

# Reading the Environment Protection Legislation Amendment (Chain of Responsibility) Bill 2022

## Introduction

The Department of Environment, Parks and Water Security (DEPWS) has released the Consultation Draft *Environment Protection Legislation Amendment (Chain of Responsibility) Bill 2022* (the draft Bill) for a six week public consultation period. The draft Bill details proposed amendments to the [Environment Protection Act 2019](#) (EP Act) and [Environment Protection Regulations 2020](#) (EP Regulations) to incorporate environmental chain of responsibility (COR) laws into the Territory's environmental regulatory framework.

The legislative framework for the proposed environmental COR laws has been informed by expert advice and review of similar schemes operating across Australia. It has been designed in a way that will allow the legislative provisions to be extended so that they may apply to all activities that have the potential to harm the environment, however the scheme will be limited in its application in the first instance so it can apply to onshore petroleum activities only.

This factsheet has been developed to assist stakeholders to read the draft Bill. Stakeholders should refer to the factsheet 'Consultation Draft – Explanation of Clauses' for more detailed information about each of the proposed amendments outlined in the draft Bill.

The factsheet, 'Reading an Amendment Bill' provides further information on the legislative process associated with amending an Act.

## Reading the draft Bill

The title of the draft Bill captures the purpose of the amendment and the principal Act to which the amendment applies.

The title, *Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022*, informs the reader that the purpose of the draft Bill is to amend the EP Act and EP Regulations to include chain of responsibility provisions.

In order to understand how the EP Act and EP Regulations are being amended by the draft Bill, the draft Bill will need to be read in conjunction with the current EP Act and EP Regulations. This is because the draft Bill does not provide the context of the amendments it is making. It is only by referring to the relevant sections and regulations of the existing legislation that the intent of the amendment can be understood.

## Overview of the draft Bill

Part 1 of the draft Bill sets out preliminary matters required for all legislation. It identifies the title of the Bill and the commencement process that will apply. In this case, it provides that the Act will be commenced on a date specified by the Administrator by notice in the *Gazette*.

Part 2 of the draft Bill sets out, one by one, the amendments to be made to the EP Act.

Clause 4 of the draft Bill is inserting new definitions that are required for the new COR laws to operate into the existing section 4 (**Definitions**) of the EP Act. The COR provisions are supported by a suite of definitions and explanatory clauses which are referred to in this clause with detailed meanings provided in the proposed section 192B (Interpretation) of the draft Bill and following relevant sections. These relate to terms and phrases used in subsequent proposed provisions of the new Division 2A and include, for example the meaning of a **related person** (new section 192C).

Clause 5 is amending section 176 in Part 9, Division 2 of the EP Act by inserting new subsection (2) to include an additional circumstance (relating to the chain of responsibility provisions) for when the Chief Executive Officer (CEO) may issue an environment protection notice.

Clause 6 makes a minor amendment to section 183 of the EP Act relating to emergency environmental protection notices.

Clause 7 is inserting a new Part 9 Division 2A into the EP Act after section 192 of the EP Act. These are the new provisions relating to COR and which clause 5 connects in relation to the additional circumstance for when the CEO may issue an environment protection notice.

The proposed new Division 2A in Part 9 of the EP Act is comprised of sections 192A-192X.

The proposed sections 192A to 192D contain a number of general matters that will apply to the new COR laws.

The proposed sections 192E to 192N set out the circumstances of when statutory environmental obligations can be redirected to a related person through the issue of compliance notices.

The proposed sections 192P to 192X provide a statutory right for a related person to enter land for the purpose of complying with a compliance notice, subject to reasonable notice and duty provisions.

Clause 8 of the draft Bill will result in a related person of an approval holder being able to enter an enforceable undertaking with the CEO (to carry out remediation or rehabilitation work to rectify environmental harm).

Clause 9 makes a minor amendment to section 265 of the EP Act relating to the criminal liability of executive officers of bodies corporate.

Clause 10 of the draft Bill will allow a related person to seek a review through the Northern Territory Civil and Administrative Tribunal (NT CAT) of a compliance notice issued under proposed Part 9, Division 2A of the EP Act.

Part 3 of the draft Bill contains proposed amendments to the EP Regulations.

Clause 11 of the draft Bill identifies that the following clauses amend the *Environment Protection Regulations 2020* (the EP Regulations).

Clause 12 outlines the proposed amendments to the EP Regulations which will be inserted after regulation 254. The proposed new regulations relate to matters associated with the issue and operation of environment protection notices using the COR laws.

Clause 13 amends Schedule 2 of the EP Regulations relating to infringement notice offences and amounts.

Clause 14 repeals the *Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022* after it commences.