



National Environment Protection Council Amendment Act 2002

No. 142, 2002

**An Act to amend the *National Environment
Protection Council Act 1994*, and for related
purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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**An Act to amend the *National Environment
Protection Council Act 1994*, and for related
purposes**

[Assented to 19 December 2002]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *National Environment Protection
Council Amendment Act 2002*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	19 December 2002
2. Schedule 1	A single day to be fixed by Proclamation, subject to subsection (3)	19 December 2003

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.
- (3) If a provision covered by item 2 of the table does not commence within the period of 12 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the National Environment Protection Council Act 1994

1 Subsection 6(1)

Insert:

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.

2 Subsection 6(1)

Insert:

minor variation, in relation to a national environment measure, means a decision made under subsection 22A(1) to vary a national environment measure.

3 At the end of section 13

Add:

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

4 At the end of section 20

Add:

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

5 After Division 2 of Part 3

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 variation

- (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—also be published, on at least 1 day during the month when 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 not less than 1 month after the day on which paragraph (2)(b) has been fully complied with in all participating jurisdictions.

22C Council to have regard to submissions etc.

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.

6 After paragraph 36(a)

Insert:

- (aa) to provide assistance and support to other Ministerial Councils as directed by the Council; and

7 At the end of paragraph 36(b)

Add “or (aa)”.

8 At the end of section 64

Add:

Subsequent 5 yearly reviews

- (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 within 12 months after the end of the period to which it relates.

Note: The following heading to subsection 64(1) is inserted “*Initial review after fifth anniversary of commencement of Act*”.

Schedule 1 Amendment of the National Environment Protection Council Act 1994

*[Minister's second reading speech made in—
House of Representatives on 26 June 2002
Senate on 12 December 2002]*