

**Legislative Council—No 88**

As introduced and read a first time, 23 March 2011

South Australia

**Environment Protection (Access to Information)  
Amendment Bill 2011**

A BILL FOR

An Act to amend the *Environment Protection Act 1993*.

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## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

### Part 2—Amendment of *Environment Protection Act 1993*

- 4 Amendment of section 109—Public register
  - 5 Amendment of section 140—Regulations
  - 6 Insertion of Schedule 2
- Schedule 2—Matters to be recorded in public register
- 1 Matters to be recorded in public register
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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Environment Protection (Access to Information) Amendment Bill 2011*.

#### 5 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

#### 3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

### 10 Part 2—Amendment of *Environment Protection Act 1993*

#### 4—Amendment of section 109—Public register

- (1) Section 109(3)—delete the subsection and substitute:
  - (3) The Authority must record in the register the matters specified in Schedule 2.

- 15 (2) Section 109(3a)—delete "three months" and substitute:
  - 7 days

- (3) Section 109(4)—delete "three months" and substitute:
  - 7 days

- 20 (4) Section 109(5)—delete "kept available for inspection, on payment of the prescribed fee" and insert:
  - published on the Internet and be kept available for inspection, free of charge

(5) Section 109(7)—delete the subsection

### **5—Amendment of section 140—Regulations**

Section 140(2)—after paragraph (a) insert:

(ab) include provisions in Schedule 2;

### **6—Insertion of Schedule 2**

After Schedule 1 insert:

## **Schedule 2—Matters to be recorded in public register**

### **1—Matters to be recorded in public register**

- 10                   (1) The following matters must be recorded in the public register:
- 15                   (a) details of any exemptions granted by the Authority under section 36(2) of this Act;
  - (b) subject to this clause, such information as the Authority considers appropriate relating to each application for an environmental authorisation, each application for development authorisation referred to the Authority under the *Development Act 1993* and each application for approval of a transfer of an environmental authorisation;
  - 20                   (c) each determination of the Authority made in respect of an application referred to in paragraph (b);
  - (d) the name and address of each person holding an environmental authorisation and each person granted a development authorisation on an application referred to the Authority under the *Development Act 1993*;
  - 25                   (e) the locations at which activities are or are proposed to be undertaken pursuant to environmental authorisations or pursuant to development authorisations referred to the Authority under the *Development Act 1993*;
  - 30                   (f) the conditions of each environmental authorisation and the conditions of each development authorisation imposed at the direction of the Authority;
  - (g) details of each written submission by the Authority relating to applications for development authorisation referred to the Authority under the *Development Act 1993* to which the relevant authority under that Act must have regard;
  - 35                   (h) details of any suspension, cancellation or surrender of an environmental authorisation or any disqualification imposed in relation to an environmental authorisation;

- 5
- (i) if an environmental authorisation is subject to a condition requiring compliance with an environment improvement programme under section 44 of this Act—details of the environment improvement programme;
- (j) such information as the Authority considers appropriate as to the results of tests or monitoring or evaluation undertaken in compliance with conditions of an environmental authorisation under section 52 of this Act;
- 10
- (k) such information as the Authority considers appropriate relating to any determination of the Authority under section 58 of this Act;
- (l) details of each environment performance agreement entered into under section 59 of this Act;
- 15
- (m) details of beverage container approvals and applications for beverage container approvals;
- (n) details of serious or material environmental harm caused or threatened in the course of an activity that come to the notice of the Authority;
- 20
- (o) details of site contamination notified to the Authority under section 83A of this Act;
- (p) details of any environment protection order, clean-up order, clean-up authorisation, site contamination assessment order or site remediation order issued under this Act and of—
- 25
- (i) any action taken by the person to whom the order was issued or by the Authority or another administering agency in consequence of the order; and
- (ii) any report provided by the person to whom the order was issued in consequence of the order;
- 30
- (q) details of each agreement for the exclusion or limitation of liability for site contamination to which section 103E of this Act applies;
- (r) details of each agreement entered into with the Authority relating to—
- 35
- (i) an approved voluntary site contamination assessment proposal under section 103I of this Act; or
- (ii) an approved voluntary site remediation proposal under section 103K of this Act;
- 40
- (s) details of each report of an environmental assessment carried out in relation to land for the purposes of—
- (i) an approved voluntary site contamination assessment proposal under section 103I of this Act; or

- 5
- (ii) an approved voluntary site remediation proposal under section 103K of this Act;
- (t) details of each report of an environmental assessment carried out, for any other purpose and at any time in relation to land, by or on behalf of the Authority;
- (u) details of the circumstances giving rise to—
- 10
- (i) declarations of special management areas under section 103N of this Act; or
- (ii) prohibitions or restrictions on taking water under section 103S of this Act;
- (v) details of each pre-1 July 2009 site audit report carried out in relation to land;
- (w) details of each notification relating to the commencement or the termination before completion of a site contamination audit under section 103Z of this Act;
- 15
- (x) details of each site contamination audit report submitted to the Authority under section 103Z of this Act;
- (y) details of each report known as a "Health Commission Report" prepared on behalf of the South Australian Health Commission (under the repealed *South Australian Health Commission Act 1976*) in relation to pollution of land or contamination of land by chemical substances;
- 20
- (z) details of licences to operate a waste depot issued under the repealed *South Australian Waste Management Commission Act 1979* or the repealed *Waste Management Act 1987*;
- 25
- (za) details of licences issued under the repealed *South Australian Waste Management Commission Act 1979* to produce waste of a prescribed kind (within the meaning of that Act);
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- (zb) details of licences issued under the repealed *Waste Management Act 1987* to produce prescribed waste (within the meaning of that Act);
- (zc) details of any records that the former South Australian Waste Management Commission held under the repealed *Waste Management Act 1987* of waste (within the meaning of that Act) being deposited on land between 1 January 1983 and 30 April 1995;
- 35
- (zd) details of each written report or submission made by the Authority in response to a referral to it under the *Development Act 1993* for comment of—
- 40
- (i) a proposal to create or amend the Planning Strategy or a Development Plan; or
- (ii) an EIS, PER or DR,

(within the meaning of those terms under that Act);

- (ze) copies of each written warning issued by the Authority in relation to an alleged contravention of this Act;
- (zf) details of prosecutions and other enforcement action under this Act;
- (zg) details of civil proceedings before the Environment, Resources and Development Court under this Act;
- (zh) the following details of the recovery by the Authority, by negotiation, of an amount as a civil penalty in respect of an alleged contravention of this Act:
  - (i) the name of the person from whom the amount was recovered;
  - (ii) particulars of the alleged contravention;
  - (iii) the amount recovered.

(2) In this Schedule—

***environmental assessment***, in relation to land, means an assessment of the existence or nature or extent of—

- (a) site contamination (as defined in section 5B of this Act) at the land; or
- (b) any other contamination of the land by chemical substances, and includes such an assessment in relation to water on or below the surface of the land;

***pre-1 July 2009 site audit***, in relation to land, means a review (carried out by a person recognised by the Authority as an environmental auditor) that examines environmental assessments or remediation of the land for the purposes of determining—

- (a) the nature and extent of contamination of the land by chemical substances present or remaining on or below the surface of the land; and
- (b) the suitability of the land for a particular use; and
- (c) what remediation is or remains necessary for a particular use,

but does not include a site contamination audit (as defined in section 3(1) of this Act) completed on or after 1 July 2009;

***pre-1 July 2009 site audit report*** means a detailed written report that sets out the findings of a pre-1 July 2009 site audit.