



Australian Capital Territory

# Environment Protection Legislation Amendment Act 2024

A2024-35

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
<b>Part 2</b>	<b>Environment Protection Act 1997</b>	
4	Offences against Act—application of Criminal Code etc Section 3B, note 1, new dot point	3
5	Objects of Act Section 3C (1) (d)	3

---

J2023-1285

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## Contents

---

	Page	
6	Principles applying to Act	
	New section 3D (1) (f)	3
7	Section 3D (2), new definition of <i>ecologically sustainable development</i>	3
8	Criminal liability of the Territory	
	Section 10, new note	4
9	Division 2.2 heading	4
10	Section 19 heading	4
11	Section 19 (1)	4
12	New section 19 (1) (ca)	4
13	Section 19 (1) (h)	5
14	Section 19 (1) (l)	5
15	Section 19 (1) (o)	5
16	Section 19 (1) (q)	5
17	Section 19 (2)	5
18	Copies of documents	
	Section 20	6
19	Section 21	6
20	Notification of making of certain entries in register	
	Section 21B (2)	8
21	Section 21B (2) (a)	8
22	Section 21B (2) (d)	9
23	Consultation on draft environment protection policy	
	Section 25 (1) (b)	9
24	Section 25 (4)	9
25	Notification of environment protection policies etc	
	Section 28 (2) (c), except note	9
26	Inspection	
	Section 29	9
27	Public notice of accredited codes of practice	
	Section 32 (2)	10
28	Notification of environmental protection agreements	
	Section 41 (1) (b)	10
29	Notification of grant	
	Section 50 (3) (b)	10

## Contents

---

	Page	
30	Notification of review of environmental authorisations Section 59 (1) (b)	10
31	Matters required to be taken into account for certain decisions under div 8.2 Section 61 (d)	11
32	Notification of certain people about orders for assessment or remediation Section 91E (2) (b)	11
33	Section 91F	11
34	Directions of Minister Section 93 (2)	12
35	New section 164B	12
36	Regulation-making power Section 166 (2) and notes	13
37	Section 166 (3)	13
38	Class A activities Schedule 1, table 1.2, item 35	14
39	Schedule 2, section 2.1 (2) and note	14
40	Schedule 2, section 2.4	14
41	Reviewable decisions Schedule 3, item 1	16
<b>Part 3</b>	<b>Environment Protection Regulation 2005</b>	
42	Section 14B heading	17
43	Section 14B	17
44	Section 14C heading	17
45	Definitions for pt 3 Section 21, definition of <i>affected person</i> , paragraph (b), note	17
46	Sale and hiring of things Section 40 (1), new note 2	18
47	Section 40 (3), note	18
48	Definitions—pt 6 Section 53, definition of <i>agvet code</i> , note 2	18
49	Definitions—div 6.4 Section 55C, definition of <i>registered training organisation</i> , new note	18

## Contents

---

	Page	
50	Definitions for pt 7	
	Section 56, definition of <i>NEPM</i> , notes 2 and 3	18
51	Application of div 7.2	
	Section 57 (b), note	19
52	Procedures and protocols	
	Section 65 (a), notes 2 and 3	19
53	Section 65 (d), note	19
54	Section 65, note	19
55	Sections 67 to 69	19
56	Definitions for pt 2.1	
	Schedule 2, section 2.1, definition of <i>Central National Area (City Hill Precinct)</i> , note	20
57	Schedule 2, section 2.1, definition of <i>Queanbeyan city business zone</i> , note	20
58	Dictionary, definition of <i>Poisons Standard</i> , note	20
<b>Part 4</b>	<b>Water Resources Act 2007</b>	
59	ACT water resource plan	
	Section 11A (2) and (3)	21
60	Section 11A (3), note	21
61	Section 100	21
62	Regulation-making power	
	Section 109 (2) and notes	22
63	Section 109 (3)	22



Australian Capital Territory

# Environment Protection Legislation Amendment Act 2024

**A2024-35**

---

An Act to amend legislation about protection of the environment, and for other purposes

---

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Environment Protection Legislation Amendment Act 2024*.

### 2 Commencement

- (1) This Act (other than the provisions mentioned in subsection (2)) commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) The following provisions commence 6 months after this Act's notification day:
- section 4
  - section 40
  - sections 42 to 44.

### 3 Legislation amended

This Act amends the following legislation:

- *Environment Protection Act 1997*
- *Environment Protection Regulation 2005*
- *Water Resources Act 2007*.

---

## Part 2 Environment Protection Act 1997

### 4 Offences against Act—application of Criminal Code etc Section 3B, note 1, new dot point

*insert*

- sch 2, s 2.4 (Sale or installation of solid fuel-burning equipment without certification or plate)

### 5 Objects of Act Section 3C (1) (d)

*omit*

economic and social

*substitute*

economic, social and cultural

### 6 Principles applying to Act New section 3D (1) (f)

*insert*

- (f) the principle of ecologically sustainable development.

### 7 Section 3D (2), new definition of *ecologically sustainable development*

*insert*

***ecologically sustainable development*** means the effective integration of economic and environmental considerations in decision-making processes, achievable through implementation of the following:

- (a) the precautionary principle;
- (b) the inter-generational equity principle;

- (c) conservation of biological diversity and ecological integrity;
- (d) improved valuation and pricing of environmental resources.

## **8 Criminal liability of the Territory**

### **Section 10, new note**

*insert*

*Note* This Act binds all governments, including the Commonwealth (see [Legislation Act](#), s 121 (1) and the [Australian Capital Territory \(Self-Government\) Regulations 2021](#) (Cwlth)). However, this Act does not make a government (other than the Territory) liable to be prosecuted for an offence (see [Legislation Act](#), s 121 (3)).

## **9 Division 2.2 heading**

*substitute*

### **Division 2.2 Public access to documents**

## **10 Section 19 heading**

*substitute*

## **19 Public access to documents**

### **11 Section 19 (1)**

*omit everything before paragraph (a), substitute*

- (1) The authority must make the following documents available to the public:

### **12 New section 19 (1) (ca)**

*insert*

- (ca) an environment protection policy made under part 4;



**13 Section 19 (1) (h)**

*after*

results

*insert*

given to the authority

**14 Section 19 (1) (l)**

*substitute*

- (l) an order under section 91C (1) (Order to assess whether land contaminated);

**15 Section 19 (1) (o)**

*substitute*

- (o) an order under section 91D (1) (Order to remediate land);

**16 Section 19 (1) (q)**

*substitute*

- (q) the register of contaminated sites kept under section 21A;

**17 Section 19 (2)**

*substitute*

- (2) The authority must make a document mentioned in subsection (1) available by—
- (a) making the document available for inspection without charge during ordinary business hours at an ACT government office; or
  - (b) making the document accessible without charge on an ACT government website, or by a link on an ACT government website; or

- (c) if a person requests a copy of the document—giving the person a copy of the document on payment of any reasonable copying costs.
- (3) This section is subject to section 21 (Exclusion of material from public access).

## **18 Copies of documents**

### **Section 20**

*omit*

## **19 Section 21**

*substitute*

## **21 Exclusion of material from public access**

- (1) This section applies if a person provides a document to the authority in relation to—
  - (a) the grant, variation or review of an environmental authorisation; or
  - or
  - (b) the submission of an environmental improvement plan; or
  - (c) the approval of an emergency plan; or
  - (d) the entry into an environment protection agreement; or
  - (e) the making of an order under—
    - (i) section 91C (1) (Order to assess whether land contaminated); or
    - (ii) section 91D (1) (Order to remediate land); or
  - (f) the making of an environment protection order; or
  - (g) setting out the results of monitoring or testing required by the authority to be conducted; or

- (h) the submission of an environmental audit report; or
  - (i) the conduct of an activity to which section 159A (National pollutant inventory—provision of information) applies.
- (2) The person, or another person whose interests are affected by the provision of the document, may apply to the authority to exclude the document, or a stated part of the document, from public access under section 19 because—
- (a) public access to the document or part of the document—
    - (i) would reveal a trade secret; or
    - (ii) would, or would reasonably be expected to, adversely affect the applicant in relation to the lawful business affairs of the applicant; and
  - (b) it would not be in the public interest for the document or part of the document to be published.
- (3) The application must—
- (a) be in writing; and
  - (b) be made at the same time as the document is provided to the authority.
- (4) If the authority is satisfied of the matters mentioned in subsection (2) (a) and (b), it must—
- (a) for a document—not make the document available to the public under section 19; or
  - (b) for part of a document—
    - (i) exclude that part from any copy of the document made available to the public under section 19; and

- (ii) include a statement in the copy made available to the public that an unspecified part of the document has been excluded to protect the confidentiality of information in the excluded part.
- (5) The authority must not make a document, or part of a document, that is the subject of an application available to the public under section 19 until the later of—
  - (a) 28 days after the authority makes a decision on the application; and
  - (b) if an entity applies to the ACAT for review of the decision—the application (including any appeal) has been decided.

**20 Notification of making of certain entries in register  
Section 21B (2)**

*omit everything before paragraph (a), substitute*

- (1) The notice must state where the following documents are available to the public under section 19:

**21 Section 21B (2) (a)**

*after*

section 91C (1)

*insert*

(Order to assess whether land contaminated)

**22 Section 21B (2) (d)**

*after*

section 91D (1)

*insert*

(Order to remediate land)

**23 Consultation on draft environment protection policy  
Section 25 (1) (b)**

*substitute*

(b) stating where the draft policy is available to the public; and

**24 Section 25 (4)**

*omit*

copies of the draft environment protection policy available for inspection

*substitute*

the draft environment protection policy available to the public

**25 Notification of environment protection policies etc  
Section 28 (2) (c), except note**

*substitute*

(c) a statement of where the policy is made available to the public under section 19.

**26 Inspection  
Section 29**

*omit*

**27 Public notice of accredited codes of practice  
Section 32 (2)**

*substitute*

- (2) A public notice under subsection (1) must state where the accredited code of practice is available to the public under section 19 (Public access to documents).

**28 Notification of environmental protection agreements  
Section 41 (1) (b)**

*substitute*

- (b) is available to the public under section 19 (Public access to documents).

**29 Notification of grant  
Section 50 (3) (b)**

*substitute*

- (b) is available to the public under section 19 (Public access to documents).

**30 Notification of review of environmental authorisations  
Section 59 (1) (b)**

*substitute*

- (b) indicating that a copy of the review is available to the public under section 19 (Public access to documents).

**31 Matters required to be taken into account for certain decisions under div 8.2  
Section 61 (d)**

*omit*

economic and social

*substitute*

economic, social and cultural

**32 Notification of certain people about orders for assessment or remediation  
Section 91E (2) (b)**

*omit*

may be inspected

*substitute*

is available to the public

**33 Section 91F**

*substitute*

**91F Certain documents to be available free of charge**

The authority must—

- (a) make a document mentioned in section 91E (2) (b) available to the public without charge by—
  - (i) making it accessible on an ACT government website, or by a link on an ACT government website; or
  - (ii) making it available for inspection during ordinary business hours at an ACT government office; and

- (b) on request by a person, give the person a copy of the document without charge.

### **34 Directions of Minister Section 93 (2)**

*substitute*

- (2) The Minister must not give a direction to the authority in relation to a matter under—
  - (a) part 11 (Powers of authorised officers); or
  - (b) part 12 (Powers of analysts); or
  - (c) part 13 (Enforcement); or
  - (d) part 14 (Notification and review of decisions); or
  - (e) part 14A (Enforceable undertakings).

### **35 New section 164B**

*insert*

#### **164B Incorporation of documents**

- (1) A statutory instrument under this Act may apply, adopt or incorporate a law or instrument as in force from time to time.
- (2) The [Legislation Act](#), section 47 (5) and (6) do not apply to a law or instrument applied, adopted or incorporated under a statutory instrument under this Act (an *incorporated law or instrument*).

*Note* An incorporated law or instrument does not need to be notified under the [Legislation Act](#) because s 47 (5) and (6) do not apply (see [Legislation Act](#), s 47 (7)).

- (3) The authority must ensure an incorporated law or instrument is—
  - (a) on the ACT legislation register; or



- (b) available for inspection without charge during ordinary business hours at an ACT government office; or
  - (c) accessible without charge on an ACT government website, or by a link on an ACT government website.
- (4) An incorporated law or instrument is not enforceable by or against the Territory or anyone else unless it is made accessible in accordance with subsection (3).
- (5) However, subsections (3) and (4) do not apply if the incorporated law or instrument is—
- (a) a law of another jurisdiction; or
  - (b) an Australian Standard; or
  - (c) an Australian/New Zealand Standard.

*Note* Laws of other jurisdictions are available on each jurisdiction's legislation website. Standards are available at [www.standards.org.au](http://www.standards.org.au).

- (6) In this section:

*law of another jurisdiction*—see the [Legislation Act](#), section 47 (10).

### **36 Regulation-making power Section 166 (2) and notes**

*substitute*

- (2) A regulation may make provision in relation to the sampling and analysis of pollutants.

### **37 Section 166 (3)**

*omit*

10 penalty units

*substitute*

20 penalty units

**38 Class A activities  
Schedule 1, table 1.2, item 35***substitute*

35	the commercial production of alcoholic beverages or distilled alcohol at a facility designed to produce more than— <ul style="list-style-type: none"><li>(a) 30 kL of alcoholic beverages or distilled alcohol per day; or</li><li>(b) 10 000kL of alcoholic beverages or distilled alcohol per year</li></ul>
----	---

**39 Schedule 2, section 2.1 (2) and note***omit***40 Schedule 2, section 2.4***substitute***2.4 Sale or installation of solid fuel-burning equipment without certification or plate**

- (1) A person commits an offence if—
  - (a) the person sells fuel-burning equipment; and
  - (b) the equipment is solid fuel-burning equipment; and
  - (c) the equipment is sold for use at residential premises; and
  - (d) 1 or more of the requirements mentioned in subsection (3) are not met in relation to the equipment.

Maximum penalty: 30 penalty units.

- (2) A person commits an offence if—
  - (a) the person installs fuel-burning equipment on premises; and
  - (b) the equipment is solid fuel-burning equipment; and
  - (c) the premises are residential premises; and

- (d) 1 or more of the requirements mentioned in subsection (3) are not met in relation to the equipment.

Maximum penalty: 30 penalty units.

- (3) For subsections (1) (d) and (2) (d), the following requirements apply in relation to solid fuel-burning equipment:

- (a) if AS/NZS 4012 applies to the equipment—
- (i) a certificate of compliance issued by a certifying entity must be in force, certifying—
    - (A) that the equipment, or equipment of the same model and manufacturer, has been tested in accordance with AS/NZS 4012; and
    - (B) the overall average efficiency under AS/NZS 4012 of the tested equipment; and
  - (ii) the certified overall average efficiency of the tested equipment must be equal to, or higher than, the minimum overall average efficiency prescribed by regulation; and
  - (iii) a plate marked in accordance with AS/NZS 4012 must be attached to the equipment; and
- (b) if AS/NZS 4013 applies to the equipment—
- (i) a certificate of compliance issued by a certifying entity must be in force, certifying—
    - (A) that the equipment, or equipment of the same model and manufacturer, has been tested in accordance with AS/NZS 4013; and
    - (B) the appliance particulate emission factor under AS/NZS 4013 for the tested equipment; and

- (ii) the certified appliance particulate emission factor for the tested equipment must be equal to, or less than, the maximum appliance particulate emission factor prescribed by regulation; and
  - (iii) a plate marked in accordance with AS/NZS 4013 must be attached to the equipment.
- (4) Subsections (1) and (2) do not apply—
- (a) to solid fuel-burning equipment prescribed by regulation; or
  - (b) if the person has a reasonable excuse.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) (see [Criminal Code](#), s 58).

- (5) The authority may declare an entity to be a certifying entity.
- (6) A declaration under subsection (5) is a disallowable instrument.
- (7) In this section:

*certifying entity* means an entity declared to be a certifying entity by the authority under subsection (5).

## 41 Reviewable decisions Schedule 3, item 1

*substitute*

1	21 (4)	refuse to exclude document or part of document from being made available to the public	applicant
---	--------	--	-----------

## Part 3 Environment Protection Regulation 2005

### 42 Section 14B heading

*substitute*

### 14B Minimum overall average efficiency—Act, sch 2, s 2.4 (3) (a) (ii)

### 43 Section 14B

*after*

overall

*insert*

average

### 44 Section 14C heading

*substitute*

### 14C Maximum appliance particulate emission factor—Act, sch 2, s 2.4 (3) (b) (ii)

### 45 Definitions for pt 3 Section 21, definition of *affected person*, paragraph (b), note

*omit*

**46 Sale and hiring of things  
Section 40 (1), new note 2**

*insert*

*Note 2* The *Protection of the Environment Operations Act 1997* (NSW) does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Act](#), s 164B).

**47 Section 40 (3), note**

*omit*

**48 Definitions—pt 6  
Section 53, definition of *agvet code*, note 2**

*substitute*

*Note 2* The *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth) does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Act](#), s 164B).

**49 Definitions—div 6.4  
Section 55C, definition of *registered training organisation*, new note**

*insert*

*Note* The *National Vocational Education and Training Regulator Act 2011* (Cwlth) does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Act](#), s 164B).

**50 Definitions for pt 7  
Section 56, definition of *NEPM*, notes 2 and 3**

*substitute*

*Note 2* The NEPM does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Act](#), s 164B). The NEPM is accessible at [www.legislation.gov.au](http://www.legislation.gov.au).

**51 Application of div 7.2  
Section 57 (b), note**

*substitute*

*Note* The *Hazardous Waste (Regulation of Exports and Imports) Act 1989* (Cwlth) does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Act](#), s 164B).

**52 Procedures and protocols  
Section 65 (a), notes 2 and 3**

*omit*

**53 Section 65 (d), note**

*omit*

**54 Section 65, note**

*substitute*

*Note* A law or instrument applied by this section does not need to be notified under the [Legislation Act](#) because s 47 (5) and (6) do not apply (see [Act](#), s 164B). A law or instrument applied by this section is available:

- for a law of another jurisdiction—on the jurisdiction’s legislation website
- for a standard published by or on behalf of Standards Australia—at [www.standards.org.au](http://www.standards.org.au)
- for another law or instrument—in accordance with the [Act](#), s 164B (3).

**55 Sections 67 to 69**

*omit*

**56**      **Definitions for pt 2.1**  
**Schedule 2, section 2.1, definition of *Central National Area (City Hill Precinct)*, note**

*substitute*

*Note*      The national capital plan does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Act](#), s 164B). The national capital plan is accessible at [www.legislation.gov.au](http://www.legislation.gov.au).

**57**      **Schedule 2, section 2.1, definition of *Queanbeyan city business zone*, note**

*omit*

**58**      **Dictionary, definition of *Poisons Standard*, note**

*substitute*

*Note*      The Poisons Standard does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Act](#), s 164B). The Poisons Standard is accessible at [www.legislation.gov.au](http://www.legislation.gov.au).



## Part 4 Water Resources Act 2007

### 59 ACT water resource plan Section 11A (2) and (3)

*omit*

an instrument

*substitute*

a law or instrument

### 60 Section 11A (3), note

*omit*

An instrument

*substitute*

A law or instrument

### 61 Section 100

*substitute*

## 100 Incorporation of documents

- (1) A statutory instrument under this Act may apply, adopt or incorporate a law or instrument as in force from time to time.

*Note* The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5) or (6) is not disapplied (see s 47 (7)).

- (2) The [Legislation Act](#), section 47 (5) and (6) do not apply to any of the following laws or instruments applied, adopted or incorporated under a statutory instrument under this Act:

- (a) a law of another jurisdiction;

- (b) an Australian Standard;
- (c) an Australian/New Zealand Standard.

*Note* These laws and instruments do not need to be notified under the [Legislation Act](#) because s 47 (5) and (6) do not apply (see [Legislation Act](#), s 47 (7)). Laws of other jurisdictions are available on each jurisdiction's website. Standards are available at [www.standards.org.au](http://www.standards.org.au).

- (3) In this section:

*law of another jurisdiction*—see the [Legislation Act](#), section 47 (10).

**62 Regulation-making power  
Section 109 (2) and notes**

*omit*

**63 Section 109 (3)**

*omit*

10 penalty units

*substitute*

20 penalty units

---

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 14 May 2024.

**2 Notification**

Notified under the [Legislation Act](#) on 10 July 2024.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

---

I certify that the above is a true copy of the Environment Protection Legislation Amendment Bill 2024, which was passed by the Legislative Assembly on 26 June 2024.

Clerk of the Legislative Assembly

© Australian Capital Territory 2024