

Western Australia

**National Environment Protection Council  
(Western Australia) Amendment Act 2009**

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As at 03 Dec 2009

No. 47 of 2009

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## National Environment Protection Council (Western Australia) Amendment Act 2009

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## **National Environment Protection Council (Western Australia) Amendment Act 2009**

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**No. 47 of 2009**

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**An Act to amend the *National Environment Protection Council  
(Western Australia) Act 1996*.**

[Assented to 3 December 2009]

The Parliament of Western Australia enacts as follows:

**1. Short title**

This is the *National Environment Protection Council (Western Australia) Amendment Act 2009*.

**2. Commencement**

This Act comes into operation on the day after the day on which it receives the Royal Assent.

**3. Act amended**

This Act amends the *National Environment Protection Council (Western Australia) Act 1996*.

**4. Section 6 amended**

In section 6(1) insert in alphabetical order:

**s. 5**

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**Ministerial Council** means a council, comprising one or more Ministers of the Commonwealth and Ministers of one or more of the States or Territories, that includes environmental protection in its functions;

**minor variation**, in relation to a national environment protection measure, means a decision made under section 22A(1) to vary the national environment protection measure;

**5. Section 13 amended**

In section 13:

- (a) in paragraph (g) delete “Association.” and insert:

Association; and

- (b) after paragraph (g) insert:

(h) direct the Service Corporation to provide assistance and support to other Ministerial Councils.

- (c) after each of paragraphs (a) to (e) insert:

and

**6. Section 20 amended**

After section 20(4) insert:

- (5) Subsections (2) to (4) do not apply to a minor variation of a national environment protection measure under Division 2A.

**7. Part 3 Division 2A inserted**

After Part 3 Division 2 insert:

**Division 2A — Minor variation of national environment  
protection measures**

**22A. Minor variation of measures**

- (1) The Council may vary any national environment protection measure if —
  - (a) the variation is supported by a unanimous resolution of all of the members; and
  - (b) the resolution states that the variation does not involve a significant change in the effect of the national environment protection measure.

A variation under this section is a *minor variation*.

- (2) If the Council decides that a variation does not involve a significant change in the effect of the national environment protection measure, the Council must prepare —
  - (a) a draft of the proposed variation; and
  - (b) a statement relating to the variation that explains —
    - (i) the reasons for the proposed variation; and
    - (ii) the nature and effect of the proposed variation; and
    - (iii) the reasons why the Council is satisfied that the variation is a minor variation.

**22B. Public consultation for minor amendments**

- (1) Before making a minor variation to a national environment protection measure, the Council must publish a notice —
  - (a) stating how the draft of the proposed variation and the explanatory statement may be obtained; and
  - (b) inviting submissions to the Council on the proposed variation, or on the explanatory statement, within a specified period.
- (2) A notice must —
  - (a) be published in the *Gazette*; and
  - (b) in each participating State or Territory concerned, be published, on at least 1 day during the month in which the *Gazette* notice is published, in a newspaper circulating in that State or Territory.
- (3) The period specified in each notice under subsection (1) must end no less than 1 month after the day on which subsection (2)(b) has been fully complied with in all participating jurisdictions.

**22C. Council to have regard to submissions**

In making a minor variation to a national environment protection measure, the Council must have regard to —

- (a) any submissions it receives that relate to the proposed variation or the explanatory statement; and
- (b) whether the measure is consistent with section 3 of the Agreement; and
- (c) relevant international agreements to which Australia is a party; and

- (d) any regional environmental differences in Australia.

**8. Section 36 amended**

In section 36:

- (a) after paragraph (a) insert:
  - (aa) to provide assistance and support to other Ministerial Councils as directed by the Council; and
- (b) in paragraph (b) delete “paragraph (a).” and insert:

paragraph (a) or (aa).

**9. Section 43 amended**

In section 43(1) delete “Subject to section 87E of the *Public Service Act 1922* of the Commonwealth, the” and insert:

The

**10. Section 49 amended**

- (1) In section 49(1) delete “appointed or employed under the *Public Service Act 1922*” and insert:

engaged under the *Public Service Act 1999*
- (2) Delete section 49(2).

**s. 11**

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**11. Section 51 amended**

In section 51(1) delete “officers and employees of Departments of the Australian Public Service, and of” and insert:

persons engaged under the *Public Service Act 1999* of the Commonwealth, and engaged by

**12. Section 56 amended**

(1) In section 56 delete “The money” and insert:

(1) The money

(2) At the end of section 56 insert:

(2) Subsection (1) does not prevent investment of surplus money of the Service Corporation under section 18 of the *Commonwealth Authorities and Companies Act 1997* of the Commonwealth, as it applies to the Service Corporation under section 59 of the Commonwealth Act.

**13. Section 59 replaced**

Delete section 59 and insert:

**59. Annual reports**

(1) An annual report prepared under section 9 of the *Commonwealth Authorities and Companies Act 1997* of the Commonwealth must also contain any other information required by the Council to be included in the report.

(2) A copy of the annual report must be given to each member of the Council as soon as practicable.

**14. Section 64 amended**

After section 64(2) insert:

- (3) As soon as possible after the end of every 5 year period following the review under subsection (1), the Council must cause a further review of the kind set out in subsection (1) to be undertaken.
- (4) The report of each further review is to be tabled in each House of the Parliament of Western Australia within 12 months after the end of the period to which it relates.

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