

**Legislative Council—No 61**

As introduced and read a first time, 15 November 2006

South Australia

**Sewerage (Water Management Measures—Use of  
Waste Material) Amendment Bill 2006**

A BILL FOR

An Act to amend the *Sewerage Act 1929*.

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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 *Sewerage (Water Management Measures—Use of Waste Material) Amendment Act 2006*.

#### 5 2—Commencement

- (1) Subject to subsection (2), this Act will come into operation on a day to be fixed by proclamation.
- (2) If a provision of this Act has not been brought into operation sooner, it will, by force of this subsection, come into operation 6 months after assent.

#### 10 3—Amendment provisions

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

## Part 2—Amendment of *Sewerage Act 1929*

### 4—Insertion of Part 4A

After Part 4 insert:

#### Part 4A—Licences to extract waste material from undertaking

##### 48—Corporation to establish scheme

The Corporation must establish a scheme under which a person who satisfies any prescribed qualifications or requirements may, under the authority of a licence granted by the Corporation under this Part (a *sewage mining licence*), extract waste material from the undertaking.

##### 48A—Applications for licences

- (1) An application for a sewage mining licence—
  - (a) must be made to the Corporation in a manner and form approved by the Minister; and
  - (b) must be accompanied by a fee prescribed by the regulations.
- (2) An applicant for a licence must provide the Corporation with any information reasonably required by the Corporation in connection with the determination of the licence, verified, if the Corporation so requires, by statutory declaration.

##### 48B—Area to which licence must relate etc

- (1) An application must relate to a specified part of the undertaking.
- (2) The area to which an application relates must not exceed a maximum permissible area prescribed by the regulations (but this subsection does not prevent a person holding separate sewage mining licences relating to 2 or more areas, including contiguous areas).
- (3) An application must not relate to any part of the undertaking that is already covered by a sewage mining licence.

##### 48C—Grant of licences

- (1) The Corporation may grant a sewage mining licence on application under this Part if satisfied—
  - (a) that the applicant satisfies any prescribed qualifications; and
  - (b) that the applicant will be able to comply with any relevant requirement imposed by or under this Part, or with any conditions imposed with respect to the licence.
- (2) The Corporation may also, in considering whether to grant an application, take into account such other factors as the Corporation thinks fit.

#### **48D—Location of licence**

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- (1) A sewage mining licence will apply with respect to a part of the undertaking specified by the Corporation in the licence.
  - (2) If the Corporation proposes to specify a part of the undertaking that is different to the part to which the application related, the Corporation must, before finalising its decision, allow the applicant a reasonable opportunity to make submissions in relation to the matter.

#### **48E—Conditions**

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- (1) A sewage mining licence will be subject to—
    - (a) any conditions prescribed by the regulations; and
    - (b) any conditions imposed by the Corporation with respect to the licence.
  - (2) The conditions may, for example, make provision for or with respect of—

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    - (a) the points or places at which or from which waste material may be extracted;
    - (b) the method of extraction, and the use of any fittings or equipment for the purposes of making or undertaking any extraction;
    - (c) the quantity of waste material that may be extracted over any specified period, or the rate of extraction over any specified period or at any specified time;
    - (d) the management, treatment or use of any waste material that is extracted;
    - (e) the procedures and processes to be followed to protect public health and safety, and to ensure that the undertaking is not damaged or adversely affected.
  - (3) The Corporation may, if it considers it appropriate to do so, (and whether on application or on its own initiative) by notice in writing to the holder of the licence, vary a condition to which the licence is subject.
  - (4) The conditions of a licence may be varied by the addition, substitution or deletion of 1 or more conditions.
  - (5) A person must not contravene or fail to comply with a condition of a licence.
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Maximum penalty: \$5 000.

#### **48F—Term and renewal of licence**

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- (1) A sewage mining licence is granted for a term of 5 years or a lesser period specified in the licence, and is renewable for successive terms on application under this section.

- (2) An application for the renewal of a licence—
- (a) must be made to the Corporation in the manner and form approved by the Minister; and
  - (b) must be accompanied by a fee prescribed by the regulations.
- 5 (3) This section has effect subject to the power of the Corporation to suspend or cancel a licence.

#### **48G—Rights conferred by licence**

- (1) A sewage mining licence—
- 10 (a) confers a right on the holder of the licence to extract waste material from the undertaking subject to any requirements prescribed by the regulations and the terms and conditions of the licence; and
  - (b) authorises the holder of the licence to treat, use, sell, or otherwise deal with or dispose of, any waste material, or any material or product derived from waste material, extracted in pursuance of the licence.
- 15 (2) Without limiting any other control or requirement that may be imposed by or under this Part, subsection (1) operates subject to any direction that the Corporation may give from time to time with respect to the proper management or operation of the undertaking, or with respect to the proper management of waste material in the undertaking.
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#### **48H—Extraction fee**

- 25 (1) The regulations may require the payment of a fee with respect to the holding of a sewage mining licence.
- (2) The regulations may provide for—
- 30 (a) the imposition of differential fees according to any factor prescribed by the regulations; and
  - (b) the payment of the fee at the end of each period prescribed by the regulations; and
  - (c) other matters with respect to the calculation, payment or recovery of a fee.
- (3) A regulation made for the purposes of this section must not deal with any other matter.
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#### **48I—Returns**

A person who holds a sewage mining licence must, for each period prescribed by the regulations that the licence remains in force, not later than the relevant day determined in accordance with the regulations, lodge with the Corporation a return containing the prescribed information.

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#### **48J—Transfer of licences**

A sewage mining licence may be transferred by the holder of the licence with the consent of the Corporation.

#### **48K—Surrender of licences**

5 A sewage mining licence may be surrendered by the holder of the licence with the consent of the Corporation.

#### **48L—Suspension or cancellation of licences**

(1) Proper cause exists for the suspension or cancellation of a sewage mining licence if—

- 10 (a) the holder of the licence obtained the licence improperly; or  
(b) the holder of the licence has failed to comply with—  
(i) any requirement imposed by or under this Part; or  
(ii) any conditions imposed with respect to the licence.

15 (2) If proper cause exists for the suspension or cancellation of a licence, the Corporation may, by written notice to the holder of the licence—

- (a) suspend the licence for a specified period or until the Corporation terminates the suspension; or  
(b) cancel the licence.

20 (3) Before the Corporation suspends or cancels a licence the Corporation must give the holder of the licence written notice—

- (a) specifying the matters alleged to constitute proper cause for suspension or cancellation of the licence; and  
(b) stating the action that the Corporation proposes to take; and  
25 (c) allowing the holder of the licence a reasonable opportunity to show cause why the proposed action should not be taken.

#### **48M—Power to require or carry out work**

(1) If—

- 30 (a) the holder of a sewage mining licence fails to take an action required by or under this Part, or required by a condition imposed with respect to the licence; or  
(b) on cancellation or termination of a sewage mining licence, the former holder of the licence fails to remove any fittings or equipment installed or used for the purposes of the licence,

35 the Corporation may, by written notice to the holder of the licence or the former holder of the licence, direct the person to take the action, or to remove the fittings or equipment (or both), and to take any other action that, in the opinion of the Corporation, is appropriate in the circumstances.

(2) A person to whom a direction is given under subsection (1) must comply with the direction within the time allowed in the notice.

Maximum penalty: \$10 000.

5 (3) If a person fails to comply with a direction under subsection (1) within the time allowed in the notice, the Corporation may cause the required action to be taken, and may recover the cost, as a debt, from the person.

10 (4) Fittings or equipment removed by action taken by the Corporation under subsection (3) are forfeited to the Corporation and may be sold or otherwise disposed of as the Corporation thinks fit.

#### 48N—Appeals

(1) The following appeals may be made to the ERD Court:

15 (a) an applicant for a sewage mining licence may appeal against a decision of the Corporation—

(i) that a licence will not be granted; or

(ii) that a licence be granted with respect to a part of the undertaking that is different to the part of the undertaking to which the application related; or

(iii) fixing the conditions of a licence;

20 (b) the holder of a sewage mining licence may appeal against a decision of the Corporation—

(i) varying the conditions of the licence; or

(ii) refusing to agree to the renewal of the licence, or to the transfer or surrender of the licence; or

25 (iii) suspending or cancelling the licence.

(2) Subject to this section, an appeal must be instituted within 1 month of the making of the decision appealed against.

30 (3) The Corporation must, on application by a person affected by a decision that may be the subject of an appeal under this section, state in writing the reasons for the Corporation's decision.

35 (4) If the reasons of the Corporation are not given in writing at the time of making a decision and the person affected by the decision, within 1 month of the making of the decision, requires the Corporation to state the Corporation's reasons in writing, the time for instituting an appeal runs from the time when the person receives the written statement of those reasons.

(5) The ERD Court may, on hearing an appeal—

40 (a) confirm, vary or reverse the decision appealed against, or substitute any decision that should have been made in the first instance;

(b) remit the subject matter of the appeal to the Corporation for further consideration;

- (c) make any consequential or ancillary order or direction, or impose any condition, that the Court considers necessary or expedient.

- (6) In this section—

*ERD Court* means the Environment, Resources and Development Court established under the *Environment, Resources and Development Court Act 1993*.

#### **48O—False or misleading information**

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under this Part.

Maximum penalty: \$5 000.

#### **48P—Register**

- (1) The Corporation must keep a register of—

- (a) licences granted under this Part; and
- (b) other prescribed matters,

in such form and containing such information as the Corporation thinks fit.

- (2) The Register must be made available for public inspection.
- (3) The Minister may fix fees for the supply of extracts from the register.

#### **48Q—Exclusion from Part**

- (1) The Governor may, by regulation, exclude any part of the undertaking from the operation of this Part.
- (2) A regulation made for the purposes of this section must not deal with any other matter.