Commonwealth;
- (i) an Australian university.’.

9 Amendment of s 131 (Conditions)

(1) Section 131(1), ‘, other than a level 2 approval,’—

omit.

(2) Section 131(3), ‘the events are as follows’—

omit, insert—

‘the event is any of the following’.

(3) Section 131(3)(d), after ‘annual notice’—

insert—

‘or surrender notice’.

10 Omission of ss 143 and 144

Sections 143 and 144—

omit.

11 Amendment of s 145 (Death of licence holder)

(1) Section 145, heading ‘licence’—

omit, insert—

‘**environmental authority**’.

(2) Section 145(1), ‘a licence holder’—

omit, insert—

‘the holder of an environmental authority under this chapter’.

(3) Section 145(1), ‘licence’, second mention—

omit, insert—

‘authority’.

(4) Section 145(2) and (3), ‘authority’—

omit, insert—

‘administering authority’.

12 Replacement of ch 6, pt 1 (Integrated authorities)

Chapter 6, part 1—

omit, insert—

‘PART 1—INTEGRATED AUTHORITIES***‘Division 1—Obtaining integrated authority*****‘311 Integrated authority may be issued**

‘(1) The administering authority may, subject to section 312, accept a single application (an “**integrated authority application**”) for environmental authorities from an applicant for—

- (a) different environmentally relevant activities carried out by the applicant; or
- (b) environmentally relevant activities carried out by the applicant at different places.

‘(2) An integrated authority application may also be made for environmentally relevant activities for which the applicant already holds an environmental authority or authorities (an “**existing authority**”).

‘(3) Subsections (1) and (2) apply for any type or types of environmental authority under chapter 4 or 5,⁴ in any combination.

‘(4) Subsection (5) applies if there is more than 1 of the activities for which—

- (a) there is an existing authority; or
- (b) the administering authority has, under chapter 4 or 5, decided to grant an environmental authority application.

‘(5) Subject to section 314, the administering authority may—

- (a) continue, or issue, environmental authorities for the activities, on separate documents; or
- (b) continue, or issue, environmental authorities for some of the activities on separate documents and issue a single document that contains environmental authorities for the rest of the activities; or
- (c) issue a single document that contains environmental authorities for all the activities.

‘(6) A single document issued under subsection (5)(b) or (c) is called an “**integrated authority**”.

‘(7) An environmental authority that forms part of an integrated authority is called a “**constituent part**” of the integrated authority.

‘312 Requirements for integrated authority application

‘(1) An integrated authority application must be—

- (a) in the approved form; and
- (b) accompanied by a submission (an “**IEMS submission**”) for an integrated environmental management system for the environmentally relevant activities the subject of the application.

‘(2) The IEMS submission must comply with section 313.

4 Chapters 4 (Development approvals and environmental authorities other than for mining activities) or 5 (Environmental authorities for mining activities)

‘(3) The application must comply with the requirements that, under chapter 4 or 5, apply for an application for each constituent part of the proposed integrated authority.

‘313 IEMS submission—content requirements

‘(1) An IEMS submission must address the following matters about carrying out the activities the subject of the application—

- (a) the monitoring of releases of contaminants into the environment and an environmental assessment of the releases;
- (b) staff training and awareness of environmental issues;
- (c) the conduct of environmental and energy audits;
- (d) waste prevention, treatment and disposal;
- (e) a program for continuous improvement;
- (f) reporting arrangements on the effectiveness of the environmental management of the activities.

‘(2) The submission may address a matter mentioned in subsection (1) by reference to a relevant EIS or environmental management document.

‘314 Requirements for issuing integrated authority

‘(1) Subsection (2) applies if—

- (a) the administering authority decides to issue an integrated authority; and
- (b) the person who applied for the integrated authority already holds an environmental authority (the “**existing authority**”) for an environmentally relevant activity the subject of the application.

‘(2) The administering authority must, before issuing the integrated authority—

- (a) if the integrated authority, when issued, will apply to all environmentally relevant activities for which the existing authority was issued—cancel the existing authority; or
- (b) otherwise—amend the existing authority so that it does not apply to any environmentally relevant activity to which the integrated authority, when issued, will apply.

‘(3) Subsection (2) applies despite a requirement under this Act about how the administering authority may amend or cancel the earlier authority.

‘(4) The integrated authority must state—

(a) for each of its constituent parts—

(i) the type of environmental authority that it is; and

(ii) each environmentally relevant activity for which it is given; and

(iii) the conditions that apply to it; and

(b) an anniversary day, fixed by the administering authority, for all of its constituent parts.⁵

‘(5) The day fixed under subsection (4)(b) must be the same for all the constituent parts.

‘315 Information notice about decision on integrated authority application

‘If the administering authority makes a decision as follows about an integrated authority application it must, within 10 business days after the decision is made, give the applicant an information notice about the decision—

(a) a decision not to issue the integrated authority;

(b) a decision to issue an integrated authority that is different to the integrated authority applied for.

‘Division 2—Constituent parts

‘315A Constituent parts continue to be environmental authorities

‘(1) Each constituent part of an integrated authority is, and continues to be, an environmental authority of the type stated in the integrated authority.

‘(2) Subject to sections 315B to 315D, the relevant provisions of chapter 4 or 5 continue to apply to each constituent part.

⁵ See also, section 318A(7) (Changing anniversary day).

‘315B Additional requirement for amending or transferring constituent part

‘(1) An application under chapter 4 or 5 to amend or transfer a constituent part of an integrated authority must be accompanied by an amended IEMS submission for the integrated authority.

‘(2) The amended submission must reflect the proposed amendment or transfer.

‘Division 3—Changing integrated authority

‘315C Amendment or cancellation to reflect change to constituent part

‘(1) If a constituent part of an integrated authority changes, the administering authority must amend the integrated authority to give effect to the change to the constituent part.

‘(2) The administering authority must cancel an integrated authority if it ceases to have any constituent part.

‘(3) In this section—

“**change**” means amend, cancel, surrender or transfer.

‘315D Adding new constituent part

‘(1) This section applies if an integrated authority holder applies for, or has been issued, an environmental authority (the “**new authority**”) for an environmentally relevant activity to which none of its constituent parts apply.

‘(2) The holder may apply to the administering authority to amend the integrated authority to include the new authority as a constituent part of the integrated authority.

‘(3) The amendment application must be in the approved form and accompanied by the fee prescribed under a regulation.

‘(4) Division 1 applies for an amendment application, with necessary changes, as if a reference to an integrated authority application were a reference to an amendment application.

‘(5) This section does not affect any provision of chapter 4 or 5 that applies for the obtaining of the new authority.’.

13 Insertion of new ss 318A and 318B

Chapter 6—

insert—

‘318A Changing anniversary day

‘(1) The holder of an environmental authority may apply to the administering authority to change the anniversary day for the environmental authority to another day of each year (the “**new day**”).⁶

‘(2) The application must be in the approved form and accompanied by the fee prescribed under a regulation.

‘(3) The administering authority must, within 20 business days after the application is made, decide whether or not to change the anniversary day to the new day.

‘(4) The administering authority must, within 8 business days after the decision is made, give the holder—

- (a) if the decision is to change the day—written notice of the decision; or
- (b) if the decision is not to change the day—an information notice about the decision.

‘(5) A decision under subsection (3) to change the anniversary day takes effect on the later of the following days—

- (a) the day the holder is given notice of the decision;
- (b) a later day of effect stated in the notice.

‘(6) The administering authority may, if the holder of an environmental authority agrees in writing, change the anniversary day for the environmental authority to another day of each year (also the “**new day**”).

‘(7) However, despite subsections (1) to (6), if the environmental authority is a constituent part of an integrated authority, the anniversary day may be changed only if the anniversary day for all constituent parts of the integrated authority is changed to the new day.

⁶ See however, section 617 (Section 318A does not apply for transitional authority).

‘318B Special provisions for changeover in anniversary day

‘(1) If the anniversary day for an environmental authority is changed under section 318A—

- (a) the period from its last anniversary day before the change to its first anniversary day after the change (an “**interim year**”) is taken to be a year for the environmental authority; and
- (b) the administering authority’s obligation under section 316(2) to give an annual notice does not apply for the first anniversary day after the change.

‘(2) A different form may be approved under section 316(2)(b) for an annual return for an interim year than for other years.’.

14 Amendment of s 322 (When environmental audit required)

Section 322(1)(a), ‘, other than a level 1 or 2 approval,’—

omit.

15 Amendment of s 323 (When environmental investigation required)

Section 323(1)(b), ‘serious or material’—

omit.

16 Amendment of s 332 (Administering authority may require draft program)

(1) Section 332(1) from ‘management program’—

omit, insert—

‘management program—

- (a) as a condition of an environmental authority, other than a level 1 approval; or
- (b) as a development condition of a development approval.’.

(2) Section 332(2)—

insert—

‘(d) a development condition of a development approval is, or has been, contravened and the person or public authority is—

- (i) an owner of the land for which the approval is granted; or
- (ii) another person in whom the benefit of the approval vests.’.

(3) Section 332—

insert—

‘**(5)** A person of whom a requirement under subsection (1) or (2) has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—100 penalty units.’.

17 Omission of s 341 (Extensions of time for decisions on submission of draft programs)

Section 341—

omit.

18 Amendment of s 346 (Effect of compliance with program)

Section 346(2)(a) and (3)(a), ‘or 2’—

omit.

19 Amendment of s 500 (Fines payable to local government)

Section 500(1)(a) after ‘devolved’—

insert—

‘or delegated’.

20 Amendment of s 503 (Recovery of costs of investigation)

(1) Section 503(1)(b), after ‘costs and expenses in’—

insert—

‘investigating the offence, including, for example,’.

(2) Section 503(1)(b), ‘of the offence’—
omit.

21 Replacement of ss 516–518

Sections 516 to 518—

omit, insert—

‘516 Delegation by chief executive

‘(1) The chief executive may delegate the executive’s powers under this Act as the chief executive to—

- (a) an appropriately qualified—
 - (i) authorised person; or
 - (ii) public service officer; or
- (b) a local government.

‘(2) A delegation of a chief executive’s power to a local government may permit the subdelegation of the power to an appropriately qualified entity.

‘517 Delegation by administering executive or local government chief executive officer

‘(1) The chief executive’s powers under this Act as the administering executive may be delegated or subdelegated in the same way as the chief executive’s powers may be delegated or subdelegated under section 516.

‘(2) A local government’s chief executive officer may delegate the officer’s powers under this Act, as the administering executive or otherwise, to an appropriately qualified employee of the local government.

‘(3) A delegation under subsection (2) of a power of a local government’s chief executive officer to an employee of a local government may permit the subdelegation of the power to another appropriately qualified employee of the local government.

‘518 Delegation by administering authority

‘(1) An administering authority may—

- (a) if the authority is the chief executive—delegate the authority’s powers under this Act to—
 - (i) an authorised person or public service officer; or
 - (ii) a local government; or
- (b) if the authority is a local government—by resolution, delegate the authority’s powers under this Act to an appropriately qualified entity.

‘(2) A delegation of a power as follows may permit the subdelegation of the power to an appropriately qualified entity—

- (a) a power of the chief executive, as the administering authority, delegated to a local government;
- (b) a power of a local government as the administering authority.’.

22 Amendment of s 520 (Dissatisfied person)

(1) Section 520(1)(c), ‘chapter 5, part 9’—

omit, insert—

‘chapter 4 or 5’.

(2) Section 520(1)(d) to (r)—

renumber as section 520(1)(e) to (s).

(3) Section 520(1)—

insert—

- ‘(d) if the decision is about an integrated authority application—the applicant for the authority; or’.

23 Amendment of s 540 (Required registers)

(1) Section 540(1)(d) to (o)—

renumber as section 540(1)(e) to (p).

(2) Section 540(1)—

insert—

- ‘(d) in relation to chapter 4, the following—

- (i) transfers of environmental authorities;
- (ii) surrenders of environmental authorities;
- (iii) reports the chief executive accepts under section 130(2)(g)(ii);’.

(3) Section 540(1)(i), as renumbered, ‘paragraph (g)’—
omit, insert—
‘paragraph (h)’.

24 Amendment of s 546 (Annual reports)

Section 546(4), ‘3 months’—
omit, insert—
‘4 months’.

25 Amendment of s 552 (What is the “application date” for application or EMP submission)

Section 552(1)(a), ‘to amend or transfer’—
omit, insert—
‘for, or to amend or transfer,’.

26 Insertion of new ch 13, pt 4

Chapter 13—
insert—

**‘PART 4—TRANSITIONAL PROVISION FOR
ENVIRONMENTAL PROTECTION AND OTHER
LEGISLATION AMENDMENT ACT 2002**

‘618 Section 318A does not apply for transitional authority

‘(1) The anniversary day for an environmental authority (mining activities) that, under section 592, is a transitional authority can not be changed under section 318A.

‘(2) Subsection (1) ceases to apply if the authority ceases to be a transitional authority under section 592(2).’.

27 Amendment of sch 1 (Original decisions)

(1) Schedule 1, part 2, division 1—

insert—

‘121(2) Decision to grant an amendment application subject to the applicant’s written agreement to the administering authority amending the environmental authority in a stated way

128K(2) Decision to give surrender notice

128K(2) Fixing of period for compliance with surrender notice

128N Refusal of surrender application’.

(2) Schedule 1, part 2, divisions 3, 4 and 5—

renumber as schedule 1, part 2, divisions 4, 5 and 6 respectively.

(3) Schedule 1, part 2—

insert—

‘Division 3—Decisions under chapter 6

‘311(5)(a) Decision not to issue integrated authority

311(5)(b) Decision to issue integrated authority different to integrated authority applied for

318A(3) Decision not to change anniversary day’.

28 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definitions “**amendment application**”, “**anniversary day**”, “**applicants**”, “**appropriately qualified**”, “**schedule 8 development**”, “**surrender application**” and “**surrender notice**”—

omit.

(2) Schedule 3—

insert—

‘ **“amendment application”** for—

- (a) chapter 4—see section 116; or
- (b) chapter 5—see section 238.

“anniversary day”—

1. Generally, the “anniversary day”, for an environmental authority means each anniversary of the day the authority is issued.⁷
2. However, if an environmental authority is a constituent part of an integrated authority, the “anniversary day” for the environmental authority is the day fixed under section 314(4)(b).
3. Also, if the anniversary day for an environmental authority is changed under section 318A, the “anniversary day” for the authority is the day as changed.
4. The anniversary day for an environmental authority does not change merely because the authority is amended or transferred.

“applicants” for—

- (a) chapter 4, part 6, division 2—see section 128B(b); or
- (b) chapter 5, part 9—see section 260(1)(b).

“appropriately qualified”—

1. “Appropriately qualified”, for an entity to whom a power under this Act may be delegated or subdelegated, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of ‘standing’—

A person’s classification level in the public service.

2. If the power may be delegated or subdelegated by a local government, the following are “appropriately qualified” entities for the delegation or subdelegation—
 - (a) the local government’s mayor;
 - (b) a standing committee or a chairperson of a standing committee of the local government;

⁷ See, however, section 602 (Anniversary day for certain transitional authorities).

- (c) the local government's chief executive officer;
- (d) an employee of the local government, having the qualifications, experience or standing appropriate to exercise the power.

Example of 'standing' for paragraph (d)—

The employee's classification level in the local government.

“constituent part”, of an integrated authority, see section 311(7).

“integrated authority application” see section 311(1).

“schedule 8 development” means a material change of use of premises for an environmentally relevant activity that, under section 75, is taken to be development for the Integrated Planning Act, schedule 8, part 1, item 6.

“surrender application” for—

- (a) chapter 4—see section 128H(1)(a); or
- (b) chapter 5—see section 268(1)(a).

“surrender notice” for—

- (a) chapter 4—see section 128K(2); or
- (b) chapter 5—see section 271(2).

(3) Schedule 3, definition **“hazardous contaminant”**, ‘, other than unexploded ordnance,’—

omit.

29 Amendment to omit headings following cross references

(1) This section applies to a section containing a cross reference to a provision of the Act followed by the heading to the provision in round brackets.

(2) The section is amended by omitting the brackets and the words in the brackets.

PART 3—AMENDMENT OF WATER ACT 2000

30 Act amended in pt 3

This part amends the *Water Act 2000*.

31 Amendment of s 1065 (Application of div 2)

(1) Section 1065, heading, ‘*div 2*’—

omit, insert—

‘*sdiv 1*’.

(2) Section 1065(1), ‘This division does not apply’—

omit, insert—

‘This subdivision applies’.

(3) Section 1065(2), ‘that, on and from the commencement’—

omit, insert—

‘that on and from the commencement’.

32 Insertion of new s 1065AA

After section 1065—

insert—

‘1065AA Additional ground for amending safety condition of environmental authority

‘(1) This section applies for a condition that, under section 1065(3)(c), is taken to be a condition of an environmental authority.

‘(2) If the administering authority under the *Environmental Protection Act 1994* forms the opinion that the condition is not, or has ceased to be, appropriate for that Act, the opinion is a ground for amending the condition under section 130, 291 or 292 of that Act.

‘(3) Subsection (2) applies as well as any other ground provided for under the sections and any additional ground for amendment provided for under section 605 of that Act.’.

33 Amendment of s 1065A (Transitional provision for dams containing hazardous waste)

(1) Section 1065A, ‘section 1065(2) and (3)’—

omit, insert—

‘section 1065’.

(2) Section 1065A(1)(a), after ‘waste’—

insert—

‘or for an application for or about a proposed dam that, after its construction, will contain hazardous waste’.

(3) Section 1065A(1)(b) and (c), after ‘dam’—

insert—

‘or proposed dam’.

(4) Section 1065A(4)—

renumber as section 1065A(5).

(5) Section 1065A(3)—

omit, insert—

‘(3) On the commencement of section 1065—

- (a) any part of the application that is for or about a licence or permit to take or interfere with the flow of water is taken to be an application to which section 1048(2) applied; and
- (b) the rest of the application is taken to be an application for an appropriate environmental authority under the *Environmental Protection Act 1994* to carry out environmentally relevant activities in relation to the dam, or proposed dam.

‘(4) The *Environmental Protection Act 1994* applies to the application mentioned in subsection (3)(b)—

- (a) with necessary changes; and
- (b) as if the application date for the application is the day section 1065 commences.’.

34 Insertion of new s 1065AB

Chapter 9, part 2, division 2, subdivision 2—

insert—

‘1065AB Application of sdiv 2

‘This subdivision applies to a dam, other than a dam to which subdivision 1 applies.’.

SCHEDULE

MINOR AMENDMENTS OF ENVIRONMENTAL PROTECTION ACT 1994

section 3(2)

1 Section 2—

omit.

2 Sections 29(3) and 31(3), ‘40 days’—

omit, insert—

‘30 business days’.

3 Section 60(1A) and (2)—

renumber as section 60(2) and (3).

4 Section 74(1)(e)—

omit, insert—

‘(e) a constituent part of an integrated authority, if the constituent part is an environmental authority mentioned in paragraphs (a) to (d).⁸’.

5 Sections 82(c), 89(c), 98(2)(d), 100(c) and 154(1)(d), ‘accompanied by the prescribed fee that, under a regulation, must accompany the application’—

omit, insert—

‘accompanied by the fee prescribed under a regulation’.

⁸ See section 315A (Constituent parts continue to be environmental authorities).

SCHEDULE (continued)

- 6 Sections 83, 90, 101, 110, 326(1), 337(1), 355(2)(a), 365(4), 366(6)(b), 369B(5), 378(3), 384(1), 392(3), 396(1), 407(3) and 412, ‘28 days’—**

omit, insert—

‘20 business days’.

- 7 Sections 83 and 145(2), ‘consider the application and decide whether to grant or refuse it’—**

omit, insert—

‘decide either to grant or refuse the application’.

- 8 Sections 86(1), 34CD(2)(b), 34CF(3)(b), 90(c), 93(1), 95, 104(1), 107, 113, 115, 136(1), 137, 138, 139(2), 322(2), 323(2), 339(2), 374(5), 378(5), 384(3), 386, 392(5), 397(1), 407(5), 413(2) and (4), 414, 420(3), 422(1) and (4), 424(5), 533(1) and 552(3), ‘10 days’—**

omit, insert—

‘8 business days’.

- 9 Sections 88, definition “submission period” and 34CF, ‘34CD’—**

omit, insert—

‘89F’.

- 10 Sections 88, definition “submission period”, 34CB(2), 34CC(2) and schedule 1, part 2, division 1, ‘34CF’—**

omit, insert—

‘89H’.

- 11 Sections 34CC(1), 335(2) and 552(4), ‘2 days’—**

omit, insert—

‘2 business days’.

SCHEDULE (continued)

- 12 Sections 34CD(2)(b), 34CE(1), 34CF(1) and (3)(a) and schedule 3, definition “application notice”, ‘34CC’—**
omit, insert—
‘89E’.
- 13 Section 34CE(1), ‘section 34CC and 34CD’—**
omit, insert—
‘sections 89E and 89F’.
- 14 Sections 34CE(1), 380(2)(b), 394(2)(b), 409(2)(b), 454(3)(b), 455(2)(b), 498(b) and 521(4), ‘7 days’—**
omit, insert—
‘5 business days’.
- 15 Sections 34CB to 34CH and 34EH—**
renumber as 89D to 89J and 140A respectively.
- 16 Section 90(b), ‘34CE’—**
omit, insert—
‘89G’.
- 17 Sections 90 and 101, ‘consider and decide whether to grant or refuse the application’—**
omit, insert—
‘decide either to grant or refuse the application’.
- 18 Section 91(b)(iii), second occurring, and (iv)—**
renumber as 91(b)(iv) and (v).

SCHEDULE (continued)

- 19 Sections 97(1), 133(2), 316(2), 345, 365(2)(d), 371(1) and (2), 372(1) and (2), 373(4)(f), 391(5)(e), 525(1) and 532(2)(b), ‘30 days’—**

omit, insert—

‘22 business days’.

- 20 Section 106(1)(a), ‘section 128’—**

omit, insert—

‘part 6, division 3’.

- 21 Section 106(2), after ‘unless it is’—**

insert—

‘surrendered under part 6, division 3 or’.

- 22 Section 106(3), after ‘period stated in it’—**

insert—

‘unless it is earlier surrendered under part 6, division 3 or cancelled or suspended under part 7’.

- 23 Sections 107(2), 145(3), 369A(7) and 369B(7), ‘making the decision’—**

omit, insert—

‘the decision is made’.

- 24 Section 110, ‘whether’—**

omit, insert—

‘either’.

SCHEDULE (continued)

- 25 Sections 130(2)(h), as renumbered and 131(3)(b), ‘for’—**
omit.
- 26 Sections 136(1) and 298(1), ‘making the proposed action decision’—**
omit, insert—
‘the proposed action decision is made’.
- 27 Section 150(g), ‘has, under’ to ‘included in,’—**
omit, insert—
‘is, or includes,’.
- 28 Section 150(g)(ii)—**
omit, insert—
‘(ii) the Coordinator-General’s report evaluating the EIS for the project;’.
- 29 Section 164(1A) to (3)—**
renumber as section 164(2) to (4).
- 30 Section 165(1A) to (6)—**
renumber as section 165(2) to (7).
- 31 Section 181(1)(a), ‘grant or refuse the application’—**
omit, insert—
‘grant or refuse it’.

SCHEDULE (continued)

- 32 Section 205(1A) to (3)—**
renumber as section 205(1) to (4).
- 33 Section 210(2A) and (3)—**
renumber as section 210(3) and (4).
- 34 Section 216(2A) to (4)—**
renumber as section 216(3) to (5).
- 35 Section 222(1A) and (2)—**
renumber as section 222(2) and (3).
- 36 Section 263(b), ‘if the application is granted’—**
omit, insert—
‘if the application were to be granted’.
- 37 Section 279, ‘the application’—**
omit, insert—
‘the surrender’.
- 38 Section 292(1)(a), after ‘desirable’—**
insert—
‘because of a ground mentioned in subsection (2)’.
- 39 Section 292(2), words before paragraph (a)—**
omit, insert—

SCHEDULE (continued)

‘(2) For subsection (1)(a), the grounds are that the administering authority considers the amendment necessary or desirable because of any of the following—’.

40 Section 305(1)(f), ‘section 29W’—

omit, insert—

‘section 49(1)’.

41 Sections 347(6), 348, 352(1), 362(6), 363, 424(3), 498(a), 521(2)(a)(i), (5) and (8), 533(2), and 552(2), ‘14 days’—

omit, insert—

‘10 business days’.

42 Section 369A(5), ‘60 days’—

omit, insert—

‘44 business days’.

43 Section 373(1), example, ‘Mineral Resources Act 1989’—

omit, insert—

‘Mineral Resources Act’.

44 Sections 431(2) and 433(3), ‘complied’—

omit, insert—

‘complies’.

45 Section 520(2), ‘chapter 2B’—

omit, insert—

‘chapter 4’.

SCHEDULE (continued)

46 Section 532(2)(a), ‘45 days’—*omit, insert—*

‘33 business days’.

47 Section 560(3), ‘administering’—*omit, insert—*

‘authority’.

48 Chapter 13, parts 1 and 2, headings, ‘PROVISIONS’—*omit, insert—*

‘TRANSITIONAL PROVISIONS’.

49 Sections 595 and 596, headings, ‘or surrender’—*omit, insert—*

‘, surrender or transfer’.

50 Section 600(4), ‘Section 540(1)(d)(vi)’—*omit, insert—*

‘Section 540(1)(e)(iv)’.

51 Section 616, heading—*omit, insert—***‘616 Reference to renumbered provision’.****52 Section 616(2) and (3)—***renumber* as section 616(1) and (2)

SCHEDULE (continued)

53 Schedule 1, part 2, division 1, ‘118’—*omit, insert—*

‘121’.

54 Schedule 1, part 2, division 1, ‘126’—*omit, insert—*

‘128E’.

55 Schedule 1, part 2, division 1 and schedule 3, definition “public notice requirement”, ‘34DK(2)’—*omit, insert—*

‘119(2)’.

56 Schedule 3, definition “approval”, ‘chapter 7, part 4 or 4A’—*omit, insert—*

‘chapter 4’.

57 Schedule 3, definition “assessment period”, paragraph (b), ‘section 205(2)’—*omit, insert—*

‘section 205(3)’.

58 Schedule 3, definition “contaminated land register”, ‘section 540(1)(e)(ii)’—*omit, insert—*

‘section 540(1)(f)(ii)’.

SCHEDULE (continued)

- 59** Schedule 3, definition “Coordinator-General’s report”,
‘section 29K’—
omit, insert—
‘section 35’.
- 60** Schedule 3, definition “EMOS assessment report”,
‘section 205(1)’—
omit, insert—
‘section 205(2)’.
- 61** Schedule 3, definition “environmental management register”,
‘section 540(1)(e)(i)’—
omit, insert—
‘section 540(1)(f)(i)’.
- 62** Schedule 3, definition “IEMS submission”, ‘section 312(2)(a)’—
omit, insert—
‘section 312(1)(b)’.
- 63** Schedule 3, definition “integrated authority”, ‘section 311(4)’—
omit, insert—
‘section 311(6)’.
- 64** Schedule 3, definition “notifiable activity”, ‘schedule 3’—
omit, insert—
‘schedule 2’.

SCHEDULE (continued)

- 65** Schedule 3, definition “properly made submission”, paragraph (b), ‘section 34CH’—
omit, insert—
‘section 89J’.
- 66** Schedule 3, definition “proposed transferee”, ‘section 123(1)’—
omit, insert—
‘section 127(1)’.
- 67** Schedule 3, definition “public notice requirements”, ‘part 6—’—
omit, insert—
‘part 6,’.
- 68** Schedule 3, definition “significant project”, ‘section 29B’—
omit, insert—
‘section 26’
- 69** Schedule 3, definition “transfer application”, paragraph (a), ‘section 124(a)’—
omit, insert—
‘section 128A(a)’.