

House of Assembly

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South Australia

Statutes Amendment (Environment and Conservation Portfolio) Bill 2005

A BILL FOR

An Act to amend the *Historic Shipwrecks Act 1981*, the *National Parks and Wildlife Act 1972*, the *Native Vegetation Act 1991*, the *Natural Resources Management Act 2004*, the *Pastoral Land Management and Conservation Act 1989*, the *Radiation Protection and Control Act 1982*, the *Water Resources Act 1997* and the *Wilderness Protection Act 1992*.

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Schedule 7—Statute law revision amendment of *Wilderness Protection Act 1992*

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Environment and Conservation Portfolio) Act 2005*.

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.

Part 2—Amendment of *Historic Shipwrecks Act 1981*

4—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *historic relic*—before paragraph (a) insert:
 - (aa) an article to which section 4A(3) or (4) applies;
- (2) Section 3(1), definition of *historic shipwreck*—before paragraph (a) insert:
 - (aa) the remains of a ship to which section 4A(1) or (2) applies;

5—Insertion of section 4A

Part 2—before section 5 insert:

4A—All shipwrecks and relics of a certain age historic

- (1) The remains of ships that have been situated in territorial waters of the State for 75 years or more are historic shipwrecks for the purposes of this Act.
- (2) The remains of ships that have been removed from territorial waters of the State (whether before or after the commencement of this subsection) are, after the 75th anniversary of the date on which the remains first came to rest on the seabed, historic shipwrecks for the purposes of this Act.
- (3) Articles that have been situated in territorial waters of the State for 75 years or more and that were associated with ships are historic relics for the purposes of this Act.
- (4) Articles that have been removed from territorial waters of the State (whether before or after the commencement of this subsection) and that were associated with ships are, after the 75th anniversary of the date on which the articles first came to rest on the seabed, historic relics for the purposes of this Act.
- (5) The Governor may, by proclamation, declare that this section does not apply to—
 - (a) the remains, or part of the remains, of a ship or class of ships; or
 - (b) an article or class of articles.

6—Amendment of section 12—Register of Historic Shipwrecks

Section 12(2)—delete subsection (2) and substitute:

- (2) The Minister must cause to be entered in the Register—
 - (a) particulars of all known remains and articles that are historic shipwrecks or historic relics by virtue of section 4A; and
 - (b) particulars of notices in force under section 5, 6 or 7.

7—Amendment of section 14—Regulations may prohibit certain activities in protected zone

(1) Section 14(1) and (2)—delete subsections (1) and (2) and substitute:

- (1) The regulations may prohibit or restrict—
 - (a) the bringing into a protected zone of equipment constructed or adapted for the purpose of diving, salvage or recovery operations, or of explosives, instruments or tools the use of which would be likely to damage or interfere with a historic shipwreck or a historic relic situated within that protected zone; or

- (b) the use within a protected zone of such equipment, explosives, instruments or tools; or
 - (c) causing a ship carrying such equipment, explosives, instruments or tools to enter, or remain within, a protected zone; or
 - (d) trawling, or diving or other underwater activity, within a protected zone; or
 - (e) the mooring or use of ships within a protected zone.
- (2) Regulations made for the purposes of this section for restricting the doing of an act may prohibit the doing of that act except in accordance with a permit.
- (2) Section 14(3)—delete "subsection (1)(a)" and substitute:
subsection (1)
- (3) Section 14—after subsection (3) insert:
- (3a) A person who contravenes or fails to comply with a regulation under subsection (1) is guilty of an offence.
Maximum penalty: \$1 250 or imprisonment for 1 year, or both.

8—Repeal of section 25

Section 25—delete the section

Part 3—Amendment of *National Parks and Wildlife Act 1972*

9—Amendment of section 12—Delegation

Section 12(3)—delete subsection (3) and substitute:

- (3) The Director may delegate to the Council, an advisory committee or any other person any of the Director's powers under this Act, including, with the consent of the person who has delegated the power, a power delegated to the Director under this section.

10—Amendment of section 19D—Annual report

Section 19D(2)—delete "six" and substitute:

12

11—Amendment of section 19L—Annual report

Section 19L(2)—delete "six" and substitute:

12

12—Amendment of section 27—Constitution of national parks by statute

Section 27(4)—delete "or to be included in" and substitute:

or ceases to be included in

13—Amendment of section 28—Constitution of national parks by proclamation

Section 28(3)—delete "or to be included in" and substitute:
or ceases to be included in

14—Amendment of section 29—Constitution of conservation parks by statute

Section 29(4)—delete "or to be included in" and substitute:
or ceases to be included in

15—Amendment of section 30—Constitution of conservation parks by proclamation

Section 30(3)—delete "or to be included in" and substitute:
or ceases to be included in

16—Amendment of section 31—Constitution of game reserves by statute

Section 31(4)—delete "or to be included in" and substitute:
or ceases to be included in

17—Amendment of section 33—Constitution of recreation parks by statute

Section 33(4)—delete "or to be included in" and substitute:
or ceases to be included in

18—Amendment of section 34A—Constitution of regional reserves by proclamation

Section 34A(3)—delete "or to be included in" and substitute:
or ceases to be included in

19—Amendment of section 45A—Interpretation and application

- (1) Section 45A(1), definition of *Bookmark Biosphere Trust*—delete the definition
- (2) Section 45A(1), definition of *Man and the Biosphere Program*—delete the definition

20—Amendment of section 45F—Functions of a Trust

Section 45F(1a)—delete subsection (1a)

21—Amendment of section 60I—Plan of management

Section 60I(7)—delete subsection (7) and substitute:

- (7) Notice that a plan of management has been adopted by the Minister must be published in the Gazette and a newspaper circulating generally throughout the State.
- (7a) A notice under subsection (7) must state the place or places at which copies of the plan may be inspected or purchased.

22—Amendment of section 70A—Failure to comply with authority

Section 70A(1)—delete subsection (1) and substitute:

- (1) If the holder of an authority, or a person acting in the employment or with the authority of the holder of an authority, contravenes or fails to comply with a limitation, restriction, condition or provision of the authority, the holder of the authority is guilty of an offence.

Maximum penalty: \$2 500.

Expiation fee: \$210.

23—Amendment of section 73—Offences against provisions of proclamations and notices

Section 73(2)—delete subsection (2)

24—Amendment of section 80—Regulations

- (1) Section 80(2)(a)—after "expedient for the" insert:

administration or

- (2) Section 80(2)—after paragraph (w) insert:

(wa) regulate the taking, keeping or selling of—

- (i) protected animals or other animals indigenous to Australia;
or
- (ii) the eggs or carcasses of protected animals or other animals indigenous to Australia,

(including pursuant to permits granted by the Minister under this Act); and

Part 4—Amendment of *Native Vegetation Act 1991*

25—Amendment of section 3—Interpretation

Section 3(1), definition of *biological diversity*—delete the definition and substitute:

biological diversity or *biodiversity* means the variety of life forms represented by plants, animals and other organisms and micro-organisms, the genes that they contain, and the ecosystems and ecosystem processes of which they form a part;

26—Amendment of section 29—Provisions relating to consent

- (1) Section 29(11)—delete "The Council" and substitute:

Subject to subsection (12), the Council

- (2) Section 29—after subsection (11) insert:

(12) A consent to clearance of native vegetation under this section may be unconditional if, and only if, the Council is satisfied that—

- (a) the clearance would not result in any loss of biodiversity;
and

- (b) the attachment of a condition to the consent under subsection (11) would place an unreasonable burden on the applicant.

Part 5—Amendment of *Natural Resources Management Act 2004*

27—Amendment of section 3—Interpretation

Section 3(1), definition of *biological diversity*—after the defined term insert:
or *biodiversity*

28—Amendment of section 115—Declaration of penalty in relation to the unauthorised or unlawful taking or use of water

- (1) Section 115(3)—delete "A notice" and substitute:
Subject to subsection (3a), a notice
- (2) Section 115—after subsection (3) insert:
 - (3a) If the Minister has not declared a penalty or penalties under paragraph (a) of subsection (1) by the end of the first half of a particular accounting period (the *new accounting period*), it will be taken that the last penalty or penalties declared by the Minister under that paragraph also apply to the taking of water in the consumption period that corresponds to the new accounting period.
- (3) Section 115—after subsection (5) insert:
 - (6) In this section—
accounting period and *consumption period* have the same respective meanings as in Division 2.

Part 6—Amendment of *Pastoral Land Management and Conservation Act 1989*

29—Amendment of section 9—Pastoral Land Management Fund

Section 9(2)(a)—delete paragraph (a) and substitute:

- (a) if the amount received in a particular year by way of rent paid under pastoral leases exceeds the administrative costs attributable to administering those leases for that year—a prescribed percentage (being not less than 5 per cent or more than 15 per cent) of the excess; and

30—Amendment of section 17—Functions of Board

Section 17(2)(c)—after "this Act" insert:
or another Act

Part 7—Amendment of *Radiation Protection and Control Act 1982*

31—Amendment of long title

Long title—delete "protection" and substitute:

protecting the environment and the health and safety of people

32—Amendment of section 5—Interpretation

(1) Section 5, definition of *the Commission*—delete the definition

(2) Section 5, definition of *the Department*—delete the definition and substitute:

Department means the administrative unit of the Public Service charged with the administration of this Act;

(3) Section 5, definition of *mines inspector*—delete the definition

33—Amendment of section 9—Radiation Protection Committee

Section 9(2)(a)—delete paragraph (a) and substitute:

(a) one (the presiding member) must be an officer or employee of the Department; and

34—Amendment of section 12—Functions of Radiation Protection Committee

Section 12(d)—delete "or the Commission"

35—Amendment of section 16—Authorised officers

Section 16(2)—delete subsection (2)

36—Amendment of section 17—Powers of authorised officers

Section 17(4)—delete subsection (4)

37—Amendment of section 22—Annual report

(1) Section 22(1)—delete "Commission shall" and substitute:

Department must

(2) Section 22(2)—delete subsection (2) and substitute:

(2) The Minister must cause a copy of the report of the Department to be laid before each House of Parliament within 12 sitting days after the Minister receives the report.

38—Substitution of section 35

Section 35—delete the section and substitute:

35—Minister required to refer certain matters to Committee

The Minister must, before determining an application for a licence (not being a temporary licence), refer the application to the Committee for its advice and give due consideration to the advice of the Committee.

39—Amendment of Schedule—Application of this Act to the Roxby Downs Joint Venturers

- (1) Schedule, clause 3—delete ", the Commission"
- (2) Schedule, clause 4—delete "Commission must, for the purposes of preparing its response to such an application," and substitute:

Minister must also

- (3) Schedule, clause 7—delete ", the Commission"

Part 8—Amendment of *Water Resources Act 1997*

40—Amendment of section 132—Declaration of penalty in relation to the unauthorised or unlawful taking or use of water

- (1) Section 132(2a)—delete "A notice" and substitute:

Subject to subsection (2ab), a notice
- (2) Section 132(2a)(b)—delete paragraph (b) and substitute:
 - (b) must be published in the Gazette in the first half of the accounting period.
- (3) Section 132—after subsection (2a) insert:
 - (2ab) If the Minister has not declared a penalty or penalties under paragraph (a) of subsection (1) by the end of the first half of a particular accounting period (the *new accounting period*), it will be taken that the last penalty or penalties declared by the Minister under that paragraph also apply to the taking of water in the consumption period that corresponds to the new accounting period.

Part 9—Amendment of *Wilderness Protection Act 1992*

41—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *the Department*—delete the definition and substitute:

Department means the administrative unit of the Public Service charged with the administration of this Act;
- (2) Section 3(1), definition of *the Natural Resources Management Standing Committee*—delete the definition

42—Amendment of section 6—Delegation

Section 6(3)—delete subsection (3) and substitute:

- (3) The Director may delegate to any person any of the Director's powers under this Act, including, with the consent of the person who has delegated the power, a power delegated to the Director under this section.

43—Amendment of section 7—Annual report

- (1) Section 7(1)(h)—delete "by the Department of Mines and Energy in administering those mining tenements" and substitute:

in administering those mining tenements by an administrative unit of the Public Service

- (2) Section 7(3)(b)—delete paragraph (b) and substitute:

- (b) provide a copy of the report to the Minister responsible for the administration of the *Mining Act 1971*; and

44—Amendment of section 8—Wilderness Advisory Committee

Section 8(2)(a)—delete paragraph (a) and substitute:

- (a) one of whom has qualifications or experience in a field of science that is relevant to the conservation of ecosystems and to the relationship of wildlife with its environment;

45—Amendment of section 12—Wilderness code of management

- (1) Section 12(3)—delete subsection (3) and substitute:

- (3) On receipt of the draft code of management, the Minister must give public notice specifying—
 - (a) an address at which copies of the draft code may be inspected or purchased; and
 - (b) an address to which submissions in connection with the draft code may be forwarded.

- (2) Section 12(5)—delete "and the Natural Resources Management Standing Committee"

46—Amendment of section 22—Constitution of wilderness protection areas and wilderness protection zones

Section 22(6)(d)—delete "the Natural Resources Management Standing Committee,"

47—Amendment of section 24—Alteration of boundaries of wilderness protection areas and zones

Section 24(3)—delete subsection (3)

48—Insertion of section 24A

After section 24 insert:

24A—Native title

- (1) The constitution of a wilderness protection area or a wilderness protection zone by proclamation under this Part on or after 1 January 1994 is subject to native title existing when the proclamation was made.
- (2) The addition of land to a wilderness protection area or a wilderness protection zone by proclamation or regulation under this Part on or after 1 January 1994 is subject to native title existing when the proclamation or regulation was made.

49—Amendment of section 25—Prohibition of mining operations in wilderness protection areas and zones

Section 25(7)(a)—delete "the Minister of Mines and Energy" and substitute:

the Minister responsible for the administration of the *Mining Act 1971*

50—Amendment of section 31—Plans of management

- (1) Section 31(3)—delete subsection (3) and substitute:
 - (3) If the plan of management will relate to a wilderness protection zone, the Minister must give a copy of the notice to the Minister responsible for the administration of the *Mining Act 1971*.
- (2) Section 31(8)—delete subsection (8)

51—Amendment of section 33—Prohibited areas

Section 33(6)—delete "the Minister of Mines and Energy" and substitute:

the Minister responsible for the administration of the *Mining Act 1971*

Schedule 1—Transitional provision

1—Transitional provision relating to *Natural Resources Management Act 2004* and *Water Resources Act 1997*

The penalties declared by the relevant Minister under section 132(1)(a) of the *Water Resources Act 1997* with respect to the taking of water in the consumption period that corresponds to the 2003/2004 financial year accounting period (as defined for the purposes of that section) will continue to apply for the purposes of the *Water Resources Act 1997* or the *Natural Resources Management Act 2004* (as the case requires) in respect of succeeding consumption periods until a new penalty is declared by the relevant Minister (either under section 132(1)(a) of the *Water Resources Act 1997* or section 115(1)(a) of the *Natural Resources Management Act 2004* (as the case requires)).

Schedule 2—Statute law revision amendment of *Historic Shipwrecks Act 1981*

| Provision amended | How amended |
|---|--|
| Generally | Delete "Where" wherever occurring and substitute in each case: If |
| Section 3(1) definition of <i>inspector</i> | Delete "member of the police force" and substitute: police officer |
| Section 3(1) definition of <i>protected zone</i> | Delete "and by virtue of" |
| Section 3(3) | Delete "shall" and substitute: will |
| Section 3(4) | Delete "shall" and substitute: will |
| Section 5 | Delete the section and substitute: 5—Certain shipwrecks and relics may be declared to be historic (1) If the Minister is of the opinion that— (a) the remains of a ship situated in territorial waters of the State; or (b) any part of the remains of a ship removed from territorial waters of the State, are of historic significance, the Minister may, by notice in the Gazette, declare the remains to be a historic shipwreck. (2) If the Minister is of the opinion that an article, particular articles or all articles associated with a ship and situated in, or removed from, territorial waters of the State are of historic significance, the Minister may, by notice in the Gazette, declare the article or articles to be a historic relic or historic relics. (3) Subject to this Act, a declaration under this Act continues to apply to remains or an article despite the removal of the remains or article from the territorial waters of the State after the making of the declaration. |
| Section 6(1) | Delete "that is or are situated in" and substitute: situated in, or removed from, |
| Section 6(1) | Delete "he" and substitute: the Minister |
| Section 6(1) | Delete "published" |

Statutes Amendment (Environment and Conservation Portfolio) Bill 2005

Schedule 2—Statute law revision amendment of *Historic Shipwrecks Act 1981*

| Provision amended | How amended |
|----------------------------------|---|
| Section 6(2) | Delete "a particular article that is, or particular articles that are, situated in" and substitute: an article, or particular articles, situated in or removed from |
| Section 6(2) | Delete "he" and substitute: the Minister |
| Section 6(2) | Delete "published" |
| Section 6(3) and (4) | Delete subsections (3) and (4) and substitute: (3) Subject to this Act, a declaration under this Act continues to apply to remains or an article despite the removal of the remains or article from the territorial waters of the State after the making of the declaration. |
| Section 7(1) | Delete "published" |
| Section 7(1) | Delete "is, or a historic relic is or historic relics are" and substitute: or historic relic is |
| Section 7(2) | Delete "shall" and substitute: will |
| Section 8 | Delete "such" |
| Section 8 | Delete "he" and substitute: the Minister |
| Section 9(1) | Delete "shall" and substitute: must |
| Section 9(1), penalty provision | Delete the penalty provision and substitute: Maximum penalty: \$1 250. |
| Section 9(2) | Delete "shall" and substitute: must |
| Section 9(2) | After "his" insert: or her |
| Section 9(2), penalty provision | Delete the penalty provision and substitute: Maximum penalty: \$1 250. |
| Section 9(3) | Delete "prosecution of a person for" and substitute: charge of |
| Section 9(3) | After "he" insert: or she |
| Section 10(2) | Delete "shall" and substitute: must |
| Section 10(2), penalty provision | Delete the penalty provision and substitute: Maximum penalty: \$1 250. |

| Provision amended | How amended |
|----------------------------------|---|
| Section 10(3) | Delete "in pursuance of" and substitute: under |
| Section 11(1) | Delete "such action in relation to the article as is specified in the notice" and substitute: specified action in relation to the article |
| Section 11(3) | Delete "he shall in the notice inform the person" and substitute: the notice must include a statement |
| Section 11(4) | Delete "shall" and substitute: must |
| Section 11(4), penalty provision | Delete the penalty provision and substitute: Maximum penalty: \$2 500 or imprisonment for 2 years, or both. |
| Section 11(5) | Delete "any action taken by him in pursuance of a notice given to him" and substitute: action taken in accordance with a notice given to the person |
| Section 11(8) | Delete "him" wherever occurring and substitute in each case: the person |
| Section 12(1) | Delete "shall" and substitute: must |
| Section 12(3) | Delete ", or any part of, the Register" and substitute: the Register or a part of the Register |
| Section 13(1) | Delete "shall" and substitute: must |
| Section 13(1) | After the present contents of subsection (1) insert: Maximum penalty: \$5 000 or imprisonment for 5 years, or both. |
| Section 13(3) | Delete subsection (3) |
| Section 15(1) | Delete "in his discretion, upon" and substitute: in the Minister's discretion, on |
| Section 15(1) | Delete "any" |
| Section 15(3)(c) | Delete "any" |
| Section 15(3)(c) | Delete "such custody or dealt with in such manner as is specified in the permit or as is specified" and substitute: custody, or dealt with, as specified in the permit or" |
| Section 15(3b) | Delete "his or her" and substitute: a |
| Section 15(5) | Delete "shall" and substitute: must |

Statutes Amendment (Environment and Conservation Portfolio) Bill 2005Schedule 2—Statute law revision amendment of *Historic Shipwrecks Act 1981*

| Provision amended | How amended |
|----------------------------------|--|
| Section 15(5) | Delete "him" wherever occurring and substitute in each case: the person |
| Section 15(5), penalty provision | Delete the penalty provision and substitute: Maximum penalty: \$2 500 or imprisonment for 2 years, or both. |
| Section 16 | Delete "prosecution of a person for" and substitute: charge of |
| Section 17(1) | Delete "shall" and substitute: must |
| Section 17(1), penalty provision | Delete the penalty provision and substitute: Maximum penalty: \$1 250. |
| Section 17(2) | Delete "prosecution of a person for" and substitute: charge of |
| Section 17(2) | After "he" insert: or she |
| Section 17(3) | Delete "shall" and substitute: must |
| Section 17(3) | Delete "his" and substitute: the person's |
| Section 17(3), penalty provision | Delete the penalty provision and substitute: Maximum penalty: \$1 250. |
| Section 18(2) | Delete "shall be made out of moneys" and substitute: must be made out of money |
| Section 20(1) | Delete "he" and substitute: the Minister |
| Section 20(1) | Delete "published" |
| Section 20(2) | Delete "Upon" and substitute: On |
| Section 20(4) | Delete "his" and substitute: the |
| Section 20(5) | Delete "Upon" and substitute: On |
| Section 21(1) | Delete ", by writing signed by him," |
| Section 21(2) | Delete "shall" and substitute: must |
| Section 21(2) | Delete "in accordance with the prescribed form" |
| Section 21(3) | Delete "shall forthwith return his" and substitute: must immediately return his or her |

| Provision amended | How amended |
|----------------------------------|--|
| Section 21(3), penalty provision | Delete the penalty provision and substitute: Maximum penalty: \$125. |
| Section 22(1) | After "him" insert: or her |
| Section 22(1)(c) | Delete "any cargo" and substitute: cargo |
| Section 22(1)(c) | Delete "any ship" and substitute: a ship |
| Section 22(1)(c) | Delete "any such" and substitute: such |
| Section 22(1)(d) | Delete "any" wherever occurring and substitute in each case: a |
| Section 22(1)(d) | Delete "his" and substitute: the person's |
| Section 22(2) | After "him" insert: or her |
| Section 22(4) | Delete "shall" and substitute: must |
| Section 22(5) | Delete "shall" and substitute: must |
| Section 22(5)(a) | Delete "made of him by" and substitute: of |
| Section 22(5)(b) | Delete "he" and substitute: the person |
| Section 22(5), penalty provision | Delete the penalty provision and substitute: Maximum penalty: \$1 250. |
| Section 22(6) | Delete "he" and substitute: the person |
| Section 22(6) | After "him" insert: or her |
| Section 22(7) | Delete "and is punishable, on conviction, by a fine not exceeding two thousand dollars, or imprisonment for a period not exceeding two years, or both" |
| Section 22(7) | After the present contents of subsection (7) insert: Maximum penalty: \$2 500 or imprisonment for 2 years, or both. |
| Section 23(2) | Delete "member of the police force" wherever occurring and substitute in each case: police officer |

| Provision amended | How amended |
|--------------------------|--|
| Section 23(2) | Delete "shall" and substitute: must |
| Section 23(2)(b) | After "his" insert: or her |
| Section 23(3) | Delete "shall forthwith" and substitute: must immediately |
| Section 23(3) | Delete "him" and substitute: the person |
| Section 24(1) | Delete "he" and substitute: the inspector |
| Section 26(2) | Delete "shall" and substitute: will |
| Section 27 | Delete the section and substitute: |

27—Delegation

- (1) The Minister may delegate to a body or person (including a person for the time being holding or acting in a specified office or position) a function or power of the Minister under this Act.
- (2) A delegation under this section—
 - (a) must be by instrument in writing; and
 - (b) may be absolute or conditional; and
 - (c) does not derogate from the power of the Minister to act in a matter; and
 - (d) is revocable at will.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

| | |
|---------------|---|
| Section 28(3) | Delete "in pursuance of" and substitute: under |
|---------------|---|

Schedule 3—Statute law revision amendment of *National Parks and Wildlife Act 1972*

| Provision amended | How amended |
|--|---|
| Section 5, definition of <i>mining Act</i> | After "the <i>Mining Act 1971</i> ," insert: the <i>Offshore Minerals Act 2000</i> , |
| Section 5, definition of <i>mining Act</i> | Delete " <i>Petroleum Act 1940</i> " and substitute: <i>Petroleum Act 2000</i> |

| Provision amended | How amended |
|--|--|
| Section 5, definition of <i>mining production tenement</i> , (b) | Delete paragraph (b) and substitute: (b) a production licence or a pipeline licence granted under the <i>Petroleum Act 2000</i> ; |
| Section 20(5) | Delete "member of the police force" and substitute: police officer |
| Section 20(6) | Delete "member of the police force" and substitute: police officer |
| Section 20(6) | Delete "member's" and substitute: officer's |
| Section 69(2c)(a) | Delete "relevant authority" and substitute: Minister |
| Section 69(2c)(b) | Delete "relevant authority" and substitute: Minister |

Schedule 4—Statute law revision amendment of *Native Vegetation Act 1991*

| Provision amended | How amended |
|--------------------------|---|
| Section 33I(14) | Delete "notwithstanding" and substitute: despite |

Schedule 5—Statute law revision amendment of *Pastoral Land Management and Conservation Act 1989*

| Provision amended | How amended |
|--|---|
| Section 3, definition of <i>authorised officer</i> , (a) | Delete "member of the police force" and substitute: police officer |
| Section 22(1)(a)(v)(D) | Delete " <i>Petroleum Act 1940</i> " and substitute: <i>Petroleum Act 2000</i> |
| Section 62 | Delete " <i>Petroleum Act 1940</i> " and substitute: <i>Petroleum Act 2000</i> |

Schedule 6—Statute law revision amendment of *Radiation Protection and Control Act 1982*

| Provision amended | How amended |
|--------------------------|--|
| Section 6(2) | Delete "shall be" and substitute: are |

Statutes Amendment (Environment and Conservation Portfolio) Bill 2005

Schedule 6—Statute law revision amendment of *Radiation Protection and Control Act 1982*

| Provision amended | How amended |
|--------------------------|---|
| Section 6(2) | Delete "shall" second occurring and substitute: do |
| Section 6(3) | Delete "shall" and substitute: do |
| Section 9(1) | Delete subsection (1) and substitute: (1) The <i>Radiation Protection Committee</i> is established. |
| Section 9(2) | Delete "shall consist" and substitute: consists |
| Section 9(2)(b) | Delete "shall" and substitute: must |
| Section 9(2)(c) | Delete "shall" and substitute: must |
| Section 9(2)(d) | Delete "shall" and substitute: must |
| Section 9(2)(e) | Delete "shall" and substitute: must |
| Section 9(2)(f) | Delete "shall" and substitute: must |
| Section 9(2)(g) | Delete "shall" and substitute: must |
| Section 9(2)(h) | Delete "shall" and substitute: must |
| Section 9(2)(i) | Delete "shall" and substitute: must |
| Section 9(2)(j) | Delete "shall" and substitute: must |
| Section 10(1) | Delete subsection (1) and substitute: (1) A member of the Committee will be appointed on conditions determined by the Governor for a term, not exceeding 3 years, specified in the instrument of appointment and, at the expiration of a term of appointment, is eligible for reappointment. |
| Section 10(2) | Delete "shall be deemed" and substitute: will be taken |
| Section 10(2) | Delete "he" and substitute: the person |
| Section 10(3) | Delete "his" wherever occurring and substitute in each case: the member's |

| Provision amended | How amended |
|--------------------------|--|
| Section 10(4) | Delete subsection (4) and substitute: <ul style="list-style-type: none">(4) The office of a member of the Committee becomes vacant if the member—<ul style="list-style-type: none">(a) dies; or(b) completes a term of office and is not reappointed; or(c) resigns by written notice addressed to the Minister; or(d) is removed from office pursuant to subsection (3). |
| Section 10(5) | Delete subsection (5) and substitute: <ul style="list-style-type: none">(5) On the office of a member of the Committee becoming vacant, a person will be appointed in accordance with this Act to the vacant office, but if the office of a member becomes vacant before the expiration of a term of appointment, the successor will be appointed only for the balance of the term. |
| Section 11(1) | Delete "shall" first occurring |
| Section 11(1) | Delete "shall" second occurring and substitute: <p style="text-align: center;">may</p> |
| Section 11(2) | Delete subsection (2) and substitute: <ul style="list-style-type: none">(2) The presiding member or, in his or her absence, the presiding member's deputy, will preside at a meeting of the Committee or, in the absence of both the presiding member and the presiding member's deputy, the members present will decide who is to preside at the meeting. |
| Section 11(3) | Delete "shall be" and substitute: <p style="text-align: center;">is</p> |
| Section 11(4) | Delete "shall be" and substitute: <p style="text-align: center;">is</p> |
| Section 11(4) | Delete "shall, in the event of an equality of votes, have" and substitute: <p style="text-align: center;">has, in the event of an equality of votes,</p> |
| Section 11(5) | Delete "shall" and substitute: <p style="text-align: center;">must</p> |
| Section 11(6) | Delete subsection (6) and substitute: <ul style="list-style-type: none">(6) Subject to this Act, the Committee may conduct its business in a manner determined by the Committee. |
| Section 14(1) | Delete "There shall be the following subcommittees of the Committee" and substitute: <p style="text-align: center;">The following sub-committees of the Committee are established</p> |

Statutes Amendment (Environment and Conservation Portfolio) Bill 2005Schedule 6—Statute law revision amendment of *Radiation Protection and Control Act 1982*

| Provision amended | How amended |
|--------------------------|--|
| Section 14(1) | Delete "shall consist" wherever occurring and substitute in each case: consists |
| Section 14(1) | Delete "chairman of the Committee or his nominee" wherever occurring and substitute in each case: presiding member of the Committee or the presiding member's nominee |
| Section 14(3) | Delete "shall consist" and substitute: consists |
| Section 14(3)(a) | Delete "chairman of the Committee or his nominee" and substitute: presiding member of the Committee or the presiding member's nominee |
| Section 14(4) | Delete "shall" and substitute: must |
| Section 14(5) | Delete "shall be determined by the chairman" and substitute: will be determined by the presiding member |
| Section 15(1) | Delete "any" and substitute: a |
| Section 15(1) | After "he" insert: or she |
| Section 15(1) | Delete "shall" wherever occurring and substitute in each case: must |
| Section 15(1) | Delete "his" and substitute: the |
| Section 15(2) | Delete "he is a member shall not" and substitute: he or she is a member must not |
| Section 16(3) | Delete "shall" and substitute: must |
| Section 16(3) | Delete "in the prescribed form" |
| Section 16(4) | Delete "shall, upon" and substitute: must, on |
| Section 16(4) | Delete "he" and substitute: the officer |
| Section 16(4) | Delete "any of his" |
| Section 16(4) | Delete "his" second occurring and substitute: the officer's |
| Section 17(1)(b) | Delete "where" and substitute: if |

| Provision amended | How amended |
|--------------------------|--|
| Section 17(1)(c)(ii) | Delete "any" and substitute: a |
| Section 17(1)(c)(ii) | Delete "him" and substitute: the person |
| Section 17(1)(c)(iii) | Delete "any" and substitute: a |
| Section 17(1)(c)(iii) | Delete "his" and substitute: the person's |
| Section 17(1)(c)(iv) | Delete "any" |
| Section 17(1)(d) | Delete "where he" and substitute: if the officer |
| Section 17(1)(f) | Delete "his" and substitute: the officer's |
| Section 17(2) | Delete "shall" and substitute: must |
| Section 17(5) | Delete "his" |
| Section 17(5) | Delete "he" and substitute: the officer |
| Section 17(6) | Delete "shall" and substitute: must |
| Section 17(6) | Delete "his" |
| Section 17(6) | After the present contents of subsection (6) as amended by this Schedule insert: Maximum penalty: \$10 000. |
| Section 17(7) | Delete "shall" and substitute: must |
| Section 17(7) | Delete "his" and substitute: the person's |
| Section 17(7) | After the present contents of subsection (7) as amended by this Schedule insert: Maximum penalty: \$10 000. |
| Section 17(8) | Delete "him" and substitute: the person |
| Section 17(9) | Delete "any" and substitute: a |
| Section 17(9) | Delete "shall" and substitute: must |

Statutes Amendment (Environment and Conservation Portfolio) Bill 2005Schedule 6—Statute law revision amendment of *Radiation Protection and Control Act 1982*

| Provision amended | How amended |
|--------------------------|--|
| Section 17(9) | After the present contents of subsection (9) as amended by this Schedule insert: Maximum penalty: \$10 000. |
| Section 17(10) | Delete "Where" and substitute: If |
| Section 17(10) | Delete "shall" |
| Section 17(10)(a) | Delete "any" wherever occurring and substitute in each case: a |
| Section 17(10)(a) | Delete "shall be" and substitute: is |
| Section 17(10)(c) | Delete "where" and substitute: if |
| Section 17(10)(c) | Delete "shall" wherever occurring and substitute in each case: will |
| Section 17(10)(c) | Delete "General Revenue of the State" and substitute: Consolidated Account |
| Section 18 | Delete "shall" and substitute: must |
| Section 18(a) | Delete "any" first occurring and substitute: a |
| Section 18(a) | Delete "any" second occurring and substitute: an |
| Section 18(b) | Delete "any such" and substitute: a |
| Section 18(b) | Delete "any" second occurring and substitute: a |
| Section 19 | Delete "any" wherever occurring |
| Section 19 | After its present contents as amended by this Schedule insert: Maximum penalty: \$10 000. |
| Section 20 | Delete "shall" and substitute: must |
| Section 20 | After "he" insert: or she |
| Section 20 | After its present contents as amended by this Schedule insert: Maximum penalty: \$10 000. |
| Section 21(1) | Delete "shall attach" and substitute: attaches |

| Provision amended | How amended |
|--------------------------|---|
| Section 21(1) | Delete "any act or omission by him, or a body of which he" and substitute: <p style="margin-left: 40px;">an act or omission by him or her, or a body of which he or she</p> |
| Section 21(1) | Delete "his or its" |
| Section 21(2) | Delete "shall lie" and substitute: <p style="margin-left: 40px;">lies</p> |
| Section 23(1) | Delete "shall" wherever occurring and substitute in each case: <p style="margin-left: 40px;">must</p> |
| Section 23(1) | Delete "his or its" |
| Section 23(1) | Delete "any" second occurring and substitute: <p style="margin-left: 40px;">an</p> |
| Section 24(1) | Delete "shall" and substitute: <p style="margin-left: 40px;">must</p> |
| Section 24(1) | After the present contents of subsection (1) as amended by this Schedule insert: <p style="margin-left: 40px;">Maximum penalty: \$50 000 or imprisonment for 5 years, or both.</p> |
| Section 24(3) | Delete "upon" and substitute: <p style="margin-left: 40px;">on</p> |
| Section 24(4) | Delete "shall" and substitute: <p style="margin-left: 40px;">must</p> |
| Section 24(4c) | Delete "any" and substitute: <p style="margin-left: 40px;">an</p> |
| Section 24(6) | Delete subsection (6) |
| Section 26 | Delete "Notwithstanding any" and substitute: <p style="margin-left: 40px;">Despite the</p> |
| Section 26 | Delete "shall be fixed by any" and substitute: <p style="margin-left: 40px;">may be fixed by a</p> |
| Section 26 | After "recommendations" insert: <p style="margin-left: 40px;">applied,</p> |
| Section 26 | Delete " <i>Environment Protection (Nuclear Codes) Act 1978</i> " and substitute: <p style="margin-left: 40px;"><i>Australian Radiation Protection and Nuclear Safety Act 1998</i></p> |
| Section 27(1) | Delete "No person shall carry on any" and substitute: <p style="margin-left: 40px;">A person must not carry on an</p> |

Statutes Amendment (Environment and Conservation Portfolio) Bill 2005

Schedule 6—Statute law revision amendment of *Radiation Protection and Control Act 1982*

| Provision amended | How amended |
|--------------------------|---|
| Section 27(1) | After the present contents of subsection (1) as amended by this Schedule insert: Maximum penalty: \$50 000 or imprisonment for 5 years, or both. |
| Section 27(2) | Delete subsection (2) |
| Section 27(3) | Delete "shall" and substitute: will |
| Section 27(4) | Delete "shall" and substitute: must |
| Section 28(1) | Delete "shall" and substitute: must |
| Section 28(1) | After the present contents of subsection (1) as amended by this Schedule insert: Maximum penalty: \$10 000. |
| Section 28(3) | Delete "upon" and substitute: on |
| Section 28(4) | Delete "shall" and substitute: must |
| Section 28(5) | Delete "Where" and substitute: If |
| Section 28(5)(a) | Delete "shall" and substitute: will |
| Section 28(5)(b) | Delete "shall" and substitute: must |
| Section 29(2) | Delete "Where" and substitute: If |
| Section 29(2) | Delete "shall be" and substitute: is |
| Section 29(2) | After the present contents of subsection (2) as amended by this Schedule insert: Maximum penalty: \$10 000. |
| Section 29(4) | Delete "upon" and substitute: on |
| Section 29(5) | Delete "shall" and substitute: must |
| Section 30(2) | Delete "Where" and substitute: If |
| Section 30(2) | Delete "shall be" and substitute: is |

| Provision amended | How amended |
|--------------------------|--|
| Section 30(2) | After the present contents of subsection (2) as amended by this Schedule insert: Maximum penalty: \$10 000. |
| Section 30(4) | Delete "upon" and substitute: on |
| Section 30(5) | Delete "shall" and substitute: must |
| Section 30(6) | Delete "Where" and substitute: If |
| Section 31(1) | Delete "No person (being a natural person) shall" and substitute: A natural person must not |
| Section 31(1) | Delete "any" wherever occurring |
| Section 31(1) | Delete "he" and substitute: the person |
| Section 31(1) | After the present contents of subsection (1) as amended by this Schedule insert: Maximum penalty: \$10 000. |
| Section 31(3) | Delete "upon" and substitute: on |
| Section 31(4) | Delete "shall" and substitute: must |
| Section 31(5) | Delete "Where" and substitute: If |
| Section 31(5)(a) | Delete "shall" and substitute: will |
| Section 31(5)(b) | Delete "shall" and substitute: must |
| Section 32(2) | Delete "Where any" and substitute: If |
| Section 32(2) | Delete "shall be" and substitute: is |
| Section 32(2) | After the present contents of subsection (2) as amended by this Schedule insert: Maximum penalty: \$10 000. |
| Section 32(4) | Delete "upon" and substitute: on |
| Section 32(5) | Delete "shall" and substitute: must |

Statutes Amendment (Environment and Conservation Portfolio) Bill 2005

Schedule 6—Statute law revision amendment of *Radiation Protection and Control Act 1982*

| Provision amended | How amended |
|--------------------------|--|
| Section 32(6) | Delete "Where" and substitute: If |
| Section 33 | Delete "Where" and substitute: If |
| Section 33 | Delete "any" |
| Section 33 | Delete "shall be" and substitute: is |
| Section 33 | After its present contents as amended by this Schedule insert: Maximum penalty: \$10 000. |
| Section 36(4) | Delete "shall" and substitute: must |
| Section 36(4) | After the present contents of subsection (4) as amended by this Schedule insert: Maximum penalty: \$50 000 or imprisonment for 5 years, or both. |
| Section 36(5) | Delete subsection (5) |
| Section 37(1) | Delete "shall" and substitute: will |
| Section 37(2) | Delete "shall, subject to this Act, upon" and substitute: must, subject to this Act, on |
| Section 37(3) | Delete "shall" and substitute: will |
| Section 38 | Delete "shall" wherever occurring and substitute in each case: must |
| Section 38(1) | Delete "in such form and containing such information as may be prescribed" and substitute: in a form, and containing the information, required by the regulations |
| Section 40 | Delete "Where" wherever occurring and substitute in each case: If |
| Section 40(2)(d) | Delete "upon" and substitute: on |
| Section 40(2a) | Delete "shall" and substitute: must |
| Section 40(2b) | Delete "shall" and substitute: must |
| Section 40(3)(a) | Delete "shall, from the time of surrender, cease" and substitute: ceases, from the time of surrender, |

| Provision amended | How amended |
|--------------------------|--|
| Section 40(3)(ab) | Delete "shall, from the time at which the order for cancellation takes effect, cease" and substitute: ceases, from the time at which the order for cancellation takes effect, |
| Section 40(3)(b) | Delete "shall be" and substitute: is |
| Section 40(4) | Delete "shall remain" and substitute: remains |
| Section 40(4d) | Delete "shall" and substitute: must |
| Section 40(4d) | After the present contents of subsection (4d) as amended by this Schedule insert: Maximum penalty: \$10 000. |
| Section 40(5) | Delete "shall" and substitute: must |
| Section 41(1) | Delete "Any" and substitute: A |
| Section 41(3) | Delete "shall" and substitute: must |
| Section 41(4) | After "he" insert: or she |
| Section 41(4) | Delete "shall run" and substitute: runs |
| Section 41(5)(b) | Delete "any" and substitute: a |
| Section 41(5)(c) | Delete paragraph (c) and substitute: (c) make further or other orders as to costs or other matters. |
| Section 42(1) | Delete "Where" and substitute: If |
| Section 42(1) | Delete "any person" wherever occurring and substitute in each case: a person |
| Section 42(1)(a) | Delete "any" second occurring |
| Section 42(2) | Delete "member of the police force" and substitute: police officer |
| Section 42(3) | Delete "he" and substitute: the officer |

Statutes Amendment (Environment and Conservation Portfolio) Bill 2005

Schedule 6—Statute law revision amendment of *Radiation Protection and Control Act 1982*

| Provision amended | How amended |
|--------------------------|---|
| Section 42(4) | Delete "Any directions" and substitute: Directions |
| Section 42(4)(a) | Delete "published" |
| Section 42(4)(b) | Delete "upon" and substitute: on |
| Section 42(4)(c) | Delete "any" |
| Section 42(5) | Delete "Where" and substitute: If |
| Section 42(5)(a) | Delete "any" wherever occurring and substitute in each case: a |
| Section 42(5) | Delete "shall be guilty of a minor indictable offence" and substitute: is guilty of an offence |
| Section 42(5) | After the present contents of subsection (5) as amended by this Schedule insert: Maximum penalty: \$50 000 or imprisonment for 5 years, or both. |
| Section 42(6)(a) | Delete "any" wherever occurring |
| Section 42(6)(b) | Delete "any" and substitute: a |
| Section 42(6) | Delete "any penalty" and substitute: a penalty |
| Section 42(6) | Delete "any court" and substitute: a court |
| Section 43(4)(a) | Delete paragraph (a) and substitute: (a) refer to or incorporate, wholly or partially and with or without modification, a specified code or standard as in force at a particular time or as in force from time to time; and |
| Section 43 | After subsection (4) insert: (5) If a code or standard is referred to or incorporated in the regulations, evidence of the contents of the code or standard may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code or standard. |
| Section 44 | Delete "published" wherever occurring |
| Section 44(1) | Delete "any person or class of persons from compliance with any" and substitute: a person or class of persons from compliance with |

| Provision amended | How amended |
|--------------------------|--|
| Section 44(2) | Delete subsection (2) and substitute: <p style="margin-left: 40px;">(2) An exemption granted under this section has effect for a period, and is subject to conditions, specified by the Minister in the notice.</p> |
| Section 44(3) | Delete "shall" and substitute: <p style="margin-left: 40px;">must</p> |
| Section 44(6) | Delete "Any" and substitute: <p style="margin-left: 40px;">A</p> |
| Section 44(6) | Delete "shall be" and substitute: <p style="margin-left: 40px;">is</p> |
| Section 44(6) | After the present contents of subsection (6) as amended by this Schedule insert: <p style="margin-left: 40px;">Maximum penalty:</p> <p style="margin-left: 80px;">(a) if contravention of the provision in relation to which an exemption was granted is a minor indictable offence—\$50 000 or imprisonment for 5 years, or both;</p> <p style="margin-left: 80px;">(b) in any other case—\$10 000.</p> |
| Section 44(7) | Delete subsection (7) |
| Section 45 | Delete "shall not, in furnishing any" and substitute: <p style="margin-left: 40px;">must not, in furnishing</p> |
| Section 45 | After its present contents as amended by this section insert: <p style="margin-left: 40px;">Maximum penalty: \$10 000.</p> |
| Section 46 | Delete the section |
| Section 47 | Delete the section and substitute: <p style="text-align: center;">47—Offences by body corporate</p> <p style="margin-left: 40px;">(1) If a body corporate is guilty of an offence against this Act, each person who is a director of the body corporate or a person concerned in the management of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence when committed by a natural person unless it is proved that the person could not by the exercise of reasonable diligence have prevented the commission of the offence by the body corporate.</p> <p style="margin-left: 40px;">(2) A person referred to in subsection (1) may be prosecuted and convicted of an offence against that subsection whether or not the body corporate has been prosecuted or convicted of the principal offence committed by the body corporate.</p> |
| Section 48(1) | Delete "any" and substitute: <p style="margin-left: 40px;">a</p> |

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Schedule 6—Statute law revision amendment of *Radiation Protection and Control Act 1982*

| Provision amended | How amended |
|-------------------------------|---|
| Section 48(1)(a) | Delete "shall be" and substitute: is |
| Section 48(1)(b) | Delete "shall, if the act or omission continues after he is convicted, be" and substitute: is, if the act or omission continues after the person is convicted, |
| Section 48(2) | Delete "Where" and substitute: If |
| Section 48(2) | Delete "shall for the purposes of subsection (1), be deemed" and substitute: is, for the purposes of subsection (1), taken |
| Section 49(1)(a), (b) and (c) | Delete "any" wherever occurring and substitute in each case: a |
| Section 49(1)(d) | Delete "any" |
| Section 49(1) | Delete "shall, in the absence of proof to the contrary, be deemed" and substitute: is, in the absence of proof to the contrary, taken |
| Section 49(2) | Delete subsection (2) and substitute: (2) In proceedings for an offence against this Act, a condition of an authority or the terms of a direction or other notice under this Act may be proved by production of an apparently genuine document purporting to be a copy of the condition, direction, or other notice certified by the Minister or an officer authorised under this Act to impose the condition or give the direction or notice. |
| Section 50(1) | Delete "Any notice" and substitute: A notice |
| Section 50(1) | Delete "any person shall be deemed" and substitute: a person is taken |
| Section 50(1)(b) | Delete "him" wherever occurring and substitute in each case: the person |
| Section 50(1)(b) | After "his" insert: or her |
| Schedule, clause 5(2) | Delete "deemed" and substitute: taken |

Schedule 7—Statute law revision amendment of *Wilderness Protection Act 1992*

| Provision amended | How amended |
|---|---|
| Section 3(1), definition of <i>mining Act</i> | Delete " <i>Petroleum Act 1940</i> " and substitute: <i>Petroleum Act 2000</i> |
| Section 9(2) | Delete "notwithstanding" and substitute: despite |
| Section 13(6) | Delete "member of the police force" and substitute: police officer |
| Section 13(7) | Delete "or inspector under the <i>Petroleum Act 1940</i> " and substitute: under the <i>Petroleum Act 2000</i> |
| Section 13(8) | Delete "member of the police force" and substitute: police officer |
| Section 13(8) | Delete "member's" and substitute: officer's |
| Section 17(5) | Delete "Notwithstanding" and substitute: Despite |