

[Act 1996 No 16]



New South Wales

Environmentally Hazardous Chemicals Amendment Bill 1996

Explanatory note

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

Overview of Bill

The object of this Bill is to provide for the accreditation of persons suitably qualified, experienced and equipped to carry on a business of auditing remedial work undertaken on chemically contaminated sites.

* Amended in committee—see table at end of volume.

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.

Clause 3 is a formal provision giving effect to the amendments to the *Environmentally Hazardous Chemicals Act 1985* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] and **[2]** make consequential amendments.

Schedule 1 [3] amends section 35 of the Act (which confers power on the Environment Protection Authority to require remedial action to be taken in respect of chemically contaminated sites) so as to allow the Authority to require the occupier of a contaminated site to obtain a site audit in respect of any remedial action required to be carried out on it.

Schedule 1 [4] inserts a Division 3 (sections 36A–365) into Part 5 of the Act. The new provisions define a *site audit* and provide for the accreditation of site auditors.

In the context of Part 5 of the Act, a “site audit” is a review of remedial work that has been carried out on land regarded as chemically contaminated, in order to evaluate the environmental quality of the land. This involves scrutiny of reports provided by the person who carried out the work, and may involve on-site inspection and testing. In some cases, a site audit may be carried out in the course of assisting officers of the Environment Protection Authority for the purpose of ascertaining whether remedial work required by the Act to be undertaken in respect of the land has been satisfactorily performed. In other cases, a site audit may be commissioned by a local council or by the occupier or a prospective developer of the land, in order to determine whether contamination of the land has been sufficiently eliminated or mitigated by remedial work for the land to be developed for a particular purpose or range of purposes. (This might, for instance, be necessary in order to meet the requirements of an environmental planning instrument.) In cases where a site audit is to be carried out to meet the requirements of any law, it will be necessary for the audit to be carried out by an accredited site auditor. In the case of other site audits, accreditation will provide a reliable guide as to the expertise of the person commissioned to carry out the audit.

Companies and other corporate bodies cannot obtain accreditation as a site auditor. In order to obtain accreditation, a person must satisfy the Authority that he or she meets the necessary criteria. Criteria will be set by the

Explanatory note

Authority, with due regard for the need to preserve high standards of expertise, integrity and possession of or access to specialist knowledge. Accreditation is for a 12 month period, and is renewable. The site auditor is re-assessed at each renewal time to see whether he or she continues to meet the criteria for accreditation. The Authority will monitor the work of accredited site auditors, whose annual accreditation fee will be applied to the administrative costs of the Authority's monitoring activities.

As a further measure for the maintenance of standards, the Authority will issue guidelines for the carrying out of site audits. While these guidelines may offer a range of options, compliance with the guidelines will be compulsory.

Site auditors must inform the Authority of any site audits they are commissioned to carry out, and must make annual returns detailing site audits carried out by them. They must give the Authority and the local council a copy of the results of any site audit carried out by them. They must report to the Authority any change in the circumstances of their employment that might affect their suitability for accreditation.

Safe and successful development of land may depend on reliable site audits. To make false statements in or in connection with a site audit will be a serious offence, punishable by a fine of up to 200 penalty units (current value \$20,000) or imprisonment for up to 2 years, or both.

Accreditation may be revoked, or its renewal refused, if a site auditor no longer meets the criteria for accreditation, or if the site auditor contravenes provisions of the Act or regulations relating to accreditation, or if his or her accreditation in another State is revoked, or on other relevant grounds.

It is prohibited for a person falsely to hold out to be an accredited site auditor.