

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

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Western Australia

LEGISLATIVE COUNCIL

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

**A Bill for**

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

The Parliament of Western Australia enacts as follows:

**s. 1**

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1   **1.       Short title**

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

4   **2.       Commencement**

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

7   **3.       Act amended**

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

10 **4.       Section 6 amended**

11               In section 6(1) insert in alphabetical order:

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

16                               ***minor variation***, in relation to a national environment  
17                               protection measure, means a decision made under  
18                               section 22A(1) to vary the national environment  
19                               protection measure;  
20                                 
21

22 **5.       Section 13 amended**

23               In section 13:

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

25                               Association; and  
26                                 
27

- 1 (b) after paragraph (g) insert:  
2
- 3 (h) direct the Service Corporation to provide  
4 assistance and support to other Ministerial  
5 Councils.  
6
- 7 (c) after each of paragraphs (a) to (e) insert:  
8  
9 and  
10
- 11 **6. Section 20 amended**  
12 After section 20(4) insert:  
13  
14 (5) Subsections (2) to (4) do not apply to a minor variation  
15 of a national environment protection measure under  
16 Division 2A.  
17
- 18 **7. Part 3 Division 2A inserted**  
19 After Part 3 Division 2 insert:  
20  
21 **Division 2A — Minor variation of national environment**  
22 **protection measures**
- 23 **22A. Minor variation of measures**  
24 (1) The Council may vary any national environment  
25 protection measure if —  
26 (a) the variation is supported by a unanimous  
27 resolution of all of the members; and  
28 (b) the resolution states that the variation does not  
29 involve a significant change in the effect of the  
30 national environment protection measure.  
31 A variation under this section is a *minor variation*.

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- 1           (2) If the Council decides that a variation does not involve  
2           a significant change in the effect of the national  
3           environment protection measure, the Council must  
4           prepare —  
5           (a) a draft of the proposed variation; and  
6           (b) a statement relating to the variation that  
7           explains —  
8               (i) the reasons for the proposed variation;  
9               and  
10              (ii) the nature and effect of the proposed  
11              variation; and  
12              (iii) the reasons why the Council is satisfied  
13              that the variation is a minor variation.

14           **22B. Public consultation for minor amendments**

- 15           (1) Before making a minor variation to a national  
16           environment protection measure, the Council must  
17           publish a notice —  
18           (a) stating how the draft of the proposed variation  
19           and the explanatory statement may be obtained;  
20           and  
21           (b) inviting submissions to the Council on the  
22           proposed variation, or on the explanatory  
23           statement, within a specified period.  
24           (2) A notice must —  
25           (a) be published in the *Gazette*; and  
26           (b) in each participating State or Territory  
27           concerned, be published, on at least 1 day  
28           during the month in which the *Gazette* notice is  
29           published, in a newspaper circulating in that  
30           State or Territory.

- 1           (3) The period specified in each notice under  
2           subsection (1) must end no less than 1 month after the  
3           day on which subsection (2)(b) has been fully complied  
4           within all participating jurisdictions.

5           **22C. Council to have regard to submissions**

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

- 8                   (a) any submissions it receives that relate to the  
9                   proposed variation or the explanatory  
10                  statement; and  
11                  (b) whether the measure is consistent with  
12                  section 3 of the Agreement; and  
13                  (c) relevant international agreements to which  
14                  Australia is a party; and  
15                  (d) any regional environmental differences in  
16                  Australia.

17  
18       **8. Section 36 amended**

19       In section 36:

- 20           (a) after paragraph (a) insert:  
21  
22                   (aa) to provide assistance and support to other  
23                   Ministerial Councils as directed by the Council;  
24                   and  
25  
26           (b) in paragraph (b) delete “paragraph (a).” and insert:  
27  
28                   paragraph (a) or (aa).  
29

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1    **9.       Section 43 amended**

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

4  
5            The  
6

7    **10.      Section 49 amended**

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

10  
11           engaged under the *Public Service Act 1999*  
12

13           (2) Delete section 49(2).

14    **11.      Section 51 amended**

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

17  
18                    persons engaged under the *Public Service Act 1999* of  
19                    the Commonwealth, and engaged by  
20

21    **12.      Section 56 amended**

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

23  
24                    (1) The money  
25

26            (2) At the end of section 56 insert:

27  
28                    (2) Subsection (1) does not prevent investment of surplus  
29                    money of the Service Corporation under section 18 of  
30                    the *Commonwealth Authorities and Companies*

1                    *Act 1997* of the Commonwealth, as it applies to the  
2                    Service Corporation under section 59 of the  
3                    Commonwealth Act.  
4

5    **13.        Section 59 replaced**

6                    Delete section 59 and insert:

7  
8    **59.        Annual reports**

- 9                    (1)    An annual report prepared under section 9 of the  
10                    *Commonwealth Authorities and Companies Act 1997*  
11                    of the Commonwealth must also contain any other  
12                    information required by the Council to be included in  
13                    the report.
- 14                    (2)    A copy of the annual report must be given to each  
15                    member of the Council as soon as practicable.  
16

17    **14.        Section 64 amended**

18                    After section 64(2) insert:

- 19  
20                    (3)    As soon as possible after the end of every 5 year period  
21                    following the review under subsection (1), the Council  
22                    must cause a further review of the kind set out in  
23                    subsection (1) to be undertaken.
- 24                    (4)    The report of each further review is to be tabled in each  
25                    House of the Parliament of Western Australia within  
26                    12 months after the end of the period to which it  
27                    relates.  
28

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