

South Australia

National Environment Protection Council (South Australia) (Miscellaneous) Amendment Act 2003

An Act to amend the *National Environment Protection Council (South Australia) Act 1995*.

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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 *National Environment Protection Council (South Australia) (Miscellaneous) Amendment Act 2003*.

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 *National Environment Protection Council (South Australia) Act 1995*

4—Amendment of section 6—Definitions

Section 6(1)—after the definition of *member* insert:

Ministerial Council means a council, comprising one or more Ministers of the Commonwealth and Ministers of one or more of the States or Territories, that includes environmental protection in its functions;

minor variation, in relation to a national environment protection measure, means a decision made under section 22A(1) to vary a national environment protection measure;

5—Amendment of section 13—Powers of the Council

Section 13—after paragraph (g) insert:

- (h) direct the Service Corporation to provide assistance and support to other Ministerial Councils.

6—Amendment of section 20—Variation or revocation of measures

Section 20—After subsection (4) insert:

- (5) Subsections (2) to (4) do not apply to a minor variation of a national environment protection measure under Division 2A.

7—Insertion of Part 3 Division 2A

After section 22 insert:

Division 2A—Minor variation of national environment protection measures

22A—Minor variation of measures

- (1) The Council may make a variation (a *minor variation*) to a national environment protection measure if—
 - (a) the variation is supported by a unanimous resolution of all of the members; and
 - (b) the resolution states that the variation does not involve a significant change in the effect of the national environment protection measure.

- (2) If the Council decides that a variation does not involve a significant change in the effect of the national environment protection measure, the Council must prepare—
- (a) a draft of the proposed variation; and
 - (b) a statement relating to the variation that explains—
 - (i) the reasons for the proposed variation; and
 - (ii) the nature and effect of the proposed variation; and
 - (iii) the reasons why the Council is satisfied that the variation is a minor variation.

22B—Public consultation for minor variation

- (1) Before making a minor variation to a national environment protection measure, the Council must publish a notice—
- (a) stating how the draft of the proposed variation and the explanatory statement may be obtained; and
 - (b) inviting submissions to the Council on the proposed variation, or on the explanatory statement, within a specified period.
- (2) A notice must—
- (a) be published in the Commonwealth of Australia Gazette; and
 - (b) so far as each participating State or Territory is concerned—also be published, on at least one day during the month when the Commonwealth of Australia Gazette notice is published, in a newspaper circulating in that State or Territory.
- (3) The period specified in each notice under subsection (1) must end not less than one month after the day on which subsection (2)(b) has been fully complied with in all participating jurisdictions.

22C—Council to have regard to submissions etc

In making a minor variation to a national environment protection measure, the Council must have regard to—

- (a) any submissions it receives that relate to the proposed variation or the explanatory statement; and
- (b) whether the measure is consistent with section 3 of the Agreement; and
- (c) relevant international agreements to which Australia is a party; and
- (d) any regional environmental differences in Australia.

8—Amendment of section 36—Functions of the Service Corporation

- (1) Section 36—before paragraph (a) insert:
 - (aa) to provide assistance and support to other Ministerial Councils as directed by the Council; and
- (2) Section 36(b)—after "paragraph (a)" insert:
 - or (aa)

9—Amendment of section 43—Leave of absence

Section 43(1)—delete "Subject to section 87E of the *Public Service Act 1922* of the Commonwealth, the" and substitute:

The

10—Amendment of section 49—Public Service staff of Service Corporation

- (1) Section 49(1)—delete "appointed or employed under the *Public Service Act 1922*" and substitute:

engaged under the *Public Service Act 1999*
- (2) Section 49(2)—delete subsection (2) and substitute:
 - (2) For the purposes of the *Public Service Act 1999* of the Commonwealth—
 - (a) the NEPC Executive Officer and the APS employees assisting the NEPC Executive Officer together constitute a Statutory Agency; and
 - (b) the NEPC Executive Officer is the Head of that Statutory Agency.

11—Amendment of section 51—Staff seconded to Service Corporation

Section 51(1)—delete "officers and employees of Departments of the Australian Public Service" and substitute:

persons engaged under the *Public Service Act 1999* of the Commonwealth

12—Amendment of section 56—Application of money of Service Corporation

Section 56—After its present contents (now to be designated as subsection (1)) insert:

- (2) Subsection (1) does not prevent investment of surplus money of the Service Corporation under section 18 of the *Commonwealth Authorities and Companies Act 1997* of the Commonwealth as it applies to the Service Corporation under section 59 of the Commonwealth Act.

13—Substitution of section 58

Section 58—delete the section and substitute:

58—Application of the *Commonwealth Authorities and Companies Act 1997* of the Commonwealth

- (1) The Service Corporation is not a Commonwealth authority for the purposes of the *Commonwealth Authorities and Companies Act 1997* of the Commonwealth (the *Commonwealth Authorities and Companies Act*).
- (2) Sections 9, 18 and 20 of the Commonwealth Authorities and Companies Act, and Schedule 1 to that Act, apply in relation to the Service Corporation as if it were a Commonwealth authority for the purposes of that Act.
- (3) Section 9 of the Commonwealth Authorities and Companies Act applies in relation to the Service Corporation as if the NEPC Executive Officer were a director of the Service Corporation for the purposes of that Act.
- (4) Schedule 1 to the Commonwealth Authorities and Companies Act applies in relation to the Commission as if references in that Schedule to the Finance Minister's Orders were references to requirements set out in a resolution of the Ministerial Council carried in accordance with section 28 of this Act.
- (5) An annual report prepared under section 9 of the Commonwealth Authorities and Companies Act must also contain any other information required by the Council to be included in the report.
- (6) A copy of each annual report given to the Minister must be given to each member of the Council as soon as practicable.

14—Amendment of section 63—Review of operation of Act

- (1) Section 63(2)—after "review" insert:
under subsection (1)
- (2) Section 63—after subsection (2) insert:
 - (3) As soon as possible after the end of every five year period following the review under subsection (1), the Council must cause a further review of the kind set out in subsection (1) to be undertaken.
 - (4) The report of each further review is to be tabled in each House of Parliament within 12 months after the end of the period to which it relates.