



New South Wales

Protection of the Environment Operations Amendment (Environmental Monitoring) Bill 2010

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Protection of the Environment Operations Act 1997* (the **principal Act**) to enable the Environment Protection Authority (the **EPA**) to establish programs to monitor the impact on the environment and human health of activities or works authorised or controlled by environment protection licences issued under the principal Act, including pollution resulting from those activities or works, and to recover the costs of those programs from licence holders.

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.

Schedule 1 Amendment of Protection of the Environment Operations Act 1997 No 156

Schedule 1 [3] inserts Part 9.3C into the principal Act. Under the proposed Part, the EPA may, on its own initiative, and must, at the direction of the Minister for Climate Change and the Environment, investigate the need for a program (referred to in the proposed Part as an *environmental monitoring program*) to monitor the impact on the environment and human health of activities or works authorised or controlled by licences, including pollution resulting from those activities or works. After completing such an investigation, the EPA may develop and implement an environmental monitoring program if it is satisfied that such a program is required. The EPA may arrange for a person or body to exercise the EPA's functions in relation to environmental monitoring programs on behalf of the EPA. The EPA is to obtain, and take into consideration, advice from one or more independent persons or bodies with relevant technical and health expertise as to the cost effectiveness of any environmental monitoring program.

The regulations may require holders of environment protection licences to pay a contribution (referred to in the proposed Part as an *environmental monitoring levy*) towards the costs of an environmental monitoring program. The amount of the levy, or how it is to be calculated, will be set out in the regulations.

An Environmental Monitoring Fund (the *Fund*) is to be established in the Special Deposits Account, which will be managed by the EPA. The environmental monitoring levies collected from licence holders will be paid into the Fund and the costs of the environmental monitoring programs will be paid out of the Fund.

Schedule 1 [1] and [2] enable the EPA to impose conditions on environment protection licences for the purposes of environmental monitoring programs.

First print



New South Wales

Protection of the Environment Operations Amendment (Environmental Monitoring) Bill 2010

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Protection of the Environment Operations Act 1997 No 156	3



New South Wales

Protection of the Environment Operations Amendment (Environmental Monitoring) Bill 2010

No. , 2010

A Bill for

An Act to amend the *Protection of the Environment Operations Act 1997* to make provision in relation to programs to monitor the environmental impact of certain licensed activities.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Protection of the Environment Operations Amendment (Environmental Monitoring) Act 2010</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6

Schedule 1	Amendment of Protection of the Environment Operations Act 1997 No 156	1
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[1]	Section 69 Conditions relating to schemes for economic measures and environmental monitoring programs	4
	Insert at the end of section 69 (c):	5
	or	6
	(d) environmental monitoring programs,	7
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[2]	Section 69	9
	Omit “or 9.3B”. Insert instead “, 9.3B or 9.3C”.	10
[3]	Part 9.3C	11
	Insert after Part 9.3B:	12
	Part 9.3C Environmental monitoring	13
295Y	Environmental monitoring programs	14
(1)	The EPA may, on its own initiative, and must, at the direction of the Minister, investigate the need for a program (referred to in this Part as an <i>environmental monitoring program</i>) to monitor the impact on the environment and human health of activities or works authorised or controlled by licences, including pollution resulting from those activities or works.	15
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(2)	If, after completing an investigation, the EPA is satisfied that an environmental monitoring program is required, it may develop and implement such a program.	21
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(3)	If a proposed environmental monitoring program relates to licensed activities or works within the portfolio responsibility of the Minister for Primary Industries or the Minister for Transport, the Minister is to consult with that Minister about the development and implementation of the proposed program.	24
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(4)	The EPA may enter into an arrangement with a person or body in respect of the exercise, by the person or body on behalf of the EPA, of the EPA’s functions in relation to an environmental monitoring program.	29
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(5)	The regulations may make provision for or with respect to environmental monitoring programs, including the requirements for the EPA to review and report on any such program.	33
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(6)	The EPA is to obtain, and take into consideration, advice from one or more independent persons or bodies with relevant technical and health expertise as to the cost effectiveness of any environmental monitoring program.	1 2 3 4
295Z	Environmental monitoring levies	5
(1)	The regulations may require a specified licence holder, or a specified class of licence holders, to pay to the EPA a contribution towards the costs of environmental monitoring programs (referred to in this Part as an <i>environmental monitoring levy</i>).	6 7 8 9 10
(2)	The amount of the environmental monitoring levy (or the manner in which it is to be calculated) and other matters concerning its payment, including interest payable for late payment, are to be set out in the regulations.	11 12 13 14
(3)	An environmental monitoring levy is recoverable by the EPA as a debt in a court of competent jurisdiction.	15 16
(4)	For the purposes of this Part, the <i>costs of environmental monitoring programs</i> include:	17 18
(a)	the costs of investigating the need for, and the development, implementation, operation and administration of, environmental monitoring programs (including any costs incurred by the EPA before the commencement of this Part), and	19 20 21 22 23
(b)	payments by the EPA for services provided by a person or body exercising functions in relation to environmental monitoring programs on behalf of the EPA.	24 25 26
295ZA	Environmental Monitoring Fund	27
(1)	There is to be established in the Special Deposits Account an account called the Environmental Monitoring Fund (the <i>Fund</i>).	28 29
(2)	Money in the Fund is under the control of the EPA and can be expended by the EPA only for the purposes authorised by this section.	30 31 32
(3)	The following are to be paid into the Fund:	33
(a)	any environmental monitoring levy paid by a licence holder,	34 35
(b)	money advanced by the Treasurer for payment into the Fund,	36 37
(c)	the proceeds of investment of money in the Fund,	38

- (d) any gift or bequest of money for the purposes of the Fund, 1
- (e) any other money appropriated by Parliament for the 2
purposes of the Fund or required by law to be paid into the 3
Fund. 4
- (4) The following are to be paid out of the Fund: 5
 - (a) the costs of environmental monitoring programs, 6
 - (b) such other costs relating to environmental monitoring 7
programs as the EPA directs to be paid out of the Fund, 8
 - (c) the refund, in accordance with the regulations, of an 9
environmental monitoring levy paid by a licence holder. 10
- (5) A separate account is to be established in the Fund for each 11
environmental monitoring program. 12
- (6) The money in the Fund may be invested: 13
 - (a) in the manner authorised by the *Public Authorities 14
(Financial Arrangements) Act 1987*, or 15
 - (b) if that Act does not confer power on the EPA to invest the 16
money, in any other manner approved by the Treasurer. 17