

PROTECTION OF THE ENVIRONMENT ADMINISTRATION BILL 1991

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are:

- (a) to establish an Environment Protection Authority; and
- (b) to provide integrated administration for environment protection; and
- (c) to continue for the time being the existing regulatory framework for environment protection pending its review and rationalisation.

Establishment of Environment Protection Authority

1. The Bill establishes the Environment Protection Authority ("the Authority"). The Authority is to be a statutory body representing the Crown and subject to Ministerial control. The Authority replaces the State Pollution Control Commission and the Ministry of the Environment, which are to be abolished. The Authority will also assume the regulatory functions relating to waste of the Waste Management Authority.

Responsibilities of Authority

2. The Authority will have general responsibility for environment protection under the following environmental protection legislation:

- (a) the Protection of the Environment Administration Act 1991 itself;
- (b) Clean Air Act 1961;
- (c) Clean Waters Act 1970;
- (d) the provisions of the Dangerous Goods Act 1975 relating to licences for the carriage of dangerous goods (transferred from the WorkCover Authority);
- (e) Environmental Education Trust Act 1990;
- (f) Environmental Offences and Penalties Act 1989;
- (g) Environmental Research Trust Act 1990;
- (h) Environmental Restoration and Rehabilitation Trust Act 1990;
- (i) Environmentally Hazardous Chemicals Act 1985;

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- (j) Noise Control Act 1975;
- (k) Ozone Protection Act 1989;
- (l) the provisions of the State Pollution Control Commission Act 1970 relating to pollution control approvals etc. (to be renamed the Pollution Control Act 1970);
- (m) Radiation Control Act 1990 (transferred from the Department of Health);
- (n) Recreation Vehicles Act 1983;
- (o) Unhealthy Building Land Act 1990;
- (p) the provisions of the Waste Disposal Act 1970 relating to the regulation of the creation, transport and disposal of waste (transferred from the Waste Management Authority).

3. The Bill sets out the general co-ordination, planning, review and research powers and responsibilities of the Authority in relation to environment protection, including the development and monitoring of environment quality objectives and policies, biennial reports on the state of the environment, advising and reporting on environmental performance targets for public authorities and the review of the existing regulatory framework for environment protection for the purpose of rationalisation.

4. The Bill transfers to the Authority the power of the State Pollution Control Commission to give directions to public authorities, subject to any dispute being settled by the Premier.

Management of Authority

5. The Authority is to be managed by a Board comprising:

- (a) the Director-General of the Authority (who is to be the chief executive officer responsible for managing and controlling the affairs of the Authority in accordance with the policies of the Board and any relevant directions of the Minister); and
- (b) 6 part-time members.

6. In addition to its general functions of determining the policies and long term strategic plans of the Authority and of overseeing the management of the Authority, the Board is to develop public guidelines relating to the institution of proceedings for environment protection offences. The Board will be required to follow the advice of Environmental Counsel appointed by the Minister in respect of the institution of proceedings for serious environment protection offences. Except in respect of proceedings involving the Crown or public authorities, the Authority (rather than the Minister) will be responsible for instituting or approving of the institution of those proceedings.

Consultation Forum and Advisory Committees

7. The Bill establishes an Environment Protection Community Consultation Forum (comprising the Director-General and 12 representatives from industry, environment protection groups and public and local authorities) to advise the Authority on community concerns and attitudes about environmental matters.

8. The Bill establishes an Environmental Education Committee (comprising various educational and other representatives) to advise the Authority on the development of effective environmental education and public awareness programs. Other advisory committees may also be established under the Bill.

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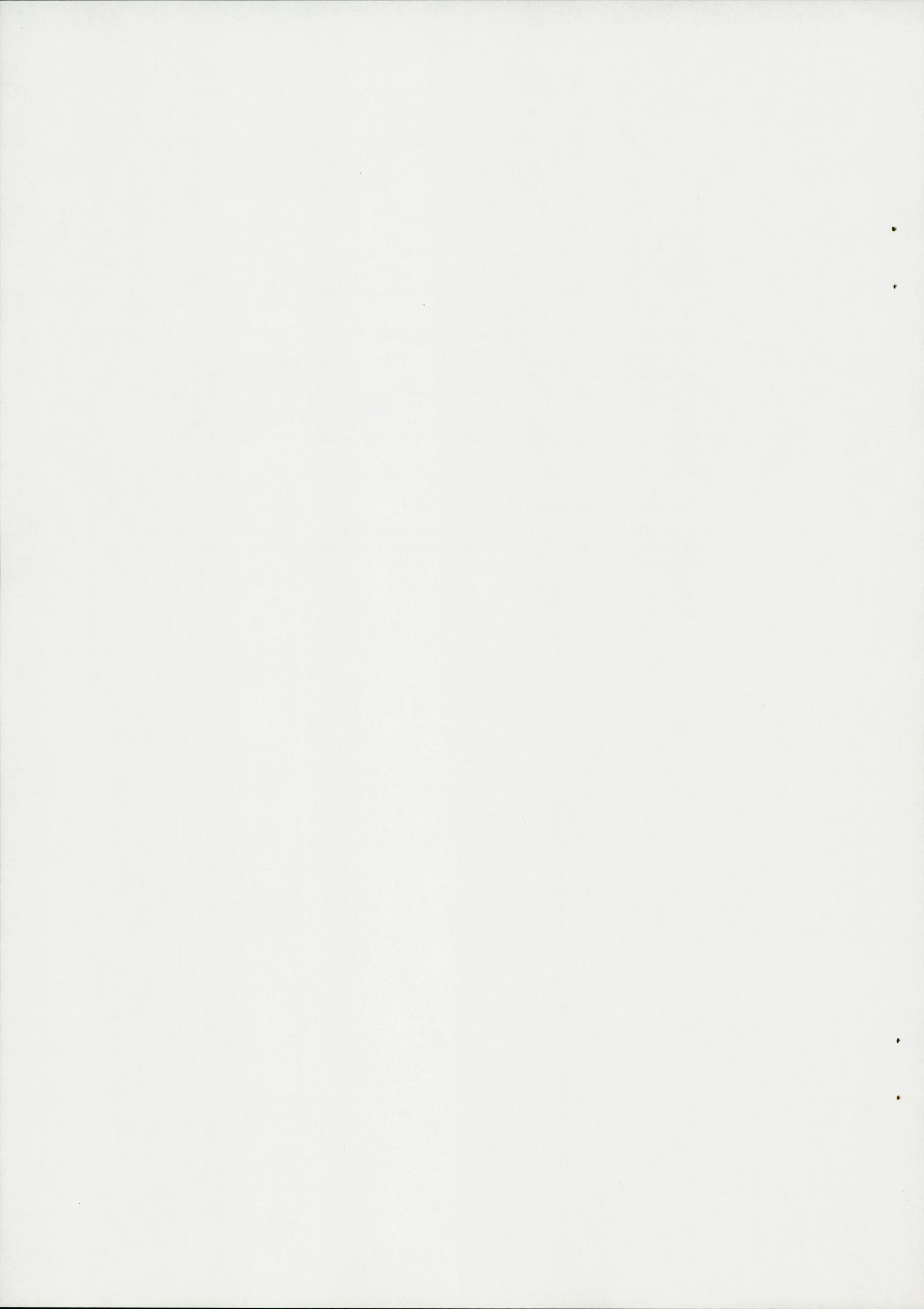
Reconstitution of Waste Management Authority

9. The Bill reconstitutes the Waste Management Authority following the transfer of its regulatory functions relating to waste to the Authority. The Waste Management Authority (to be renamed the Waste Disposal Corporation) is to be managed by the Water Board as a subsidiary corporation (and without a separate board or managing director). Although relevant staff will become employees of the Water Board, the assets, rights and liabilities of the Corporation are to be kept separate from those of the Water Board.

The Bill also provides for an additional part-time member of the Water Board.

Consequential amendments of other Acts

10. The Bill makes consequential amendments to the environment protection legislation and other legislation to give effect to the proposed administrative arrangements.



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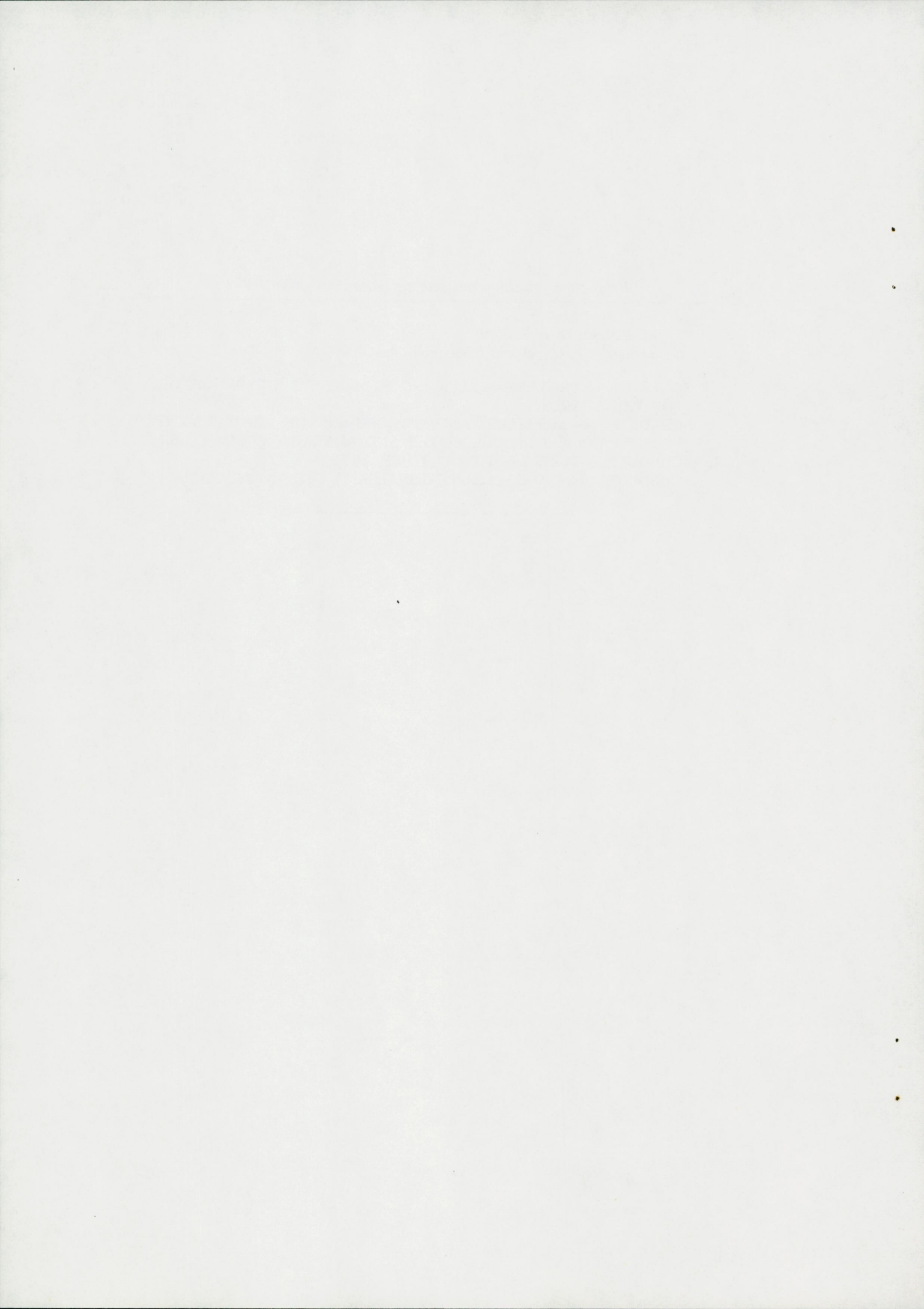
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**PROTECTION OF THE ENVIRONMENT ADMINISTRATION
BILL 1991**

NEW SOUTH WALES



No. , 1991

A BILL FOR

An Act to constitute the Environment Protection Authority and to make provision with respect to its general responsibilities and management; to amend various Acts; and for other purposes.

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The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Protection of the Environment Administration Act 1991.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act:

“**Authority**” means the Environment Protection Authority constituted by this Act;

“**Board**” means the Board of the Authority established under this Act;

“**Director-General**” means the Director-General of the Authority;

“**criminal or related proceedings**” means any proceedings for an offence against the environment protection legislation or any proceedings under section 16 or 25 of the Environmental Offences and Penalties Act 1989;

“**environment**” includes all aspects of the surroundings of human beings, including:

- (a) the physical factors of those surroundings, such as the land, the waters and the atmosphere; and
- (b) the biological factors of those surroundings, such as the animals, plants and other forms of life; and
- (c) the aesthetic factors of those surroundings, such as their appearance, sounds, smells, tastes and textures;

“**environment protection**” includes anything which furthers the objectives of the Authority as set out in section 6;

“**environment protection legislation**” means the following Acts (and the regulations and other instruments made under those Acts):

- This Act;
- Clean Air Act 1961;
- Clean Waters Act 1970;
- Dangerous Goods Act 1975 (Division 2 of Part 3);
- Environmental Education Trust Act 1990;

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Environmental Offences and Penalties Act 1989;
Environmental Research Trust Act 1990;
Environmental Restoration and Rehabilitation Trust Act 1990;
Environmentally Hazardous Chemicals Act 1985;
Noise Control Act 1975;
Ozone Protection Act 1989;
Pollution Control Act 1970;
Radiation Control Act 1990;
Recreation Vehicles Act 1983;
Unhealthy Building Land Act 1990;
Waste Disposal Act 1970;

“public authority” means a public or local authority constituted by or under any Act and includes:

- (a) a government department or administrative office; and
 - (b) a member of staff or other person who exercises functions on behalf of a public authority.
- (2) In this Act:
- (a) a reference to a function includes a reference to a power, authority, responsibility and duty; and
 - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Objects of Act

4. The objects of this Act are as follows:
- (a) to constitute the Environment Protection Authority;
 - (b) to provide integrated administration for environment protection;
 - (c) to continue for the time being the existing regulatory framework for environment protection pending its review and rationalisation.

PART 2—CONSTITUTION OF THE ENVIRONMENT PROTECTION AUTHORITY

Constitution of Authority

5. (1) There is constituted by this Act a body corporate with the corporate name of the Environment Protection Authority.
- (2) The Authority is, for the purposes of any Act, a statutory body representing the Crown.

**PART 3—OBJECTIVES OF THE ENVIRONMENT
PROTECTION AUTHORITY****Objectives of Authority**

6. The objectives of the Authority are:
- (a) to protect, restore and maintain the quality of the environment in New South Wales, having regard to the need to maintain both ecologically and economically sustainable development within the State; and
 - (b) to reduce the risks to human health and prevent the degradation of the environment, by means such as the following:
 - promoting pollution prevention;
 - minimising the creation of waste;
 - reducing, eliminating or regulating the discharge of pollutants to the air, water or land;
 - regulating the transportation, collection, treatment, storage and disposal of waste;
 - encouraging recycling, re-use and materials recovery in an economically viable manner.

**PART 4—GENERAL RESPONSIBILITIES ETC. OF THE
ENVIRONMENT PROTECTION AUTHORITY****General functions of Authority**

7. (1) The Authority has such environment protection and other functions as are conferred or imposed on it by or under the environment protection legislation or any other legislation.
- (2) The Authority has general responsibility for the following:
- (a) ensuring that all practical measures are taken for environment protection in accordance with the environment protection legislation and other legislation;
 - (b) co-ordinating the activities of all public authorities in respect of those measures;
 - (c) inquiring into and reporting on the efficacy of those measures;
 - (d) reviewing the regulatory framework for environment protection and advising on its rationalisation.

General powers of Authority

8. The Authority may:

- (a) formulate and promote plans for environment protection; and
- (b) make public reports and publish information on any aspect of environment protection; and
- (c) carry out or commission research into environment protection; and
- (d) co-ordinate the collection of information on environment protection which is published or supplied by public or other authorities; and
- (e) provide or promote the development of specialist guidance and technical advisory services relating to environment protection.

Powers of Authority relating to environmental quality

9. The Authority may:

- (a) develop environmental quality objectives and policies with respect to environment protection; and
- (b) monitor the state of the environment for the purpose of assessing trends and the achievement of environmental quality objectives, policies and standards.

State of the environment reports

10. (1) The Authority is required to make a report on the state of the environment every 2 years.

(2) Each report is to be given to the Minister and tabled in both Houses of Parliament.

(3) A report on the state of the environment may include any of the following matters:

- (a) an assessment of the status and conditions of the major environmental resources of New South Wales;
- (b) an examination of environmental trends;
- (c) a review of the programs and activities of public authorities and of the private sector related to environment protection;
- (d) an examination of trends in economic analysis and of cost effectiveness of controls associated with environment protection;
- (e) any general recommendations for future legislative or other action which the Authority considers appropriate to discharge its responsibilities with respect to environment protection.

(4) The first report on the state of the environment is to be made in 1993.

Performance targets for public authorities

11. (1) The Authority may advise public authorities on performance targets for those public authorities relating to environment protection.

(2) When exercising its public reporting functions under this or any other Act, the Authority may report on the achievement of performance targets set by public authorities.

Directions to public authorities

12. (1) The Authority may from time to time:

(a) direct any public authority to do anything within the powers of that public authority which will, in the opinion of the Authority, contribute to environment protection; or

(b) direct any public authority to cease doing anything which, in the opinion of the Authority, adversely affects environment protection.

(2) Before giving any such direction, the Authority must consult the public authority about the matter.

(3) Any dispute about any such direction may be referred by the Authority or that public authority to the Premier for settlement.

(4) Before a dispute is referred to the Premier, the Minister and the Minister responsible for the public authority concerned are to be notified of the dispute and given an opportunity to resolve the dispute. The Minister for Local Government is taken to be the Minister responsible for any public authority that is a local government authority.

(5) The decision of the Premier on a dispute is to be given effect to by the Authority and the public authority concerned.

(6) If a public authority that is a local government authority fails to give effect to the decision of the Premier on a dispute, the Authority may give effect to the decision and may for that purpose carry out any work and give any directions as if it were the local government authority. The Authority is taken to be the local government authority when carrying out that work or giving those directions.

(7) Any costs or expenses incurred by the Authority in giving effect to a decision as referred to in subsection (6) may be recovered by the Authority from the local government authority as a debt in a court of competent jurisdiction.

(8) Any provision of any other Act for the settlement of disputes between public authorities by the Premier or a Minister does not apply to the settlement of a dispute to which this section applies.

(9) In this section, a reference to environment protection is a reference to the prevention, control, abatement or mitigation of the pollution of the environment, the disposal of waste or the protection of the environment from defacement, defilement or deterioration.

PART 5—MANAGEMENT OF THE ENVIRONMENT PROTECTION AUTHORITY

Division 1—The Minister

Ministerial control

13. (1) The Authority is, in the exercise of its functions, subject to the control and direction of the Minister.

(2) However, the Authority is not subject to the control and direction of the Minister in respect of:

- (a) any report or recommendation made to the Minister; or
- (b) any decision to institute or approve of the institution of criminal or related proceedings (other than proceedings against the Crown, a person acting on behalf of the Crown or a public authority).

Ministerial departmental support services

14. (1) The Minister may make use of the services of the Director-General and staff of the Authority for providing departmental advice on government policy and other matters relating to the administration of the environment protection legislation.

(2) The exercise of the functions of the Director-General and staff of the Authority under this section is not subject to the control or direction of the Board.

Division 2—The Board of the Authority

Establishment of Board

15. (1) There is to be a Board of the Authority.

(2) The Board is to consist of 7 members, being:

- (a) the Director-General; and
- (b) 6 part-time members appointed by the Governor on the recommendation of the Minister.

(3) The Minister is to consult with the Premier before recommending a person for appointment as a member of the Board.

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(4) The Minister is to ensure that the persons appointed as members of the Board reflect a broad range of interests relevant to environment protection.

(5) Schedule 1 has effect with respect to the members and procedure of the Board.

Functions of Board

16. The functions of the Board are as follows:

- (a) to determine the policies and long-term strategic plans of the Authority;
- (b) to oversee the effective, efficient and economical management of the Authority;
- (c) to develop, and make available for public information, guidelines relating to the institution of criminal and related proceedings;
- (d) to determine whether the Authority should consent to the institution of proceedings for serious environment protection offences referred to in section 17;
- (e) to advise the Minister on any matter relating to the protection of the environment (at the request of the Minister or on its own initiative).

Environmental Counsel to the Board

17. (1) An Environmental Counsel to the Board is to be engaged by the Authority.

(2) The Environmental Counsel is to be a practising barrister approved by the Minister and engaged for a period determined by the Minister.

(3) The Environmental Counsel may advise the Board on any matter (whether or not in connection with the institution of criminal or related proceedings) referred to the Environmental Counsel.

(4) The Board may not determine that the Authority consent to the institution of proceedings for a serious environment protection offence unless the Environmental Counsel has advised the Board that (on the evidence disclosed in the brief to Counsel):

- (a) there is evidence capable of establishing the commission of the offence; and
- (b) there is nothing to prevent a successful prosecution for the offence.

The Authority is to ensure that any such brief to the Environmental Counsel contains all relevant evidence available to the Authority.

(5) Nothing in this section prevents the Board from obtaining legal advice from any person. In particular, the Board may, if there is any

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dispute about the advice of the Environmental Counsel, obtain advice from the Attorney General and act on that advice for the purposes of subsection (4).

(6) The determination of whether the Authority should consent to the institution of proceedings for serious environment protection offences may not be delegated under this Act, and a member of the staff of the Authority may not be authorised under the environment protection legislation to consent to the institution of those proceedings.

(7) Criminal or related proceedings may not be challenged on the ground that they were instituted in contravention of this section.

(8) In this section, “**serious environment protection offence**” means:

- (a) a Tier 1 offence (being an offence arising under Division 1 of Part 2 of the Environmental Offences and Penalties Act 1989); or
- (b) a Tier 2 offence (being an offence arising under Division 2 of Part 2 of that Act) which is designated as a serious offence for the purposes of this section by the prosecution guidelines developed by the Board under this Division.

Division 3—The Director-General of the Authority

Director-General

18. (1) The Governor may appoint a Director-General of the Authority.

(2) The employment of the Director-General is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

(3) The Minister may, from time to time, appoint a person to act in the office of the Director-General during the illness or absence of the Director-General (or during a vacancy in the office of Director-General) and the person, while so acting, has all the functions of the Director-General and is taken to be the Director-General.

(4) The Minister may, at any time, remove a person from office as acting Director-General.

(5) An acting Director-General is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

Director-General to manage and control affairs of Authority

19. (1) The affairs of the Authority are to be managed and controlled by the Director-General in accordance with the policies determined by the

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Board and any other decisions of the Board, but subject to any directions of the Minister under this Act.

(2) Any act, matter or thing done in the name of, or on behalf of, the Authority by the Director-General is taken to have been done by the Authority.

Division 4—Miscellaneous provisions relating to management

Staff of the Authority

20. (1) The staff of the Authority is (subject to this section) to be employed under Part 2 of the Public Sector Management Act 1988.

(2) The Authority may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a public authority. Any staff of whose services the Authority makes use is taken to be the staff of the Authority for the purposes of the environment protection legislation.

(3) The Authority may employ staff for any special purpose approved by the Minister. Part 2 of the Public Sector Management Act 1988 does not apply to the employment of any such staff.

(4) The Authority may engage consultants.

Delegation of functions

21. (1) The Authority may delegate to an authorised person any of the functions of the Authority, other than this power of delegation.

(2) A delegate may sub-delegate to an authorised person any function delegated by the Authority if the delegate is authorised in writing to do so by the Authority.

(3) In this section, “authorised person” means:

- (a) a member of the staff of the Authority; or
- (b) a person of a class prescribed by the regulations or approved by the Minister.

PART 6—CONSULTATION FORUM AND ADVISORY COMMITTEES

Division 1—Preliminary

Definitions

22. In this Part:

“advisory committee” means an advisory committee established under Division 4;

“Consultation Forum” means the Environment Protection Community Consultation Forum established under Division 2;

“Education Committee” means the Environmental Education Committee established under Division 3.

Division 2—Environment Protection Community Consultation Forum

Establishment of Consultation Forum

23. There is established by this Act an Environment Protection Community Consultation Forum.

Membership and procedure of Consultation Forum

24. (1) The Consultation Forum is to consist of:

- (a) the Director-General, who is to be the Chairperson of the Consultation Forum; and
- (b) 12 members appointed by the Minister.

(2) Of the appointed members:

- (a) 3 are to be representatives of industry (including 1 representative of the rural sector); and
- (b) 3 are to be representatives of non-government organisations whose charters include, as a primary aim, environment protection; and
- (c) 3 are to be representatives of authorities of the State; and
- (d) 3 are to be representatives of local government authorities or associations.

(3) The Minister may seek nominations from relevant authorities or organisations for appointment as members of the Consultation Forum.

(4) Schedule 2 has effect with respect to the members and procedure of the Consultation Forum.

Function of Consultation Forum

25. (1) The function of the Consultation Forum is to advise the Authority on community concerns and attitudes about environmental matters.

(2) Any advice given to the Authority by the Consultation Forum may be given either at the request of the Authority or without any such request.

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Division 3—Environmental Education Committee

Establishment of Education Committee

26. There is established by this Act an Environmental Education Committee.

Function of Education Committee

27. The function of the Education Committee is to advise the Authority on the development of effective environmental education and public awareness programs.

Membership and procedure of Education Committee

28. (1) The members of the Education Committee are to be appointed by the Minister after consultation with the Minister for School Education and Youth Affairs.

(2) The Education Committee is to consist of:

- (a) a representative of the Authority, who is to be the Chairperson of the Committee; and
- (b) representatives of educational authorities, organisations concerned with the protection of the environment, local government authorities or associations, other public authorities and the general community.

(3) The Education Committee may invite other authorities or organisations to nominate additional members of the Committee or may allow other persons to be observers at its meetings.

(4) Schedule 2 has effect with respect to the members and procedure of the Education Committee.

Division 4—Advisory committees

Establishment of advisory committees

29. The Authority may from time to time, with the approval of the Minister, establish advisory committees and dissolve any such advisory committee.

Function of advisory committees

30. The function of an advisory committee is to advise the Authority on such matters as the Authority determines with the approval of the Minister.

Membership and procedure of advisory committees

31. (1) An advisory committee is to consist of such number and kind of members as the Minister determines.

(2) Schedule 2 has effect with respect to the members and procedure of an advisory committee.

PART 7—MISCELLANEOUS**Act binds the Crown**

32. This Act binds the Crown.

Powers of Authority relating to property

33. (1) The Authority may acquire by gift, bequest or devise any property for the purposes of this Act and may agree to carry out the conditions of any such gift, bequest or devise.

(2) The Authority must not, except with the approval of the Minister, alienate, mortgage, charge or demise any of its land.

(3) The rule of law against remoteness of vesting does not apply to or in respect of any condition of a gift, bequest or devise to which the Authority has agreed.

Financial year

34. (1) The financial year of the Authority is the year commencing on 1 July.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

Personal liability of members etc.

35. (1) A matter or thing done or omitted to be done by the Authority, the Board, an advisory body, a member of the Board or an advisory body, the Director-General or any person acting under the direction of the Authority, the Board, an advisory body or the Director-General does not, if the matter or thing was done or omitted in good faith for the purpose of executing the environment protection legislation, subject the member, Director-General or a person so acting personally to any action, liability, claim or demand.

(2) In this section, "advisory body" means the Environment Protection Community Consultation Forum, the Environmental Education Committee or an advisory committee established under Part 6.

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Seal of Authority

36. The seal of the Authority is to be kept by the Director-General and may be affixed to a document only:

- (a) in the presence of the Director-General or a member of the staff of the Authority authorised in that behalf by the Director-General; and
- (b) with an attestation by the signature of the Director-General or that member of the fact of the affixing of the seal.

Service of documents on Authority

37. (1) A document may be served on the Authority by leaving it at, or by sending it by post to:

- (a) the office of the Authority; or
- (b) if it has more than one office—any one of its offices.

(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 the Authority in any other manner.

Recovery of charges etc. by Authority

38. Any charge, fee or money due to the Authority may be recovered by the Authority as a debt in a court of competent jurisdiction.

Regulations

39. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Amendment of other Acts

40. The Acts specified in Schedule 3 are amended as set out in that Schedule.

Savings, transitional and other provisions

41. Schedule 4 has effect.

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**SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF THE BOARD**

(Sec. 15 (5))

Definitions

1. In this Schedule:

“appointed member” means a member of the Board other than the Director-General;

“member” means any member of the Board.

Chairperson and Deputy Chairperson of the Board

2. (1) An appointed member is to be appointed by the Governor as Chairperson of the Board. Such an appointment may be made at the time the person is appointed as a member or after that appointment.

(2) The Governor may at any time remove an appointed member from the office of Chairperson.

(3) A person who is an appointed member and Chairperson of the Board vacates that office if the person:

- (a) is removed from that office by the Governor; or
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be an appointed member.

(4) The Director-General is to be the Deputy Chairperson of the Board.

Deputies

3. (1) The Minister may, from time to time, appoint a person to be the deputy of an appointed member, and the Minister may revoke any such appointment.

(2) In the absence of an appointed member, the member's deputy:

- (a) may, if available, act in the place of the member; and
- (b) while so acting, has all the functions of the member and is to be taken to be a member.

(3) The deputy of an appointed member who is Chairperson of the Board does not (because of this clause) have the member's functions as Chairperson.

(4) A person while acting in the place of an appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

Terms of office of appointed members

4. Subject to this Schedule, an appointed member holds office for such period (not exceeding 7 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

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SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE
OF THE BOARD—*continued*

Remuneration

5. An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Vacancy in office of appointed member

6. (1) The office of an appointed member becomes vacant if the member:
- (a) dies; or
 - (b) completes a term of office and is not re-appointed; or
 - (c) resigns the office by instrument in writing addressed to the Minister; or
 - (d) is removed from office by the Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings; or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (g) becomes a mentally incapacitated person; or
 - (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove an appointed member from office at any time.

Disclosure of pecuniary interests

7. (1) If:
- (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

- (2) A disclosure by a member at a meeting of the Board that the member:
- (a) is a member, or is in the employment, of a specified company or other body; or
 - (b) is a partner, or is in the employment, of a specified person; or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,

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SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE
OF THE BOARD—*continued*

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) If:

- (a) a matter being considered or about to be considered at a meeting of the Board relates to the institution of criminal or related proceedings against a person; and
- (b) a member has any personal or financial interest in the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(4) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.

(5) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Board otherwise determines:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(6) For the purpose of the making of a determination by the Board under subclause (5), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Board for the purpose of making the determination; or
- (b) take part in the making by the Board of the determination.

(7) A contravention of this clause does not invalidate any decision of the Board.

Filling of vacancy in office of appointed member

8. If the office of any appointed member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Effect of certain other Acts

9. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of an appointed member.

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as such a member.

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SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE
OF THE BOARD—*continued*

(3) The office of an appointed member is not, for the purposes of any Act, an office or place of profit under the Crown.

General procedure

10. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

Quorum

11. The quorum for a meeting of the Board is 4 members, of whom one must be the Chairperson or Deputy Chairperson of the Board.

Presiding member

12. (1) The Chairperson of the Board or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

13. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

Transaction of business outside meetings or by telephone etc.

14. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Board.

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if a member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

- (a) the approval of a resolution under subclause (1); or
- (b) a meeting held in accordance with subclause (2),

the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.

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SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE
OF THE BOARD—*continued*

(5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

First meeting

15. The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

SCHEDULE 2—MEMBERS AND PROCEDURE OF CONSULTATION
FORUM, EDUCATION COMMITTEE AND ADVISORY COMMITTEES

(Secs. 24 (4), 28 (4), 31 (2))

Definitions

1. In this Schedule:

“advisory body” means the Consultation Forum, the Education Committee or an advisory committee established under Part 6;

“Consultation Forum” means the Environment Protection Community Consultation Forum established under Part 6;

“Education Committee” means the Environmental Education Committee established under Part 6;

“ex-officio member” means a person who is a member of an advisory body by virtue of being the holder of a particular office;

“member” means a member of an advisory body.

Chairperson of advisory body

2. (1) This clause does not apply to the Consultation Forum or the Education Committee.

(2) One of the members of an advisory body is to be appointed by the Authority as Chairperson of the advisory body. Any such appointment may be made at the time the person is appointed as a member or after that appointment.

(3) The Authority may at any time remove a member from the office of Chairperson of an advisory body.

(4) A person who is a member and Chairperson of an advisory body vacates that office if the person:

(a) is removed from that office under this clause; or

(b) resigns that office by instrument in writing addressed to the Authority; or

(c) ceases to be a member.

Deputies of members

3. (1) The Minister may, from time to time, appoint a person to be the deputy of a member of the Consultation Forum or the Education Committee, and the Minister may revoke any such appointment.

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SCHEDULE 2—MEMBERS AND PROCEDURE OF CONSULTATION FORUM,
EDUCATION COMMITTEE AND ADVISORY COMMITTEES—*continued*

(2) The Authority may, from time to time, appoint a person to be the deputy of a member of an advisory body (other than the Consultation Forum or the Education Committee), and the Authority may revoke any such appointment.

(3) In the absence of a member, the member's deputy:

- (a) may, if available, act in the place of the member, and
- (b) while so acting, has all the functions of the member and is to be taken to be a member.

(4) The deputy of a member who is Chairperson of an advisory body does not (because of this clause) have the member's functions as Chairperson.

(5) A person while acting in the place of a member is entitled to be paid such allowances as the Minister may from time to time determine in respect of the person.

Terms of office

4. 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.

Allowances

5. A member is entitled to be paid such allowances as the Minister from time to time determines in respect of the member.

Vacancy in office of member

6. (1) The office of a member (other than an ex-officio member) becomes vacant if the member:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister or the Authority; or
- (d) is removed from office under this clause; or
- (e) is absent from 4 consecutive meetings of the advisory body of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the advisory body or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the advisory body for having been absent from those meetings; or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (g) becomes a mentally incapacitated person; or

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SCHEDULE 2—MEMBERS AND PROCEDURE OF CONSULTATION FORUM,
EDUCATION COMMITTEE AND ADVISORY COMMITTEES—*continued*

(h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

(2) The Minister may remove a member (other than an ex-officio member) of the Consultation Forum or Education Committee from office at any time and the Authority may remove a member of any other advisory body from office at any time.

Filling of vacancy in office of member

7. If the office of a member (other than an ex-officio member) becomes vacant, a person may, subject to this Act, be appointed to fill the vacancy.

Effect of certain other Acts

8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member.

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

(3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

General procedure

9. The procedure for the calling of meetings of an advisory body and for the conduct of business at those meetings is, subject to this Act and the regulations and to any direction of the Minister or the Authority, to be as determined by the advisory body.

Quorum

10. The quorum for a meeting of an advisory body is a majority of the members for the time being of the advisory body.

Presiding member

11. (1) The Chairperson of an advisory body or, in the absence of the Chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the advisory body.

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**SCHEDULE 2—MEMBERS AND PROCEDURE OF CONSULTATION FORUM,
EDUCATION COMMITTEE AND ADVISORY COMMITTEES—*continued***

(2) The person presiding at any meeting of an advisory body has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

12. A decision supported by a majority of the votes cast at a meeting of an advisory body at which a quorum is present is the decision of the advisory body.

Minutes of meetings of Consultation Forum

13. The Consultation Forum is required to keep minutes of proceedings at its meetings and to furnish to the Minister a copy of the minutes of each meeting within 14 days after the meeting was held.

SCHEDULE 3—AMENDMENT OF OTHER ACTS

(Sec. 40)

Clean Air Act 1961 No. 69

- (1) The whole Act (except any provision or expression omitted by this Act):
Omit "Commission" and "Commission's" wherever occurring, insert instead "Authority" and "Authority's" respectively.
- (2) Sections 4, 5, 10, 15A:
Omit "State Pollution Control Commission Act 1970" wherever occurring, insert instead "Pollution Control Act 1970".
- (3) Section 5 (Definitions):
 - (a) In alphabetical order, insert:
"Authority" means the Environment Protection Authority;
 - (b) Omit the definition of "Commission".

Clean Waters Act 1970 No. 78

- (1) The whole Act (except any provision or expression omitted by this Act):
Omit "Commission" and "Commission's" wherever occurring, insert instead "Authority" and "Authority's" respectively.
- (2) Sections 4, 5, 18:
Omit "State Pollution Control Commission Act 1970" wherever occurring, insert instead "Pollution Control Act 1970".
- (3) Section 5 (Definitions):
 - (a) In alphabetical order, insert:
"Authority" means the Environment Protection Authority;
 - (b) Omit the definitions of "Commission" and "Committee".

Protection of the Environment Administration 1991

SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

- (4) Part 2 (Clean Waters Advisory Committee):
Omit the Part.

Dangerous Goods Act 1975 No. 68

Section 7A:

After section 6, insert:

Delegation of certain licensing functions to Environment Protection Authority

7A. (1) The Chief Inspector may delegate to the Environment Protection Authority any of the Chief Inspector's powers, authorities, duties and functions under this Act or the regulations.

(2) The Chief Inspector is required to delegate the powers, authorities, duties and functions relating to licences authorising the carriage of dangerous goods if the Minister administering the Protection of the Environment Administration Act 1991 so directs.

(3) Any power, authority, duty or function delegated under this section may be delegated by the Environment Protection Authority under the Protection of the Environment Administration Act 1991.

(4) The Chief Inspector and the Environment Protection Authority may enter into an arrangement for the payment into the Consolidated Fund (instead of the WorkCover Authority Fund) of fees paid under this Act or the regulations in connection with licences to which delegations under this section apply. Any such arrangement has effect according to its tenor.

Environmental Education Trust Act 1990 No. 26

- (1) Section 5 (Membership and procedure of the Trust):
- (a) Omit "State Pollution Control Commission Act 1970" wherever occurring, insert instead "Protection of the Environment Administration Act 1991".
 - (b) Omit section 5 (2) (c), insert instead:
 - (c) the Chairperson of the Board of the Environment Protection Authority;
 - (c) Omit section 5 (2) (g), insert instead:
 - (g) the Director-General of the Environment Protection Authority.
- (2) Section 8 (Committees of the Trust):
- (a) From section 8 (1) (a), omit "Director of the Ministry for the Environment", insert instead "Director-General of the Environment Protection Authority".
 - (b) Omit section 8 (1) (d).

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

- (3) Schedule 1, clause 2 (Nomination of panels for appointment as members), clause 3 (Deputies of members):

From clauses 2 (1) and 3 (2), omit "State Pollution Control Commission Act 1970" wherever occurring, insert instead "Protection of the Environment Administration Act 1991".

Environmental Offences and Penalties Act 1989 No. 150

- (1) Sections 4 (Definition of "pollution control authority"), 8G (8) (b), 27 (1), Schedule 2 (Part 1):

Omit "State Pollution Control Commission" wherever occurring, insert instead "Environment Protection Authority".

- (2) Section 8D, Schedule 1 (Part 4), Schedule 2, Schedule 3 (Part 2):

Omit "State Pollution Control Commission Act 1970" wherever occurring, insert instead "Pollution Control Act 1970".

- (3) Section 8G (Penalty notices):

Omit section 8G (9), insert instead:

(9) The power of the Environment Protection Authority to give a direction under subsection (8) (b) may not be exercised by a delegate of the Authority.

- (4) Section 13 (Consent to institution of proceedings):

- (a) Omit section 13 (1), insert instead:

(1) Proceedings for an offence against this Act may be instituted only with the written consent of:

- (a) the Environment Protection Authority; or
(b) a member of the staff of that Authority authorised in writing by that Authority for the purposes of this subsection.

- (b) Omit section 13 (2) (b), insert instead:

(b) a member of the Board of the Environment Protection Authority authorised in writing by the Minister for the purposes of this subsection.

- (c) At the end of the section, insert:

(6) This section does not apply to the issue of penalty notices under section 8G or to proceedings referred to in section 8G (6).

- (5) Section 25 (Restraint of breaches of an Act or statutory rule which harm environment etc.):

Omit section 25 (2), insert instead:

- (2) Proceedings may be brought under this section by:
(a) the Authority; or

Protection of the Environment Administration 1991

SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

- (b) a member of the staff of the Authority authorised in writing by the Authority for the purposes of this section; or
- (c) any other person with the consent of the Authority.

Environmental Research Trust Act 1990 No. 25

- (1) Section 5 (Membership and procedure of the Trust):
 - (a) Omit section 5 (2) (c), insert instead:
 - (c) the Chairperson of the Board of the Environment Protection Authority;
 - (b) Omit section 5 (2) (g), insert instead:
 - (g) the Director-General of the Environment Protection Authority.
- (2) Section 8 (Committees of the Trust):

From section 8 (1), omit "Director of the Ministry for the Environment", insert instead "Director-General of the Environment Protection Authority".

Environmental Restoration and Rehabilitation Trust Act 1990 No. 24

- (1) Section 5 (Membership and procedure of the Trust):
 - (a) Omit "State Pollution Control Commission Act 1970" wherever occurring, insert instead "Protection of the Environment Administration Act 1991".
 - (b) Omit section 5 (2) (c), insert instead:
 - (c) the Chairperson of the Board of the Environment Protection Authority;
 - (c) Omit section 5 (2) (g), insert instead:
 - (g) the Director-General of the Environment Protection Authority.
- (2) Section 8 (Committees of the Trust):

From section 8 (1), omit "Director of the Ministry for the Environment", insert instead "Director-General of the Environment Protection Authority".
- (3) Schedule 1, clause 3 (Deputies of members):

From clause 3 (2), omit "State Pollution Control Commission Act 1970", insert instead "Protection of the Environment Administration Act 1991".

Environmentally Hazardous Chemicals Act 1985 No. 14

- (1) The whole Act (except any provision or expression omitted by this Act):

Omit "Commission" and "Commission's" wherever occurring, insert instead "Authority" and "Authority's" respectively.

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

- (2) Section 3 (Definitions):
- (a) In alphabetical order in section 3 (1), insert:
 “Authority” means the Environment Protection Authority;
- (b) Omit the definition of “Commission”.
- (3) Section 44 (Disclosure of information):
- Omit “State Pollution Control Commission Act 1970” wherever occurring, insert instead “Pollution Control Act 1970”.
- (4) Schedule 1 (Provisions relating to Committee):
- (a) Omit clause 2 (a), insert instead:
- (a) two shall be persons nominated by the Authority, being members of the Board of the Authority or members of the staff of the Authority;
- (b) Omit clause 2 (f), insert instead:
- (f) one shall be a person nominated by the Water Board;

Noise Control Act 1975 No. 35

- (1) Section 4 (Definitions):
- (a) Insert in alphabetical order in section 4 (1):
 “Authority” means the Environment Protection Authority;
- (b) Omit the definitions of “Commission” and “Director”.
- (2) The whole Act (except any provision or expression omitted by this Act):
- Omit “State Pollution Control Commission Act 1970” wherever occurring, insert instead “Pollution Control Act 1970”.
- (3) The whole Act (except any provision or expression omitted by this Act):
- Omit “Commission” and “Commission’s” wherever occurring, insert instead “Authority” and “Authority’s” respectively.

Ozone Protection Act 1989 No. 208

- (1) Section 4 (Definitions):
- (a) Insert in alphabetical order in section 4 (1):
 “Authority” means the Environment Protection Authority;
- (b) Omit the definition of “Commission”.
- (2) The whole Act (except any provision or expression omitted by this Act):
- Omit “Commission” wherever occurring, insert instead “Authority”.

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

- (3) Section 23 (Proceedings for offences):
- (a) From section 23 (3), omit “and may not be taken in the Land and Environment Court except with the consent of the Minister”.
 - (b) From section 23 (5), omit “or the Minister” and “or consent” wherever occurring.
- (4) Section 28 (Delegation):
- Omit the section.

Public Finance and Audit Act 1983 No. 152

- (1) Schedule 2 (Statutory bodies):
- Insert, in alphabetical order:
 - Environment Protection Authority.
- (2) Schedule 3 (Departments):
- Omit the matter relating to the State Pollution Control Commission.

Public Sector Management Act 1988 No. 33

- (1) Schedule 1 (Departments):
- Omit the matter relating to the Ministry for the Environment.
- (2) Schedule 2 (Administrative Offices):
- (a) Insert, in alphabetical order:
 - Environment Protection Authority Director-General of Authority
 - (b) Omit the matter relating to the State Pollution Control Commission.
- (3) Schedule 3 (Declared authorities):
- Omit “Waste Management Authority of New South Wales”.
- (4) Schedule 3A (Chief Executive Positions):
- (a) Insert in Part 2, in alphabetical order of public authorities:
 - Director-General of the Environment Protection Authority
 - (b) From Part 2, omit “Director of the State Pollution Control Commission”.
 - (c) From Part 3, omit “Managing Director of the Waste Management Authority of New South Wales”.
- (5) Schedule 3B (Senior Executive Positions):
- (a) From Part 1, omit the positions relating to the Ministry for the Environment, the State Pollution Control Commission and the Waste Management Authority (except the position referred to in paragraph (b) of this item), and insert those positions in the Schedule under the heading “Environment Protection Authority”.

Protection of the Environment Administration 1991

SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

- (b) At the end of the positions relating to the Water Board, insert "Project Manager, High Temperature Incineration Project".
- (c) From Part 2, omit "Deputy Managing Director of the Waste Management Authority of New South Wales".

Radiation Control Act 1990 No. 13

- (1) Section 4 (Definitions):
 - (a) Insert in alphabetical order in section 4 (1):
 - "Authority" means the Environment Protection Authority;
 - (b) Omit the definitions of "Department" and "Director-General".
- (2) The whole Act (except a provision or expression omitted by this Act):
 - Omit "Director-General" and "Director-General's" wherever occurring, insert instead "Authority" and "Authority's" respectively.
- (3) Section 21 (Decontamination and acquisition of premises):
 - In section 21 (2), before "Health Administration Corporation", insert "Authority or the".
- (4) Section 25 (Proceedings for offences):
 - In section 25 (4), after "signed by" insert "the Director-General of".
- (5) Section 29 (Radiation Advisory Council):
 - (a) Omit section 29 (2) (a), insert instead:
 - (a) the Director-General or a member of staff of the Authority, who is to be the Chairperson of the Council; and
 - (b) Omit section 29 (2) (k), insert instead:
 - (k) an officer of the Department of Health; and
- (6) Section 32 (Appointment of inspectors):
 - Omit "officer of the Department of Health", insert instead "member of the staff of the Authority".
- (7) Section 37 (Delegation):
 - Omit the section.
- (8) Section 38 (Consultation and co-operation between Ministers):
 - Omit section 38 (c), insert instead:
 - (c) the Minister administering the Public Health Act 1902 on matters relating to protection of public health from radiation.

Protection of the Environment Administration 1991

SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

Radioactive Substances Act 1957 No. 5

Section 11 (Licences):

- (a) From section 11 (1), omit "Secretary of the Department of Health", insert instead "Environment Protection Authority".
- (b) From section 11 (1) and (2), omit "Secretary" (except where firstly occurring), insert instead "Authority".

Recreation Vehicles Act 1983 No. 136

(1) Section 4 (Definitions):

Omit the definitions of "Authority" and "Director".

(2) The whole Act (except a provision or expression being omitted by this Act):

Omit "Director" and "State Pollution Control Commission" wherever occurring, insert instead "Environment Protection Authority".

(3) The whole Act (except a provision or expression being omitted or inserted by this Act):

Omit "Authority" wherever occurring, insert instead "Roads and Traffic Authority".

State Pollution Control Commission Act 1970 No. 95

(1) Long title:

Omit the long title, insert instead:

An Act relating to licences and approvals issued or given by the Environment Protection Authority; and for other purposes.

(2) Section 1 (Short title and commencement):

Omit "State Pollution Control Commission Act", insert instead "Pollution Control Act".

(3) Section 5 (Definitions):

- (a) From the definition of "authorised officer", omit "Commission", insert instead "Authority".
- (b) After the definition of "authorised officer", insert:
"Authority" means the Environment Protection Authority;
- (c) Omit the definitions of "Chairman", "Commission", "Director" and "Technical Advisory Committee".

Protection of the Environment Administration 1991

SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

- (4) Part 2 (Constitution of the State Pollution Control Commission):
Omit the Part.
- (5) Part 3 (Responsibilities, powers, authorities, duties and functions of the State Pollution Control Commission):
Omit the Part.
- (6) Part 3A (Licences and approvals):
Omit "Commission" wherever occurring, insert instead "Authority".
- (7) Part 4 (Advisory Committees):
Omit the Part.
- (8) Section 23 (Inquiries):
- (a) From section 23 (1), omit ", the Technical Advisory Committee or any other committee or any sub-committee established under Part 4, or any member of the Commission, the Technical Advisory Committee or any such committee or sub-committee", insert instead "or any committee established under the Protection of the Environment Administration Act 1991 or any member of the Board of the Authority or of any such committee".
 - (b) Omit section 23 (1A) (a) and (b), insert instead:
 - (a) a committee established under the Protection of the Environment Administration Act 1991; or
 - (b) a member of the Board of the Authority or of any such committee; or
- (9) Sections 23, 24, 25, 26, 27, 27A, 28A:
Omit "Commission" wherever occurring, insert instead "Authority".
- (10) Section 24 (Power of entry):
At the end of the section, insert:
(4) In this section, a reference to this Act includes a reference to the Protection of the Environment Administration Act 1991.
- (11) Section 27 (Proof of certain matters not required):
Omit section 27 (1) (a)–(c), (d) and (e), insert instead:
(a) the appointment of the Director-General of the Authority or any member of the staff of the Authority;
- (12) Section 27A (Evidence):
- (a) Omit ", a member of the Commission" wherever occurring.
 - (b) Omit "Director" wherever occurring, insert instead "Director-General of the Authority".

Protection of the Environment Administration 1991

SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

- (13) Section 28 (Service of notice of proceedings on Commission):
Omit the section.
- (14) Section 29 (Documents—how authenticated):
Omit the section.

Unhealthy Building Land Act 1990 No. 122

- (1) Section 3 (Definition):
Omit the definition of "Commission", insert instead:
"Authority" means the Environment Protection Authority.
- (2) Sections 4–8:
Omit "Commission" wherever occurring, insert instead "Authority".

Waste Disposal Act 1970 No. 97

- (1) Long title:
Omit "Waste Management Authority of New South Wales", insert instead "Waste Disposal Corporation of New South Wales".
- (2) Section 4 (Effect of this Act on other Acts):
Omit "State Pollution Control Commission Act 1970" wherever occurring, insert instead "Protection of the Environment Administration Act 1991, Pollution Control Act 1970".
- (3) Section 5 (Definitions):
- (a) Omit the definitions of "Authority", "depot", "Deputy Managing Director", "Managing Director" and "regional depot".
- (b) In alphabetical order in section 5 (1), insert:
"Authority" means the Environment Protection Authority constituted under the Protection of the Environment Administration Act 1991;
"Corporation" means the Waste Disposal Corporation of New South Wales constituted under this Act;
"depot" means any premises to which waste is transported from any other premises for treatment, storage or disposal, and includes a depot established or operated by the Corporation;
- (c) From the definition of "incineration facility", omit "Authority", insert instead "Corporation".

Protection of the Environment Administration 1991

SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

(4) Part 3:

Omit the Part, insert instead:

PART 3—CONSTITUTION OF WASTE DISPOSAL CORPORATION

Constitution of Corporation

7. (1) There is constituted by this Act a body corporate with the corporate name of the Waste Disposal Corporation of New South Wales.

(2) The Corporation:

(a) has the functions conferred or imposed on it by or under this or any other Act; and

(b) is, for the purposes of any Act, a statutory body representing the Crown.

(3) The Corporation is subject to the control and direction of the Minister.

Water Board to manage Corporation as separate subsidiary

8. (1) The affairs of the Corporation are to be managed and controlled by the Water Board as if they formed part of the affairs of the Water Board.

(2) However, the assets, rights and liabilities of the Corporation are to remain as the separate assets, rights and liabilities of the Corporation and are not to become part of the assets, rights and liabilities of the Water Board.

(3) The Water Board may from time to time, with the approval of the Treasurer, charge the Corporation with the costs and expenses of managing its affairs (including the costs and expenses of the staff and facilities of the Water Board that are made use of for the purposes of the Corporation).

(5) Part 4, heading:

Omit "WASTE MANAGEMENT AUTHORITY", insert instead "WASTE DISPOSAL CORPORATION".

(6) Section 17 (Responsibilities etc. of Corporation):

Omit section 17 (1) and (2), insert instead:

(1) The Corporation has the following functions:

(a) the establishment and operation of depots, including:

(i) aqueous waste treatment facilities to process industrial liquid waste prior to sewerage or other disposal; and

(ii) facilities relating to the disposal of liquid, sludge and intractable waste not suitable for direct discharge into the sewer system; and

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

- (iii) solid waste disposal, handling, treatment and storage facilities for domestic and industrial waste;
- (b) the construction and operation of a high temperature waste incineration facility in accordance with Part 4A.
- (7) Sections 18, 19, 20, 21, 21B, 21C, 21D, 21E:
Omit "Authority" wherever occurring, insert instead "Corporation".
- (8) Section 18 (Establishment of depots):
Omit "regional depots for the reception, treatment, storage or disposal of waste", insert instead "depots".
- (9) Section 21 (Delegation):
Omit section 21 (a), (b) and (d), insert instead:
 (b) any member of the staff of the Water Board; or
- (10) Section 21B (Authority may construct and operate incineration facility):
In section 21B (1) (b), before "would not", insert "would not be suitable for disposal in the sewerage system or".
- (11) Section 21D (Advisory Board to monitor operation of incineration facility):
 - (a) From section 21D (1) (a), omit "Waste Management Authority Board", insert instead "Water Board".
 - (b) Omit section 21D (1) (a1).
 - (c) From section 21D (1) (g), omit "2 members of the Waste Management Authority Board", insert instead "2 members of the Water Board".
 - (d) Omit section 21D (1) (h), insert instead:
 - (h) the Director-General of the Environment Protection Authority, or the Director-General's nominee;
- (12) Section 22 (Offences relating to depots or transportation or creation of waste):
At the end of the section, insert:
 (9) The Corporation is subject to the requirements of this section.
- (13) Sections 23 (7), 26:
Omit "State Pollution Control Commission" wherever occurring, insert instead "Land and Environment Court".
- (14) Section 27 (Disputes between Authority and public authority):
At the end of the section, insert:
 (9) A reference in this section to a public authority includes a reference to the Corporation.
- (15) Section 28 (Authority to maintain register):
Omit "or Deputy Managing Director", insert instead "of the Authority".

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

- (16) Section 29 (Contributions to Authority):
 After section 29 (4), insert:
 (5) Interest is payable on any unpaid contributions under this section at such rate and calculated in such manner as may be prescribed by the regulations. Any such interest may be recovered in the same way as the contribution may be recovered.
 (6) The Corporation is subject to the requirements of this section.
- (17) Sections 30–33, 57:
 Omit the sections.
- (18) Sections 43, 44, 47, 52, 56:
 Omit “Authority” wherever occurring, insert instead “Corporation”.
- (19) Section 45 (Inquiries):
 (a) From section 45 (1), omit “or the State Pollution Control Commission”, “but subject to subsection (2)” and “or that Commission”.
 (b) Omit section 45 (2).
- (20) Section 46 (Charges and fees):
 (a) In section 46 (1), after “Authority”, wherever occurring, insert “or Corporation”.
 (b) From section 46 (1) (a), omit “regional”.
 (c) Omit section 46 (2).
- (21) Section 47 (Property in, and sale of, waste):
 Omit “regional depot” wherever occurring, insert instead “depot of the Corporation”.
- (22) Sections 53, 54:
 After section 52, insert:
Seal of the Corporation
 53. The seal of the Corporation is to be kept by the Managing Director of the Water Board and may be affixed to a document only:
 (a) in the presence of the Managing Director or a member of the staff of the Water Board authorised in that behalf by the Managing Director; and
 (b) with an attestation by the signature of the Managing Director or that member of the fact of the affixing of the seal.
Financial year of Corporation
 54. (1) The financial year of the Corporation is the year commencing 1 July.
 (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

(23) Section 55 (Proceedings for offences):

From section 55 (2), omit “written consent of the Managing Director or Deputy Managing Director”, insert instead “consent of the Authority”.

(24) Section 58 (Regulations):

- (a) From section 58 (1) (a), omit “, regional depots”.
- (b) From section 58 (1) (b), omit “and regional depots”.
- (c) From section 58 (1) (b1), omit “Authority’s”, insert instead “Corporation’s”.
- (d) Omit section 58 (2) (b).

(25) Schedule 2 (Constitution and Procedure of the Board):

Omit the Schedule.

(26) Schedule 3 (Provisions Relating to Executive Officers):

Omit the Schedule.

(27) At the end of Schedule 4, insert:

**PART 3—PROVISIONS CONSEQUENTIAL ON
ENACTMENT OF ENVIRONMENT PROTECTION
ADMINISTRATION ACT 1991**

Continuity of Waste Management Authority

7. The Waste Disposal Corporation is a continuation of, and the same legal entity as, the Waste Management Authority of New South Wales.

Dissolution of Waste Management Authority Board

8. (1) On the commencement of this clause, the Waste Management Authority Board is dissolved.

(2) A person who, immediately before that commencement, held office as a member of that Board ceases to hold office as such on that commencement.

(3) A person who so ceases to hold office as a member of that Board is not entitled to any remuneration or compensation because of the loss of that office.

Existing executive officers

9. (1) A person who, immediately before the commencement of this clause, held office as Managing Director or Deputy Managing Director of the Waste Management Authority ceases to hold office as such on that commencement.

(2) A person who so ceases to hold office as Managing Director or Deputy Managing Director is not entitled to any remuneration or compensation because of the loss of that office, except as provided by Part 2A of the Public Sector Management Act 1988. For the purposes of that Part of that Act, the Managing Director and Deputy Managing Director are taken to have been removed from office under section 42Q of that Act.

*Protection of the Environment Administration 1991*SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued***Existing staff**

10. (1) The persons employed by the Waste Management Authority immediately before the commencement of this clause are, on that commencement, taken to be employed by the Water Board, except any such person who has been designated by the Minister as a transferred employee.

(2) A transferred employee is, on the commencement of this clause, taken to be employed by the Environment Protection Authority (otherwise than under Part 2 of the Public Sector Management Act 1988).

(3) A person who is taken under this clause to be employed by the Water Board or the Environment Protection Authority is to be employed as a salaried employee on the same terms and conditions as applied to the person immediately before the commencement of this clause, until the terms and conditions are duly changed in accordance with law.

Construction of references

11. In any other Act, in any instrument made under an Act or in any document of any kind, a reference to the Managing Director or Deputy Managing Director of the Waste Management Authority of New South Wales is to be read as a reference to the Managing Director of the Water Board.

Existing licences

12. A licence or certificate granted by the Waste Management Authority of New South Wales and in force on the commencement of this clause is taken to have been granted by the Environment Protection Authority.

Water Board Act 1987 No. 141**Section 6 (Membership of the Board):**

- (a) From section 6 (1), omit "7 members", insert instead "8 members".
- (b) From section 6 (1) (b), omit "6", insert instead "7".

SCHEDULE 4—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 41)

PART 1—SAVINGS AND TRANSITIONAL REGULATIONS**Savings and transitional regulations**

1. (1) The regulations may contain provisions of a savings and transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.

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SCHEDULE 4—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done before the date of its publication.

PART 2—GENERAL PROVISIONS CONSEQUENT ON ENACTMENT OF
THIS ACT

Abolition of the State Pollution Control Commission

2. (1) The State Pollution Control Commission is abolished.

(2) A person who, immediately before the dissolution of that Commission, held office as a member of that Commission:

- (a) ceases to hold that office; and
- (b) is not entitled to any remuneration or compensation because of the loss of that office.

(3) All public service staff attached to that Commission (and any other staff employed by that Commission), immediately before the dissolution of that Commission, become public service staff attached to (and other staff employed by) the Authority.

(4) On the dissolution of that Commission, the following provisions have effect:

- (a) the assets of that Commission vest in the Authority by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance;
- (b) the rights and liabilities of that Commission become by virtue of this clause the rights and liabilities of the Authority;
- (c) all proceedings relating to those assets, rights and liabilities commenced before the transfer by or against that Commission and pending immediately before the transfer are taken to be proceedings pending by or against the Authority;
- (d) any act, matter or thing done or omitted to be done in relation to those assets, rights and liabilities before the transfer by, to or in respect of that Commission is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Authority.

(5) The operation of this clause is not to be regarded:

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or

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SCHEDULE 4—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

- (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (6) No attornment to the Authority by a lessee from that Commission is required.

Abolition of Ministry for the Environment

- 3. (1) The Ministry for the Environment is abolished.
- (2) All branches of that Ministry are removed from that Ministry and added to the group of public service staff attached to the Authority, subject to any proclamation under the Constitution Act 1902 taking effect on the abolition of that Ministry.

Dissolution of advisory committees

- 4. (1) The following committees are dissolved:
 - (a) the Technical Advisory Committee and any other Committee established under Part 4 of the State Pollution Control Commission Act 1970;
 - (b) the Clean Waters Advisory Committee established under Part 2 of the Clean Waters Act 1970.
- (2) A person who, immediately before the dissolution of any such committee, held office as a member of the committee:
 - (a) ceases to hold that office; and
 - (b) is not entitled to any remuneration or compensation because of the loss of that office.
- (3) On the dissolution of any such committee, the assets, rights, liabilities and obligations of the Committee become the assets, rights, liabilities and obligations of the Authority.

Construction of certain references

- 5. In any other Act, in any instrument made under any Act or in any document of any kind:
 - (a) a reference to the State Pollution Control Commission or the Ministry for the Environment is to be read as a reference to the Authority; and
 - (b) a reference to the Director of the State Pollution Control Commission or of the Ministry for the Environment is to be read as a reference to the Director-General of the Authority; and
 - (c) a reference to a member of the State Pollution Control Commission is to be read as a reference to a member of the Board of the Authority; and
 - (d) a reference to an officer or employee of the State Pollution Control Commission or the Ministry for the Environment is to be read as a reference to a member of the staff of the Authority.

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SCHEDULE 4—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

Radioactive Substances Act 1957

6. Until the repeal of the Radioactive Substances Act 1957 by section 43 of the Radiation Control Act 1990, the environment protection legislation includes the Radioactive Substances Act 1957 and the regulations and other instruments made under that Act.

Part-time members of Water Board cease to hold office

7. The part-time members of the Water Board (other than the elected member) cease to hold office on the commencement of this clause as if they had completed their term of office.

