



New South Wales

# Protection of the Environment Legislation Miscellaneous Amendments Bill 2017

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Contaminated Land Management Act 1997* to extend the application of Chapter 7 (Investigation) of the *Protection of the Environment Operations Act 1997* to the exercise of powers by authorised officers under the *Contaminated Land Management Act 1997*. Chapter 7 deals with such matters as the appointment of authorised officers, powers to require information and records, powers of entry and search, powers to question and to identify persons, and powers with respect to certain things such as vehicles,
- (b) to amend the *Protection of the Environment Administration Act 1991* to abolish Environment Protection Community Consultation Forums and the New South Wales Council on Environmental Education, and to make consequential amendments,
- (c) to amend the *Protection of the Environment Operations Act 1997*:
  - (i) to require notices of reviews of licences to be published on the EPA's website and to provide for the dates of publication of the notices to be recorded in public registers, and
  - (ii) to provide for licences to transport trackable waste to expire after a specified period not longer than 5 years and to provide that these licences can be renewed, and
  - (iii) to repeal supervisory licences in respect of putrescible waste facilities, and
  - (iv) to give the EPA the power to require that GPS tracking devices be fitted to trailers, and

- (v) to permit authorised officers to enter premises by means of an unmanned vehicle, vessel or aircraft (such as a drone) but only if it is operated by or under the authority of an authorised officer, and
- (vi) to increase the time within which proceedings for certain offences may be commenced,
- (d) to amend the *Radiation Control Act 1990*:
  - (i) to give the Land and Environment Court, instead of the District Court, jurisdiction to hear appeals against decisions of the EPA and, instead of the Supreme Court, jurisdiction to hear proceedings for offences under the Act or the regulations and proceedings for orders to remedy or restrain breaches of the Act or regulations, and
  - (ii) to provide that offences may be prosecuted by the EPA or persons acting on behalf of the EPA, without the need for the Minister's consent, and
  - (iii) to increase the maximum penalties that may be imposed by the Local Court for offences, and
  - (iv) to increase the time within which proceedings for offences may be commenced,
- (e) to make consequential amendments to the *Land and Environment Court Act 1979* to allow the Land and Environment Court:
  - (i) to hear appeals against the serving of a notice under section 18 of the *Radiation Control Act 1990* to remedy or avoid a contravention of that Act or appeals against certain decisions of the EPA under section 36A of that Act, and
  - (ii) to hear proceedings for offences against the *Radiation Control Act 1990*.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act, except for certain provisions amending the *Protection of the Environment Operations Act 1997*, which will commence on a day or days to be appointed by proclamation.

## Schedule 1      **Amendment of Contaminated Land Management Act 1997 No 140**

**Schedule 1 [7]** extends the application of Chapter 7 (Investigation) of the *Protection of the Environment Operations Act 1997* to the exercise of powers by authorised officers under the *Contaminated Land Management Act 1997*. **Schedule 1 [1]** is a consequential amendment that changes the definition of **authorised officer** to mean a person appointed by the EPA under Part 7.2 of the *Protection of the Environment Operations Act 1997* as an authorised officer for the purposes of the *Contaminated Land Management Act 1997*. **Schedule 1 [5]** makes a consequential amendment providing for the admissibility in evidence of certain certified matters. **Schedule 1 [6]** makes a consequential amendment omitting Part 9 (Authorised officers).

**Schedule 1 [8]** updates the methods for service of documents.

**Schedule 1 [9]** inserts savings and transitional provisions preserving the appointment of authorised officers appointed under Part 9 before the repeal of that Part by Schedule 1 [6] and extending the application of Chapter 7 of the *Protection of the Environment Operations Act 1997* to investigations begun before the commencement of Schedule 1 [7].

**Schedule 1 [2]** omits an unnecessary definition from section 4 (1).

**Schedule 1 [3] and [4]** update references to the appropriate website on which certain documents are to be published.

## **Schedule 2      Amendment of Protection of the Environment Administration Act 1991 No 60**

**Schedule 2 [4]** repeals Divisions 1–3 of Part 6 to abolish Environment Protection Community Consultation Forums and the New South Wales Council on Environmental Education. **Schedule 2 [1], [3] and [5]–[17]** make consequential amendments. **Schedule 2 [2]** is a consequential amendment omitting the requirement to include in the EPA’s report on the state of the environment a statement on the performance of environmental education programs, this being a function of the New South Wales Council on Environmental Education to prepare under Part 6.

**Schedule 2 [18]** inserts a transitional provision providing that existing members of Environment Protection Community Consultation Forums or the New South Wales Council on Environmental Education cease to hold office on the repeal of Divisions 1–3 of Part 6 and are not entitled to any remuneration or compensation because of the loss of that office.

## **Schedule 3      Amendment of Protection of the Environment Operations Act 1997 No 156**

**Schedule 3 [3]** amends the requirement for certain regulatory authorities to publish notices of reviews of licences in a newspaper to provide that these notices must instead be published on the website of the EPA.

**Schedule 3 [4]** inserts proposed Part 3.6A into the Act containing provisions applying only to licences to transport trackable waste. The proposed Part provides for these licences to remain in force for a specified period, not exceeding 5 years, after which an application can be made for the licence to be renewed. This differs from the duration of other licences, which continue in force until suspended, revoked or surrendered. **Schedule 3 [1], [2], [11], [12] and [15]** make consequential amendments.

**Schedule 3 [5]** repeals section 87 to remove the requirement for public authorities to hold supervisory licences in respect of putrescible waste facilities operated by entities other than public authorities. Operators of putrescible waste facilities are already required to hold an environment protection licence under section 48 of the Act.

**Schedule 3 [6]** extends the EPA’s power to require that GPS tracking devices be installed on motor vehicles used to transport waste to apply to trailers. **Schedule 3 [18]** inserts a definition of *trailer* into the Dictionary.

**Schedule 3 [7]** makes an amendment consequential on the amendment made by Schedule 1 [7].

**Schedule 3 [9]** provides that if entry to premises is effected by means of an unmanned vehicle, vessel or aircraft, the vehicle, vessel or aircraft must be operated by or under the authority of an authorised officer. **Schedule 3 [8]** makes it clear that entry by means of a vessel is permitted (the section amended already permits entry by means of a vehicle, aircraft or in any other manner). **Schedule 3 [17]** inserts a definition of *aircraft*. The definition includes drones.

**Schedule 3 [10]** prescribes the offence under section 120 of polluting waters (but only in relation to underground or artesian waters) and the offence under section 144AB of being a repeat waste offender as offences in respect of which proceedings may be commenced within but not later than 3 years after the date on which the offence is alleged to have been committed or evidence of the alleged offence first came to the attention of an authorised officer.

**Schedule 3 [13]** excludes applications for renewal of licences to transport trackable waste from the requirement imposed on regulatory authorities to record in a public register details of licence applications. The amendment made by **Schedule 3 [1]** requires details of each licence to transport trackable waste that is renewed to be recorded in the public register.

**Schedule 3 [14]** inserts a requirement for the EPA to record in a public register the dates of notices of reviews of licences published on the EPA’s website.

**Schedule 3 [16]** inserts savings and transitional provisions that:

- (a) provide for the expiry of licences to transport trackable waste that were issued before the commencement of proposed Part 3.6A, and
- (b) provide that supervisory licences held in relation to putrescible waste landfill sites before the repeal of section 87 by Schedule 3 [5] cease to be in force on the repeal of that section, and
- (c) exclude the application of the amendment to section 216 (6) made by Schedule 3 [10] to offences under section 120 or 144AB if proceedings for those offences could not have been commenced as at the date of commencement of the amendment.

## **Schedule 4      Amendment of Radiation Control Act 1990 No 13**

**Schedule 4 [8]** makes an amendment that takes away the jurisdiction of the District Court to hear appeals against decisions of the EPA and gives the Land and Environment Court that jurisdiction. **Schedule 4 [1]** makes consequential amendments.

**Schedule 4 [2]** makes an amendment that takes away the summary jurisdiction of the Supreme Court to hear proceedings for offences against the *Radiation Control Act 1990* or the regulations and gives the Land and Environment Court that summary jurisdiction. The amendment also removes the requirement for the consent of the Minister to prosecute offences and provides that offences may be prosecuted by the EPA as well as by persons acting with the authority of the EPA. **Schedule 4 [4]** makes a consequential amendment.

**Schedule 4 [3]** increases the maximum penalty for offences that may be imposed by the Local Court from 100 penalty units (\$11,000) to 200 penalty units (\$22,000). **Schedule 4 [6]** makes a consequential amendment.

**Schedule 4 [5]** increases the time within which proceedings for offences may be commenced from 12 months to 2 years after the date on which the offence is alleged to have been committed or evidence of the alleged offence first came to the attention of an authorised officer.

**Schedule 4 [7]** makes an amendment that takes away the jurisdiction of the Supreme Court to hear proceedings for orders to remedy or restrain breaches of the Act or regulations and gives the Land and Environment Court that jurisdiction.

**Schedule 4 [9]** inserts savings and transitional provisions that allow proceedings before the Supreme Court or the District Court that were instituted before the commencement of the amendments made by Schedule 4 [1], [2], [7] and [8] and that had not been finally determined at the date of the commencement of the amendments to be determined as if the amendments had not been made. Schedule 4 [9] also provides that the extension of the time within which proceedings for offences may be commenced made by Schedule 4 [5] applies to all offences, providing proceedings for those offences could have been commenced as at the date of commencement of Schedule 4 [5]. However, the increase in the maximum penalty made by Schedule 4 [3] does not apply to an offence committed before the commencement of Schedule 4 [3].

## **Schedule 5      Amendment of other legislation**

**Schedule 5.1** amends the *Dangerous Goods (Road and Rail Transport) Act 2008* to clarify that the regulations may make provision for or with respect to the refund and waiver of fees.

**Schedule 5.2** amends the *Land and Environment Court Act 1979*.

**Schedule 5.2 [1]** gives the Land and Environment Court jurisdiction (Class 1 of its jurisdiction) to hear and dispose of appeals against decisions of the EPA under section 18 or 36A of the *Radiation Control Act 1990*.

**Schedule 5.2 [2]** gives the Land and Environment Court jurisdiction (Class 4 of its jurisdiction) to hear and dispose of proceedings under section 24A (Enforcement of undertakings), section 25B

(Remedy or restraint of breaches) or section 27 (Retention and disposal of seized property) of the *Radiation Control Act 1990*. **Schedule 5.2 [3]** makes a consequential amendment.

**Schedule 5.2 [4]** gives the Land and Environment Court summary jurisdiction (Class 5 of its jurisdiction) to hear and dispose of proceedings for offences under section 25 of the *Radiation Control Act 1990*.



New South Wales

# Protection of the Environment Legislation Miscellaneous Amendments Bill 2017

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New South Wales

# Protection of the Environment Legislation Miscellaneous Amendments Bill 2017

No. , 2017

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## **A Bill for**

An Act to make miscellaneous amendments to certain legislation relating to the protection of the environment.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Protection of the Environment Legislation Miscellaneous Amendments Act 2017*.

**2 Commencement**

- (1) This Act commences on the date of assent to this Act, except as provided by this section.
- (2) Schedule 3 [1], [2], [4], [9], [11]–[13], [15] and [17] commence on a day or days to be appointed by proclamation.

<b>Schedule 1</b>	<b>Amendment of Contaminated Land Management Act 1997 No 140</b>	1
		2
<b>[1] Section 4 Definitions</b>		3
	Omit the definition of <i>authorised officer</i> from section 4 (1). Insert instead:	4
	<i>authorised officer</i> means a person appointed by the EPA under Part 7.2 of the <i>Protection of the Environment Operations Act 1997</i> as an authorised officer for the purposes of this Act.	5 6 7
<b>[2] Section 4 (1), definition of “Department”</b>		8
	Omit the definition.	9
<b>[3] Section 11 Declaring land to be significantly contaminated land</b>		10
	Omit “the Department’s website on the Internet” from section 11 (5). Insert instead “its website”.	11 12
<b>[4] Section 58 Record to be maintained by the EPA</b>		13
	Omit “Department’s internet” from section 58 (2) (b). Insert instead “EPA’s”.	14
<b>[5] Section 71 Certificate evidence of certain matters</b>		15
	Insert “or the <i>Protection of the Environment Operations Act 1997</i> ” after “Act” in section 71 (2) (a) (i).	16 17
<b>[6] Part 9 Authorised officers</b>		18
	Omit the Part.	19
<b>[7] Sections 96B and 96C</b>		20
	Insert before section 97 in Division 4 of Part 10:	21
<b>96B Application of Chapter 7 of Protection of the Environment Operations Act 1997</b>		22
	Chapter 7 (Investigation) of the <i>Protection of the Environment Operations Act 1997</i> extends to the exercise of powers in connection with this Act and the regulations.	23 24 25
	<b>Note.</b> Section 186 of the <i>Protection of the Environment Operations Act 1997</i> provides that Chapter 7 of that Act extends to the exercise of powers in connection with certain other legislation, including this Act. Chapter 7 of the <i>Protection of the Environment Operations Act 1997</i> deals with such matters as the appointment of authorised officers, powers to require information and records, powers of entry and search, powers to question and to identify persons, and powers with respect to certain things such as vehicles.	26 27 28 29 30 31 32
<b>96C Powers of entry</b>		33
	(1) Without limiting section 96B, an authorised officer may enter:	34
	(a) any land on which the authorised officer reasonably suspects that any activity that may cause contamination is being carried on—at any time during which the activity is being carried on there, and	35 36 37
	(b) any land at or from which the authorised officer reasonably suspects contamination has been, is being or is likely to be caused—at any time, and	38 39 40
	(c) any significantly contaminated land—at any time.	41

(2)	Chapter 7 (Investigation) of the <i>Protection of the Environment Operations Act 1997</i> applies to the exercise of functions by an authorised officer under this section in the same way as it applies to the exercise of other powers to enter premises under that Chapter.	1 2 3 4
<b>[8] Section 108</b>		5
	Omit the section. Insert instead:	6
<b>108 Service of documents</b>		7
(1)	A document that is authorised or required by this Act or the regulations to be served on any person may be served by any of the following methods:	8 9
(a)	in the case of an individual—by personal delivery to the person,	10
(b)	by post to the address specified by the person for the service of documents of that kind,	11 12
(c)	in the case of an individual who has not specified such an address—by post to the residential or business address of the person last known to the person serving the document,	13 14 15
(d)	in the case of a corporation—by post to the registered office or any other office of the corporation or by leaving it at any such office with a person apparently over the age of 16 years,	16 17 18
(e)	by email to an email address specified by the person for the service of documents of that kind,	19 20
(f)	by any other method authorised by the regulations for the service of documents of that kind.	21 22
(2)	Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person by any other method.	23 24 25
(3)	In this section, <i>serve</i> includes give or send.	26
<b>[9] Schedule 2 Savings and transitional provisions</b>		27
	Insert after Part 6:	28
<b>Part 7 Provisions consequent on enactment of Protection of the Environment Legislation Miscellaneous Amendments Act 2017</b>		29 30 31
<b>27 Definition</b>		32
	In this Part:	33
	<i>amending Act</i> means the <i>Protection of the Environment Legislation Miscellaneous Amendments Act 2017</i> .	34 35
<b>28 Existing authorised officers</b>		36
	A person appointed as an authorised officer under Part 9 before the repeal of that Part by the amending Act is taken to be an authorised officer appointed under Chapter 7 (Investigation) of the <i>Protection of the Environment Operations Act 1997</i> on the commencement of sections 96B and 96C of this Act, as inserted by the amending Act.	37 38 39 40 41

**29 Investigations—exercise of powers**

1

Chapter 7 (Investigation) of the *Protection of the Environment Operations Act 1997* extends to the exercise of powers in connection with an investigation commenced before the commencement of sections 96B and 96C of this Act, as inserted by the amending Act.

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<b>Schedule 2</b>	<b>Amendment of Protection of the Environment Administration Act 1991 No 60</b>	1
		2
[1]	<b>Section 3 Definitions</b>	3
	Insert in alphabetical order in section 3 (1):	4
	<i>advisory committee</i> means an advisory committee established under Part 6.	5
[2]	<b>Section 10 State of the environment reports</b>	6
	Omit section 10 (3) (f).	7
[3]	<b>Part 6, heading</b>	8
	Omit the heading. Insert instead:	9
	<b>Part 6 Advisory committees</b>	10
[4]	<b>Part 6, Divisions 1–3</b>	11
	Omit the Divisions.	12
[5]	<b>Part 6, Division 4, heading</b>	13
	Omit the heading.	14
[6]	<b>Section 35 Personal liability</b>	15
	Omit “body” wherever occurring in section 35 (1). Insert instead “committee”.	16
[7]	<b>Section 35 (2)</b>	17
	Omit the subsection.	18
[8]	<b>Schedule 2, heading</b>	19
	Omit the heading. Insert instead:	20
	<b>Schedule 2 Members and procedure of advisory committees</b>	21
		22
[9]	<b>Schedule 2</b>	23
	Omit “(Sections 24 (3), 28 (5), 31 (3))”. Insert instead “(Section 31 (3))”.	24
[10]	<b>Schedule 2, clause 1</b>	25
	Omit the clause. Insert instead:	26
	<b>1 Definitions</b>	27
	In this Schedule:	28
	<i>ex-officio member</i> means a person who is a member of an advisory committee by virtue of being the holder of a particular office.	29
	<i>member</i> means any member of an advisory committee.	30
		31
[11]	<b>Schedule 2, clause 2 (1)</b>	32
	Omit the subclause.	33

<b>[12] Schedule 2, clauses 2, 3 (2) and (4), 6 (1) (e) and 9–12</b>	1
Omit “body” wherever occurring. Insert instead “committee”.	2
<b>[13] Schedule 2, clause 3 (1)</b>	3
Omit the subclause.	4
<b>[14] Schedule 2, clause 3 (2)</b>	5
Omit “(other than a Consultation Forum or the Council),”.	6
<b>[15] Schedule 2, clause 4</b>	7
Omit the clause. Insert instead:	8
<b>4 Terms of office</b>	9
Subject to this Schedule, a member (other than an ex-officio member) holds office for such period (not exceeding 2 years) as is specified in the member’s instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	10 11 12 13
<b>[16] Schedule 2, clause 6 (2)</b>	14
Omit the subclause. Insert instead:	15
(2) The Authority may remove a member from office at any time.	16
<b>[17] Schedule 2, clause 13</b>	17
Omit the clause.	18
<b>[18] Schedule 4 Savings, transitional and other provisions</b>	19
Insert at the end of the Schedule, with appropriate Part and clause numbering:	20
<b>Part Provision consequent on enactment of Protection of the Environment Legislation Miscellaneous Amendments Act 2017</b>	21 22 23
<b>Existing members of Consultation Forums or New South Wales Council on Environmental Education</b>	24 25
A person who, immediately before the repeal of Divisions 1–3 of Part 6 of this Act by the <i>Protection of the Environment Legislation Miscellaneous Amendments Act 2017</i> , held office as a member of the Hunter Region Environment Protection Community Consultation Forum, the Illawarra Region Environment Protection Community Consultation Forum or the New South Wales Council on Environmental Education:	26 27 28 29 30 31
(a) ceases to hold that office, and	32
(b) is not entitled to any remuneration or compensation because of the loss of that office.	33 34

<b>Schedule 3</b>	<b>Amendment of Protection of the Environment Operations Act 1997 No 156</b>	1
		2
[1]	<b>Sections 63 (1) and 308 (2) (c) and Schedule 2, clause 9 (1) (h) (i)</b>	3
	Insert “or renewed” after “issued” wherever occurring.	4
[2]	<b>Section 76A</b>	5
	Insert before section 77 in Part 3.6:	6
	<b>76A Application of Part</b>	7
	This Part does not apply to a licence to carry out any scheduled activity that involves the transportation of trackable waste.	8
		9
[3]	<b>Section 78 Review of licences</b>	10
	Omit section 78 (2) (a) and (b). Insert instead:	11
	(a) not less than 1 month, and not more than 6 months, before the review is undertaken, a notice of the review of each licence is to be published on the website of the EPA,	12
		13
		14
[4]	<b>Chapter 3, Part 3.6A</b>	15
	Insert after Part 3.6:	16
	<b>Part 3.6A Duration and renewal of licences to transport trackable waste</b>	17
		18
	<b>78A Application of Part</b>	19
	This Part applies to a licence to carry out any scheduled activity that involves the transportation of trackable waste ( <i>a licence to transport trackable waste</i> ).	20
		21
	<b>78B Duration of licence to transport trackable waste</b>	22
	(1) Once a licence to transport trackable waste comes into force, the licence remains in force for the period specified in the licence, being a period not longer than 5 years, unless it is suspended, revoked or surrendered.	23
		24
		25
	(2) The licence is, while it remains in force, subject to any variations made to the licence under this Act.	26
		27
	<b>78C Renewal of licence to transport trackable waste</b>	28
	(1) The holder of a licence to transport trackable waste may apply in writing to the appropriate regulatory authority for the renewal of the licence.	29
		30
	(2) An application for renewal of a licence to transport trackable waste must:	31
	(a) be made in or to the effect of a form approved by the appropriate regulatory authority, and	32
		33
	(b) contain or be accompanied by such information as is required by the appropriate regulatory authority (as indicated in the form or in material accompanying the form), and	34
		35
		36
	(c) be made within the time period prescribed by the regulations, and	37
	(d) be accompanied by the fee prescribed by the regulations.	38

(3)	The appropriate regulatory authority may renew a licence to transport trackable waste for a period specified in the licence, being a period not longer than 5 years.	1 2 3
(4)	The appropriate regulatory authority must not refuse an application for renewal unless before doing so:	4 5
(a)	it has given notice to the applicant that it intends to do so, and	6
(b)	it has specified in that notice the reasons for its intention to do so, and	7
(c)	it has given the applicant a reasonable opportunity to make submissions in relation to the matter, and	8 9
(d)	it has taken into consideration any such submissions by the applicant.	10
	<b>Note.</b> Section 287 enables appeals to be made in connection with licence applications within a specified period after the person is given notice of the decision concerned. The section provides that the person may appeal if the licence application is not granted within 60 days, and for the purposes of the appeal the licence application is taken to have been refused.	11 12 13 14 15
<b>[5]</b>	<b>Section 87 Putrescible waste landfill sites—licensing arrangements</b>	16
	Omit the section.	17
<b>[6]</b>	<b>Section 144AC Use of approved GPS tracking device required by EPA for waste transportation vehicles</b>	18 19
	Insert “or trailers, or both,” after “motor vehicles” in section 144AC (1) (a).	20
<b>[7]</b>	<b>Section 186 Extension of Chapter to other environment protection legislation</b>	21
	Insert after section 186 (b3):	22
	(b4) <i>Contaminated Land Management Act 1997</i> and the regulations under that Act,	23 24
<b>[8]</b>	<b>Section 196 Powers of authorised officers to enter premises</b>	25
	Insert “or vessel” after “aircraft” in section 196 (2).	26
<b>[9]</b>	<b>Section 196 (2A)</b>	27
	Insert after section 196 (2):	28
	(2A) If entry is effected by means of an unmanned vehicle, vessel or aircraft, the vehicle, vessel or aircraft must be operated by or under the authority of an authorised officer.	29 30 31
<b>[10]</b>	<b>Section 216 Time within which summary proceedings may be commenced</b>	32
	Insert after paragraph (c2) of the definition of <i>prescribed offence</i> in section 216 (6):	33
	(c3) an offence under section 120 (Prohibition of pollution of waters) but only in relation to underground or artesian water, or	34 35
	(c4) an offence under section 144AB (Repeat waste offenders), or	36
<b>[11]</b>	<b>Section 287 Appeals regarding licence applications and licences</b>	37
	Insert “or renewal” after “issue” in section 287 (2).	38
<b>[12]</b>	<b>Section 287 (2) note, Schedule 2, clause 8 (1) and (2) and Dictionary, definition of “licence application”</b>	39 40
	Insert “renewal,” after “issue,” wherever occurring.	41

<b>[13] Section 308 Public register</b>	1
Insert “, other than an application for the renewal of a licence to transport trackable waste within the meaning of section 78A,” after “licence application” in section 308 (2) (a).	2 3
<b>[14] Section 308 (2) (g1)</b>	4
Insert after section 308 (2) (g):	5
(g1) in the case of the EPA—the date of each notice of review of a licence published in accordance with section 78 (2),	6 7
<b>[15] Schedule 2 Regulation-making powers</b>	8
Insert “, for renewal of a licence” after “application for a licence” in clause 9 (4).	9
<b>[16] Schedule 5 Savings, transitional and other provisions</b>	10
Insert at the end of the Schedule, with appropriate Part and clause numbering:	11
 <b>Part Provisions consequent on enactment of Protection of the Environment Legislation Miscellaneous Amendments Act 2017</b>	 12 13 14
<b>Definition</b>	15
In this Part:	16
<i>amending Act</i> means the <i>Protection of the Environment Legislation Miscellaneous Amendments Act 2017</i> .	17 18
<b>Licences to transport trackable waste</b>	19
(1) A licence to transport trackable waste that was issued before the commencement of Part 3.6A of this Act, as inserted by the amending Act, expires:	20 21 22
(a) if both a licence to transport trackable waste and a dangerous goods vehicle licence are in force in respect of the same motor vehicle:	23 24
(i) at the end of the licence fee period that comes to an end immediately following the commencement of Part 3.6A, or	25 26
(ii) on the date specified in the dangerous goods vehicle licence, whichever is the later, or	27 28
(b) in all other cases—at the end of the licence fee period that comes to an end immediately following the commencement of Part 3.6A.	29 30
(2) In this clause:	31
<i>dangerous goods vehicle licence</i> means a licence for a road vehicle to transport dangerous goods issued under Division 4 of Part 18 of the <i>Dangerous Goods (Road and Rail Transport) Regulation 2014</i> .	32 33 34
<i>licence fee period</i> means each period of 12 months commencing from the issue of a licence to transport trackable waste.	35 36
<i>licence to transport trackable waste</i> means a licence to carry out any scheduled activity that involves the transportation of trackable waste.	37 38
<b>Putrescible waste landfill sites—supervisory licences</b>	39
A supervisory licence held under section 87 immediately before the repeal of that section by the amending Act ceases to be in force on the repeal of that section.	40 41 42

**Time limits for prosecutions**

The amendment to section 216 (6) by the amending Act extends to offences under section 120 or 144AB that are alleged to have been committed before the date of commencement of the amendment, but only if proceedings for the offence could have been commenced on that date.

**[17] Dictionary**

Insert in alphabetical order:

*aircraft* includes a remotely piloted aircraft, an unmanned aircraft system or a drone.

**[18] Dictionary**

Insert in alphabetical order:

*trailer* has the same meaning as in the *Road Transport Act 2013*.

<b>Schedule 4</b>	<b>Amendment of Radiation Control Act 1990 No 13</b>	1
<b>[1] Sections 13 (2) (b), 18 (6) and 24A (3)</b>		2
	Omit “District Court” wherever occurring. Insert instead “Land and Environment Court”.	3
<b>[2] Section 25 Proceedings for offences</b>		4
	Omit section 25 (1) and (2). Insert instead:	5
	(1) Proceedings for an offence against this Act or the regulations are to be disposed of summarily:	6
	(a) by the Local Court, or	7
	(b) by the Land and Environment Court in its summary jurisdiction.	8
	(2) Proceedings may be taken and prosecuted only by the Authority or a person acting with the authority of the Authority.	9
<b>[3] Section 25 (3)</b>		10
	Omit “100”. Insert instead “200”.	11
<b>[4] Section 25 (4)</b>		12
	Omit the subsection. Insert instead:	13
	(4) In proceedings for an offence, an authority to prosecute purporting to have been signed by the Chairperson of the Authority is evidence of that authority without proof of the signature of the Authority.	14
<b>[5] Section 25 (5)</b>		15
	Omit “12 months”. Insert instead “2 years”.	16
<b>[6] Section 25A Penalty notices</b>		17
	Omit section 25A (8). Insert instead:	18
	(8) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.	19
<b>[7] Sections 25B (1) and 27 (3)</b>		20
	Omit “Supreme Court” wherever occurring. Insert instead “Land and Environment Court”.	21
<b>[8] Section 36A</b>		22
	Omit the section. Insert instead:	23
<b>36A Appeals to Land and Environment Court</b>		24
	(1) A person may appeal to the Land and Environment Court against a decision of the Authority:	25
	(a) to refuse to grant the person a licence or accreditation, or	26
	(b) to impose conditions on, or vary, or vary the conditions of, a licence or accreditation granted to the person, or	27
	(c) to refuse to vary a licence or accreditation granted to the person, or	28
	(d) to suspend or cancel a licence or accreditation held by the person, or	29
	(e) to refuse to approve the surrender of a licence or accreditation held by the person, or	30

(f)	to impose a condition on the suspension, cancellation or surrender of a licence or accreditation held by the person, or	1 2
(g)	to call on or use any financial assurance provided by the person.	3
(2)	The appeal is to be made in accordance with the rules of the Land and Environment Court, but may not be made more than 28 days after the date on which the person is given notice of the decision.	4 5 6
(3)	The lodging of an appeal (other than an appeal against a decision of the Authority to suspend or cancel a licence or accreditation) does not operate to stay action on the decision appealed against, except to the extent that the Land and Environment Court otherwise directs.	7 8 9 10
(4)	If the Land and Environment Court directs that a decision under appeal is stayed, the decision does not operate until the stay ceases to have effect or the Land and Environment Court confirms the decision or the appeal is withdrawn, whichever first occurs.	11 12 13 14
(5)	The appeal is to be by way of a new hearing and new evidence can be given on the appeal.	15 16
(6)	The decision of the Land and Environment Court on the appeal is final and is to be given effect to by the Authority.	17 18
<b>[9]</b>	<b>Schedule 2 Savings and transitional provisions</b>	19
	Insert at the end of the Schedule, with appropriate Part and clause numbering:	20
<b>Part</b>	<b>Provisions consequent on enactment of Protection of the Environment Legislation Miscellaneous Amendments Act 2017</b>	21 22 23
	<b>Definition</b>	24
	In this Part:	25
	<i>amending Act</i> means the <i>Protection of the Environment Legislation Miscellaneous Amendments Act 2017</i> .	26 27
	<b>Pending proceedings</b>	28
(1)	Proceedings for offences under this Act or the regulations, or for an order to remedy or restrain a breach of this Act or the regulations, before the Supreme Court that were instituted before the amendments made to section 25 or 25B by the amending Act that had not been finally determined by the Supreme Court at the date of the commencement of the amending Act are to be determined as if the amending Act had not been enacted.	29 30 31 32 33 34
(2)	Appeals to the District Court against decisions of the Authority that were instituted before the substitution of section 36A by the amending Act that had not been finally determined by the District Court at the date of the commencement of the amending Act are to be determined as if the amending Act had not been enacted.	35 36 37 38 39
(3)	Accordingly, any rules, regulations or other law that would have been applicable to the proceedings before the commencement of the amending Act continue to apply to the proceedings as if the amending Act had not been enacted.	40 41 42 43

**Time limits for prosecutions**

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The amendment to section 25 (5) by the amending Act extends to offences  
under this Act or the regulations that are alleged to have been committed  
before the date of commencement of the amendment, but only if proceedings  
for the offence could have been commenced on that date.

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**Maximum penalty for penalty notice offences for existing offences**

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The substitution of section 25A (8) by the amending Act does not apply to an  
offence committed under this Act or the regulations before the commencement  
of that substitution.

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<b>Schedule 5</b>	<b>Amendment of other legislation</b>	1
<b>5.1</b>	<b>Dangerous Goods (Road and Rail Transport) Act 2008 No 95</b>	2
	<b>Section 13 Regulation-making powers</b>	3
	Insert “, including the refund and waiver of fees, or particular types of fees, in whole or in part” after “Act” in section 13 (2) (e).	4 5
<b>5.2</b>	<b>Land and Environment Court Act 1979 No 204</b>	6
<b>[1]</b>	<b>Section 17 Class 1—environmental planning and protection appeals</b>	7
	Insert after section 17 (h):	8
	(ha) appeals under section 18 or 36A of the <i>Radiation Control Act 1990</i> ,	9
<b>[2]</b>	<b>Section 20 Class 4—environmental planning and protection, development contract and strata renewal plan civil enforcement</b>	10 11
	Insert after section 20 (1) (cn):	12
	(co) proceedings under section 24A, 25B or 27 of the <i>Radiation Control Act 1990</i> ,	13 14
<b>[3]</b>	<b>Section 20 (3) (a)</b>	15
	Insert in alphabetical order:	16
	<i>Radiation Control Act 1990</i> ,	17
<b>[4]</b>	<b>Section 21 Class 5—environmental planning and protection summary enforcement</b>	18
	Insert after section 21 (he):	19
	(hf) proceedings for an offence under section 25 of the <i>Radiation Control Act 1990</i> ,	20 21