

[Act 1996 No 101]



New South Wales

Environmental Legislation Amendment (Enforcement) Bill 1996

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to extend the limitation period within which proceedings for offences against the environmental legislation must be instituted so as to enable proceedings to be instituted within the requisite period after evidence of the offence first comes to the attention of any relevant authorised officer under that legislation (instead of only within the requisite period after the commission of the alleged offence), and
 - (b) to make it clear that authorised officers may enter premises under the environmental legislation if the officer suspects that pollution has been caused in or from the premises (at present the power of entry applies in some cases only if the officer suspects that pollution is being or is likely to be caused), and
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- (c) to make it clear that authorised officers may require an occupier of premises under the environmental legislation to produce records if the officer suspects that pollution has been caused in or from the premises (at present the power to require the production of records applies only if the officer suspects that pollution is being or is usually caused).

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 a day or days to be appointed by proclamation.

Clauses 3–7 are formal provisions giving effect to the amendments to the *Environmental Offences and Penalties Act 1989*, the *Clean Air Act 1961*, the *Clean Waters Act 1970*, the *Noise Control Act 1975* and the *Pollution Control Act 1970* set out in Schedules 1–5.

Schedule 1 Amendment of Environmental Offences and Penalties Act 1989

The Schedule substitutes section 12 of the Act to give effect to paragraph (a) of the above objects.

At present, proceedings for serious environmental offences must be commenced within 3 years after the commission of the alleged offence. Other environmental offences must be commenced within 12 months after the commission of the alleged offence. Under the proposed substituted section, the period is extended to 3 years or 1 year (depending on the offence) after evidence of the offence first comes to the attention of relevant authorised officers under the environmental legislation.

Schedule 2 Amendment of Clean Air Act 1961

The Schedule amends section 27 of the Act to give effect to paragraph (c) of the above objects in connection with air pollution.

Schedule 3 Amendment of Clean Waters Act 1970

The Schedule amends section 29 of the Act to give effect to paragraph (c) of the above objects in connection with water pollution.

Schedule 4 Amendment of Noise Control Act 1975

Schedule 4 [1] amends section 76 of the Act to give effect to paragraph (b) of the above objects in connection with noise.

Schedule 4 [2] also amends section 76 of the Act to give effect to paragraph (c) of the above objects in connection with noise.

Schedule 5 Amendment of Pollution Control Act 1970

Schedule 5 [1] amends section 24 of the Act to give effect to paragraph (b) of the above objects in connection with the Act.

Schedule 5 [2] also amends section 24 of the Act to give effect to paragraph (c) of the above objects in connection with the Act.