

**STATE POLLUTION CONTROL COMMISSION
(AMENDMENT) BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:

- Clean Air (Amendment) Bill 1987;
- Clean Waters (Amendment) Bill 1987;
- Environmentally Hazardous Chemicals (Amendment) Bill 1987;
- Noise Control (Amendment) Bill 1987.

The object of this Bill is to amend the State Pollution Control Commission Act 1970 so as—

- (a) to enable the Commission to delegate functions which may be conferred on it after the delegation is made;
- (b) to make it clear that conditions of licences granted under the Principal Act may require licensees to provide the Commission with periodic reports concerning licensed operations;
- (c) to provide for the variation of applications for pollution control approvals;
- (d) to make it clear that conditions of pollution control approvals may require the work authorised by the approvals to be carried out in stages;
- (e) to provide for the expiry of pollution control approvals;
- (f) to make it clear that conditions of pollution control approvals may require their holders to report to the Commission progress on the work authorised by the approvals;
- (g) to add a representative of the Soil Conservation Service of New South Wales to the membership of the Technical Advisory Committee and make minor changes to the constitution of that Committee;
- (h) to restate the offence of releasing, without appropriate authority, information obtained while administering or executing the Principal Act and other related Acts enforced by the Commission;

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- (i) to restate and expand the evidentiary provisions of the Principal Act and to extend those provisions to those related Acts;
- (j) to provide that, in certain circumstances, a person concerned in the management of a corporation is to be liable for offences committed by the corporation against the Principal Act and those related Acts; and
- (k) to enable offences against the Principal Act and those related Acts to be prosecuted in the name of the Commission.

The Bill also makes provisions of a saving and transitional nature.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be proclaimed by the Governor-in-Council.

Clause 3 states that the State Pollution Control Commission Act 1970 is referred to as the Principal Act.

Clause 4 is a formal provision giving effect to the Schedule of amendments to the Principal Act.

Clause 5 is a formal provision giving effect to the Schedule of savings and transitional provisions.

Schedule 1 (1) amends section 5 (Interpretation) of the Principal Act so as to enable provisions of that Act to apply generally to other related Acts. A definition of the term "Pollution Control Acts" is inserted which means the Principal Act, Clean Air Act 1961, Clean Waters Act 1970, Environmentally Hazardous Chemicals Act 1985 and Noise Control Act 1975.

Schedule 1 (2) amends section 16 (Delegation) of the Principal Act so as to permit the Commission to delegate such powers, authorities, duties and functions as may be conferred or imposed on the Commission by future Acts.

Schedule 1 (3) substitutes section 17H of the Principal Act with a section (Conditions requiring monitoring by licensees) which enables the Commission to require a licensee to supply to it information about things which are required to be done by other conditions of the licence or relate to the operation or maintenance of the licensed premises, plant or equipment.

Schedule 1 (4) amends section 17J (Application for pollution control approval) of the Principal Act so as to allow the applicant, with the consent of the Commission, to vary an application for a pollution control approval.

Schedule 1 (5) (a) amends section 17K (Pollution control approvals) of the Principal Act so as to permit the Commission to require, by the conditions attached to a pollution control approval, that the work it authorises be carried out in stages the commencement of which is agreed to by the Commission.

Schedule 1 (5) (b) inserts proposed section 17K (4A) into the Principal Act which provides that a pollution control approval expires 2 years (or, if the Commission agrees, 3 years) after it is granted, unless the work authorised by the approval has been substantially commenced within that period.

Schedule 1 (6) substitutes section 17L of the Principal Act with a section (Conditions requiring monitoring by holders of approvals) which enables the Commission to require the holder of a pollution control approval to supply to it information about things which are authorised to be done by, or required to be done by the conditions of, the approval.

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Schedule 1 (7) inserts proposed Division 4 into Part IIIA (Licences and Approvals) of the Principal Act which proposed Division contains the following proposed sections:

Section 17O (Request for further details about applications) which replaces and repeats the substance of former sections 17H and 17L of the Principal Act.

Section 17P (Effect of false or misleading particulars supplied by licensees etc.) which provides that the holder of a licence or pollution control approval contravenes a condition of the licence or approval if particulars supplied under proposed section 17H or 17L are false or misleading in a material respect. Any such particulars may not be used in a prosecution of the holder except for a contravention created by the proposed section.

Schedule 1 (8) amends section 18 (Technical Advisory Committee) of the Principal Act so as to increase the membership of the Technical Advisory Committee to 18 by including a representative of the Soil Conservation Service of New South Wales. The section is also amended to permit the Director of the Commission to nominate an officer of the Commission to be a member of the Committee if the Director is absent and to provide that the Director or the member so nominated is to chair meetings of the Committee.

Schedule 1 (9) amends section 22 (Meetings of Technical Advisory Committee and other committees) of the Principal Act so as to provide that the Director or the Director's nominee is to form part of the quorum for a meeting of the Technical Advisory Committee.

Schedule 1 (10) inserts section 22A (Definitions) into Part V (General) of the Principal Act so as to apply the provisions of that Part which relate to licences to those granted under the Environmentally Hazardous Chemicals Act 1985.

Schedule 1 (11) substitutes section 26 of the Principal Act with a section (Disclosure of information) which modernises the restrictions placed on the disclosure of information obtained by officers of the Commission in enforcing the Pollution Control Acts. The proposed section is similar to section 44 of the Environmentally Hazardous Chemicals Act 1985 but also expressly permits the Commission to release information obtained under proposed sections 17H and 17L of the Principal Act and particulars of licences, pollution control approvals and certain notices given under the Pollution Control Acts.

Schedule 1 (12) and (13) amend section 27 (Proof of certain matters) and repeal section 27A of the Principal Act and replace the latter section with proposed sections 27A (Evidence of documents and certificate evidence) and 27B (Evidence of occupation of premises and ownership of equipment). The intention is to re-enact in the Principal Act evidentiary provisions for all of the Pollution Control Acts so as to avoid duplication and unnecessary minor variations. Additional provision has been made for certificate evidence of the results of analyses (proposed section 27A (5)), of the ownership of licensed equipment (proposed section 27B (2)) and of the classification of premises (proposed section 27B (3)).

Schedule 1 (14) inserts proposed sections 30B and 30C into the Principal Act. Of the proposed sections:

Section 30B (Offences by corporations) provides that directors and persons concerned in the management of corporations may be prosecuted for offences against Pollution Control Acts committed by the corporations.

Section 30C (Prosecutions in the name of the Commission) permits prosecutions for offences against the Pollution Control Acts to be brought in the name of the Commission.

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Schedule 2 contains savings and transitional provisions which declare the effect of the amendments proposed to be made by Schedule 1 on certain applications, pollution control approvals, licences and notices made, granted or served under the Principal Act before those amendments commence.
