



AUSTRALIAN CAPITAL TERRITORY

Environment Protection (Consequential Provisions) Act 1997

No. 93 of 1997

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AUSTRALIAN CAPITAL TERRITORY

Environment Protection (Consequential Provisions) Act 1997

No. 93 of 1997

An Act to repeal certain laws, to amend certain other laws, and to make certain transitional arrangements, consequent on the enactment of the *Environment Protection Act 1997*

[Notified in ACT Gazette S380: 1 December 1997]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Environment Protection (Consequential Provisions) Act 1997*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Interpretation

3. (1) In this Act, unless the contrary intention appears—

“action” means—

- (a) granting an environmental authorisation under section 49 of the new Act;
- (b) entering an environmental protection agreement under section 38 of the new Act;
- (c) approving a draft environmental improvement plan under section 71 of the new Act;
- (d) approving a draft emergency plan under section 84 of the new Act; or
- (e) serving an environment protection order under section 125 of the new Act;

“applied provision” means a provision of a repealed Act that, by virtue of Part V, continues to apply in relation to a matter or thing;

“commencement day” means the day on which the provision in which the expression occurs commences;

“new Act” means the *Environment Protection Act 1997* and includes any regulations under that Act;

“repealed Act” means—

- (a) in Division 1 of Part V—the *Air Pollution Act 1984* as in force immediately before the commencement day;
- (b) in Division 2 of Part V—the *Noise Control Act 1988* as in force immediately before the commencement day;
- (c) in Division 3 of Part V—the *Ozone Protection Act 1991* as in force immediately before the commencement day; or
- (d) in Division 4 of Part V—the *Water Pollution Act 1984* as in force immediately before the commencement day;

and includes any regulations in force under that Act immediately before the commencement day.

(2) A reference to the Pollution Control Authority in an applied provision shall be read as a reference to the Environment Management Authority.

(3) A reference to an inspector in an applied provision shall be read as a reference to an authorised officer under the new Act.

(4) A reference to an analyst in an applied provision shall be read as a reference to an analyst under the new Act.

PART II—REPEALS

Repeal of Acts

4. The Acts listed in Schedule 1 are repealed.

PART III—LAND (PLANNING AND ENVIRONMENT) ACT 1991

Principal Act

5. In this Part, “Principal Act” means the *Land (Planning and Environment) Act 1991*.

Notice of application

6. Section 229 of the Principal Act is amended by inserting after subsection (4) the following subsection:

“(4A) The Minister shall give the Environment Management Authority notice in writing of an application in respect of a development—

- (a) listed in Schedule 1 to the *Environment Protection Act 1997*; or
- (b) that has the potential to cause serious or material environmental harm within the meaning of that Act.”.

PART IV—OTHER ACTS

Amendments in Schedule 2

7. The Acts specified in Schedule 2 are amended as set out in that Schedule.

PART V—SAVINGS AND TRANSITIONAL PROVISIONS

Division 1—Air Pollution Act 1984

Certificate of compliance

8. A certificate of compliance under subsection 24A (3) of the repealed Act in force immediately before the commencement day shall, on and after that day, be taken to be a certificate of compliance under subclause 4 (3) of Schedule 2 to the new Act.

Permit for burning plant matter

9. The provisions of the repealed Act continue to apply in relation to a permit under section 27A of that Act in force immediately before the commencement day until—

- (a) the permit expires or is revoked; or
- (b) any action in relation to the activity in respect of which the permit was issued is taken by the Authority under the new Act;

whichever occurs first.

Pollution abatement notice

10. The provisions of the repealed Act continue to apply in relation to a pollution abatement notice under section 30 of that Act in force immediately before the commencement day until—

- (a) the notice is revoked; or
- (b) any action in relation to the activity in respect of which the notice was given is taken by the Authority under the new Act;

whichever occurs first.

Determination of higher sulphur content of unleaded petrol

11. A determination under section 42A of the repealed Act in force immediately before the commencement day shall, on and after that day, be taken to be a determination under clause 6 of Schedule 2 to the new Act.

Notice in relation to leaded petrol

12. A notice under subsection 42BA (1) of the repealed Act in force immediately before the commencement day shall, on and after that day, be taken to be a notice under subclause 8 (1) of Schedule 2 to the new Act.

Exemption in relation to leaded petrol

13. An exemption under section 42BB of the repealed Act in force immediately before the commencement day shall, on and after that day, be taken to be a exemption under clause 9 of Schedule 2 to the new Act.

Division 2—Noise Control Act 1988

Noise direction notice

14. The provisions of the repealed Act continue to apply in relation to a noise direction notice under section 12 of that Act in force immediately before the commencement day until—

- (a) the notice expires or is revoked; or
- (b) any action in relation to the activity in respect of which the notice was given is taken by the Authority under the new Act;

whichever occurs first.

Exemption of non-domestic premises

15. The provisions of the repealed Act continue to apply in relation to an exemption under section 16 of that Act in force immediately before the commencement day until—

- (a) the exemption expires or is revoked; or
- (b) any action in relation to the activity in respect of which the exemption was granted is taken by the Authority under the new Act;

whichever occurs first.

Noise reduction notice

16. The provisions of the repealed Act continue to apply in relation to a notice under section 34 of that Act in force immediately before the commencement day.

Audiometric test notice

17. The provisions of the repealed Act continue to apply in relation to a notice under section 37 of that Act in force immediately before the commencement day.

Exemption in relation to information to employees

18. The provisions of the repealed Act continue to apply in relation to an exemption under section 40 of that Act in force immediately before the commencement day.

Division 3—Ozone Protection Act 1991

Instrument relating to disposal of halons

19. An instrument under subsection 9B (2) of the repealed Act in force immediately before the commencement day shall, on and after that day, be taken to be an instrument under the regulation (being a regulation made under the new Act) by virtue of which the Environment Management Authority may, by instrument, specify places at which halons may be deposited for disposal.

Licence and temporary licence

20. The provisions of the repealed Act continue to apply in relation to a licence or temporary licence under section 14 or 21 of that Act in force immediately before the commencement day until—

- (a) the licence or temporary licence expires or is cancelled; or
- (b) any action in relation to the activity in respect of which the licence or temporary licence was granted is taken by the Authority under the new Act;

whichever occurs first.

Exemption in relation to installation utilising halons

21. The provisions of the repealed Act continue to apply in relation to an exemption under section 23C of that Act in force immediately before the commencement day until—

- (a) the exemption expires, is revoked, or ceases to be in force by virtue of subsection 23C (4) of the repealed Act as applied by this section; or
- (b) any action in relation to the activity in respect of which the exemption was granted is taken by the Authority under the new Act;

whichever occurs first.

Essential use classification

22. The provisions of the repealed Act continue to apply in relation to an essential use classification under section 23E of that Act in force immediately before the commencement day until—

- (a) the classification expires, is revoked, or ceases to be in force by virtue of subsection 23E (4) of the repealed Act as applied by this section; or

- (b) any action in relation to the activity in respect of which the classification was granted is taken by the Authority under the new Act;

whichever occurs first.

Ozone protection notice

23. The provisions of the repealed Act continue to apply in relation to an ozone protection notice under section 38 of that Act in force immediately before the commencement day until—

- (a) the notice is revoked; or
- (b) any action in relation to the activity in respect of which the notice was given is taken by the Authority under the new Act;

whichever occurs first.

Ozone depleting substance seized or surrendered

24. Section 41 of the repealed Act continues to apply in relation to an ozone depleting substance that, immediately before the commencement day, had been—

- (a) seized under subsection 29 (2) of that Act; or
- (b) surrendered to the Pollution Control Authority under section 36 or 38 of that Act or otherwise.

Division 4—Water Pollution Act 1984

Licence

25. The provisions of the repealed Act continue to apply in relation to a licence under section 20 of that Act in force immediately before the commencement day until—

- (a) the licence expires or is cancelled; or
- (b) any action in relation to the activity in respect of which the licence was granted is taken by the Authority under the new Act;

whichever occurs first.

Emergency authority

26. The provisions of the repealed Act continue to apply in relation to an authority under section 28 of that Act in force immediately before the commencement day until—

- (a) the authority expires or is revoked; or

- (b) any action in relation to the activity in respect of which the authority was granted is taken by the Authority under the new Act;

whichever occurs first.

Pollution abatement notice

27. The provisions of the repealed Act continue to apply in relation to a pollution abatement notice under section 30A of that Act in force immediately before the commencement day until—

- (a) the notice is revoked; or
- (b) any action in relation to the activity in respect of which the notice was given is taken by the Authority under the new Act;

whichever occurs first.

PART VI—MISCELLANEOUS

Savings and transitional regulations

28. (1) The regulations may contain savings or transitional provisions consequent upon the repeal of the Acts specified in Schedule 1 and the enactment of the *Environment Protection Act 1997*.

(2) Any such savings or transitional provision may, if the regulations so provide, take effect on the commencement day or on a later day.

(3) To the extent that any such savings or transitional provision takes effect from a day earlier than the day on which the provision is notified in the *Gazette*, the provision does not operate to—

- (a) affect, in a manner prejudicial to any person (other than the Territory or a Territory authority), the rights of that person existing before notification; or
- (b) impose liabilities on any person (other than the Territory or a Territory authority) in respect of anything done or omitted to be done before notification.

Regulations

29. The Executive may make regulations for the purposes of this Act.

SCHEDULE 1

Section 4

REPEALED ACTS

Air Pollution Act 1984

Air Pollution (Amendment) Act 1985

Air Pollution (Amendment) Act 1986

Air Pollution (Amendment) Act (No. 2) 1986

Air Pollution (Amendment) Act 1987

Air Pollution (Amendment) Act 1988

Air Pollution (Amendment) Act 1991

Air Pollution (Amendment) Act (No. 2) 1991

Air Pollution (Amendment) Act 1993

Air Pollution (Amendment) Act 1994

Air Pollution (Amendment) Act 1996

Noise Control Act 1988

Noise Control (Amendment) Act 1994

Ozone Protection Act 1991

Ozone Protection (Amendment) Act 1993

Ozone Protection (Amendment) Act 1995

Pesticides Act 1989

Pesticides (Amendment) Act 1992

Water Pollution Act 1984

Water Pollution (Amendment) Act 1988

Water Pollution (Amendment) Act 1989

Water Pollution (Amendment) Act 1991

SCHEDULE 2

Section 7

AMENDMENTS OF ACTS

Bushfire Act 1936

Section 4—

Repeal the section, substitute the following section:

Relationship with *Environment Protection Act 1997*

“4. Subject to subsection 6 (1) of the *Environment Protection Act 1997*, this Act has effect subject to the *Environment Protection Act 1997*.”.

Business Franchise (Tobacco and Petroleum Products) Act 1984

Subsection 3 (1) (definition of “unleaded motor spirit”, paragraph (c))—

Omit “section 42A of the *Air Pollution Act 1984*”, substitute “clause 6 of Schedule 2 to the *Environment Protection Act 1997*”.

Fair Trading (Fuel Prices) Act 1993

Subsection 2 (1) (definition of “unleaded petrol”, paragraph (c))—

Omit “section 42A of the *Air Pollution Act 1984*”, substitute “clause 6 of Schedule 2 to the *Environment Protection Act 1997*”.

Fire Brigade Act 1957

Section 3—

Repeal the section, substitute the following section:

Relationship with *Environment Protection Act 1996*

“3. Subject to subsection 6 (2) of the *Environment Protection Act 1997*, this Act has effect subject to the *Environment Protection Act 1997*.”.

Paragraph 12C (3) (f)—

Omit “*Air Pollution Act 1984*”, substitute “*Environment Protection Act 1997*”.

Subsection 12C (5)—

Omit “*Air Pollution Act 1984*”, substitute “*Environment Protection Act 1997*”.

SCHEDULE 2—continued

Motor Traffic Act 1936

Section 217—

Add at the end the following subsection:

“(5) The Registrar shall give the Environment Management Authority notice in writing of a permit issued under subsection (1).”.

Nature Conservation Act 1980

New section 6A—

After section 6 insert the following section in Part I:

Construction consistent with environment laws

“6A. (1) This Act shall be construed and administered in a manner that is consistent with an environment law unless the contrary intention appears from this Act or that law.

“(2) This Act shall be taken to be consistent with an environment law to the extent that it is capable of operating concurrently with that law.

“(3) In this section—

‘environment law’ means a law of the Territory that has as one of its objects or purposes the protection of the environment.”.

NOTE

Penalty units

See section 33AA of the *Interpretation Act 1967*.

[Presentation speech made in Assembly on 15 May 1997]

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