

# Environmental Management & Pollution Control Amendment Bill 2022

Explanatory Paper for Consultation Draft



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# Introduction

The *Environmental Management and Pollution Control Amendment Bill 2022* proposes changes to Tasmania's *Environmental Management and Pollution Control Act 1994* (EMPCA). The primary amendments cover three broad areas:

1. The legal separation of the Environment Protection Authority (EPA) from the Department of Natural Resources and Environment Tasmania (NRE Tas);
2. New powers for the Director of the EPA to make monitoring information available to the public; and
3. Processes and powers for making 'Environmental Standards' and supporting 'Technical Standards' to manage environmentally significant activities.

## Separation of the EPA

On 8 September 2021 the Tasmanian Government announced the structural and organisational separation of the Environment Protection Authority (EPA) from the Department of Primary Industries, Parks, Water, and Environment (DPIPWE), thereby strengthening the independence of the EPA.

The administrative separation took place on 1 December 2022 with the creation of the Environment Protection Authority as a standalone State Authority. At the same time, DPIPWE was renamed the Department of Natural Resources and Environment Tasmania (NRE Tas), with the standalone EPA as Tasmania's independent environmental assessment and regulatory body.

The separation has resulted in the policy-setting and Government-led functions staying with NRE Tas, while the EPA retains the statutory assessment and regulation functions, thereby clearly delineating these roles.

The changes proposed in the Bill include powers to supplement the existing provisions for a Ministerial Statement of Expectation to ensure any Ministerial Statement aligns with the objectives in Schedule 1 of EMPCA and the functions and powers of the EPA Board, as well as provisions to clarify the powers of the Director and strengthen their independence.

**Clauses 6, 7, 8, 9 and 18 of the Amendment Bill relate to the separation of the EPA.**

## Public release of monitoring information

The Environment Protection Authority (EPA) presently lacks the power to make environmental monitoring information provided to it by a regulated party available to third parties or the public, without the permission of the regulated party. This is inconsistent with contemporary standards of environmental regulation and monitoring.

The proposed changes would enable the EPA Director EPA to publish or otherwise make available 'relevant information', without the consent of the person from whom the information was collected.

In summary, 'relevant information' means results related to monitoring of the environmental impacts of an activity, including:

- any test or measurement results related to emissions, discharge, or deposition;
- reports of environmental condition, including any analysis or interpretation; and
- any photographs or audio/visual recordings.

In determining whether to release such information, the Director must consider whether any relevant information relating to the business affairs of a person would be exempt within the meaning of the *Right to Information Act 2009*. This is to ensure privacy and consistency between that Act and the Amendment Bill.

Exemptions include matters such as business affairs of a third party (e.g., 'trade secrets'), disclosure of personal information and information obtained in confidence.

Providing the EPA with the power to publicly release certain information is consistent with the Government's expectation to enable the EPA to operate in an independent, open and transparent manner, and is broadly consistent with relevant transparency powers of other independent regulators, such as the Tasmanian Economic Regulator.

**Clauses 10 and 11 of the Amendment Bill relate to the release of monitoring information.**

## Environmental Standards & Technical Standards

The Amendment Bill proposes the addition of a new Division (1B) to EMPCA that would allow the making of 'Environmental Standards' and supporting 'Technical Standards' to manage environmentally significant activities.

These amendments will provide a head of power to make an Environmental Standard as a new instrument under the Act and will include a statutory consultation process prior to them being finalised and tabled.

In the first instance the new powers will be used to create an Environmental Standard for finfish farming, as detailed in the Government's recently released 'Position Paper – Introducing an Environmental Standard for Marine Finfish Farming' in Tasmania.

The Environmental Standard will build on existing monitoring and management arrangements to ensure a contemporary monitoring and environmental management framework that is clear and robust and fosters environmentally sustainable finfish farming practices, with a focus on:

- minimising the environmental effects of deposition, dispersal and accumulation of wastes discharged from finfish farms to ensure that local and far-field marine and estuarine environments are protected from degradation; and
- guiding the environmental management of other environmental issues, including the impact of obtrusive noise and light on neighbouring communities and wildlife, outlining expectations for managing the use of therapeutants, and minimising wastes generated by marine finfish farming.

### *Environmental Standards*

Environmental Standards will allow activity-specific licence and permit conditions and other requirements to be consolidated within one document. Standards will be made by the Minister following a period of consultation and must be tabled in both Houses of Parliament. Either House will have the power to disallow a tabled Standard.

An Environmental Standard may relate to one or more of the following:

- environmentally relevant activities;
- pollutants and chemicals;
- an industry or activity;

- waste management;
- environmental monitoring; and
- adoption of a national or international standard.

An Environmental Standard can require the EPA Board or Director to use its provisions when:

- considering whether to issue a permit, licence, environment protection notice or site management notice; or
- assessing a proposed or existing activity.

An Environmental Standard may also:

- require a person to comply with any 'environmental standards offence provision' in an Environmental Standard (if it applies to them) or they will be guilty of an offence; or
- specify that an 'environmental standards condition' within an Environmental Standard may be imposed as a condition or restriction on a permit, environmental licence (EL), site management notice, or EPN.

#### *Technical Standards*

Supporting Technical Standards will be made and published by the EPA Director to describe acceptable methods, protocols and procedures related to environmental standards, and to assist in the implementation of State Policies, environment protection policies and National Environmental Protection Measures.

Technical Standards may authorise the EPA Board or Director to regulate or otherwise apply any matter included in the Standard.

#### *Common provisions*

For the sake of practicality and consistency, both Environmental Standards and Technical Standards can refer to relevant documents, such as Australian Standards, made in other jurisdictions.

**Clauses 12 to 16 of the Bill** contain consequential amendments relating to the new powers in Clause 17 to create environmental standards and technical standards.

**Clause 17 of the Bill** contains details on:

- Making, amending, and revoking Environmental Standards and Technical Standards;
- Public consultation on, and Parliamentary oversight of environmental standards; and
- Publishing of standards.

## Abbreviations and acronyms

In this Explanatory Paper, the following abbreviations and acronyms are used:

“EL” means environmental licence

“EMPCA” means *Environmental Management and Pollution Control Act 1994*

“EPA” means Environment Protection Authority

“EPN” means environment protection notice

“EPP” means environment protection policy

“ES” means Environmental Standard

“NRE Tas” means Department of Natural Resources and Environment Tasmania

‘SoE’ means Statement of Expectation (provided by the Minister to the EPA Board)

“the Bill” means the *Environmental Management and Pollution Control Amendment Bill 2022*

“TS” means Technical Standard

# Description of Clauses in the Bill

The descriptions in each table below should be read in conjunction with the Consultation Draft of the Amendment Bill.

## Table 1 - Preliminary and Repeal Clauses

Bill clause	EMPCA provision	Proposed amendments
1	-	This is a standard clause that gives a title to the Amendment Act.
2	-	The Bill will receive Royal Assent after it has been passed by Parliament but will not take effect until the Governor makes a proclamation on an appropriate date.
3	-	This is a standard clause naming the Act that is being amended (EMPCA).
4	Subsection 3(1)	<b>Four new definitions have been added</b> to subsection 3(1) of EMPCA ('Interpretation'). These are: <ul style="list-style-type: none"><li>• 'environmental standards';</li><li>• 'environmental standards condition';</li><li>• 'environmental standards offence provision'; and</li><li>• 'technical standard'.</li></ul>
5	Subsection 5B(f)	<b>Section 5B(f) has been amended</b> so that environmental audits may also relate to compliance with any new environmental standards or related conditions and offence provisions (see the relevant sections of the Bill in Table 4 below).
19		This clause allows for the Amendment Act to be repealed one year after its commencement.

## Table 2 - Separation of the EPA

Bill clause	EMPCA provision	Current powers and proposed amendments
<b>Ministerial Statement of Expectation (SoE):</b>		
6	Section 15	<p><b>Current powers:</b> Section 15 requires the Minister to provide the EPA Board with a ‘Statement of Expectation’ or SoE.</p> <p><b>Subsection 15(1) has been amended</b> to remove the unnecessary requirement for the SoE to be provided to the Board “by 31 March in each even-numbered year.”</p> <p><b>New subsection 2(A):</b></p> <p>Proposes that if 5 years have elapsed since the last review, amendment, or substitution of the SoE, a Ministerial review must be done as soon as possible thereafter.</p> <p><b>New subsection 2(B):</b></p> <p>Provides a power for the Minister to review the SoE at any time.</p>
7	Section 15A	<p><b>Current powers:</b> Section 15A requires an SoE to:</p> <ul style="list-style-type: none"> <li>• specify the Minister’s objectives on any matter relating to the EPA Board’s functions, and</li> <li>• ensure that the SoE does not constrain the Board’s lawful functions, nor extend its functions and powers.</li> </ul> <p><b>New subsections 15A(2)(aa)-(ac)</b> propose that an SoE must:</p> <ul style="list-style-type: none"> <li>• further the objectives in Schedule I of EMPCA*;</li> <li>• be consistent with the functions and powers of the Board as given in section 14; and</li> <li>• explain which EMPCA objectives are being furthered, and how they are being furthered.</li> </ul> <p>The purpose of the amendments is to provide further detail and clarity on what can be included in an SoE. They also ensure that an SoE is consistent with other provisions in the Act and explains how it supports the intent of the Act.</p> <p>*Note that the objectives relate to both the Resource Management and Planning System <u>and</u> the Environmental Management and Pollution Control System established by EMPCA.</p>
8	Section 18	<p><b>New subsection 18A</b> clarifies that the Director is to act without direction from anyone, including the Minister, within the scope of their powers and functions listed under subsection 18A(2).</p>

Bill clause	EMPCA provision	Current powers and proposed amendments
		<p>In summary, those powers and functions relate to:</p> <ul style="list-style-type: none"> <li>• Environmental licensing;</li> <li>• Site remediation and management;</li> <li>• Investigations and prosecutions;</li> <li>• Reports and recommendations; and</li> <li>• Other authorizations or agreements.</li> </ul>
9	Section 19	<p><b>Current powers:</b> Sub-section 19(2) allows the Secretary of the NRE Tas to arrange for public service staff in other Agencies to work within NRE Tas and perform duties and functions required under EMPCA.</p> <p><b>Subsection 19 (2) has been amended</b> so that this power is transferred from the Secretary to the EPA Director. This is to ensure that skilled staff can be ‘seconded’ to the EPA, if required.</p>
18	Section 100 (Analysts)	<p><b>Current powers:</b> Section 100 allows the Secretary of NRE Tas to appoint analysts with the approval of the EPA Board, and for analyst certificates to be recognised as proof in any proceedings.</p> <p><b>Section 100 is amended</b> to extend the appointment power in subsection (1) to include the EPA Director, and to change the reference in subsection (2) accordingly.</p>

## Table 3 - Release of Monitoring Information

Bill clause	EMPCA provision	Current powers and proposed amendments
10	Sections 22 (Registers) & 23 (Trade secrets)	<p><b>Current powers:</b> EMPCA has two sections (22 and 23) covering public access to information collected by the EPA Board and councils.</p> <p>Section 22 requires the Board and councils to keep registers of ‘environmental management and enforcement instruments’.</p> <p>For the Board, these instruments include:</p> <ul style="list-style-type: none"> <li>• Environmental licence documents;</li> <li>• Environmental agreements and audits;</li> <li>• Emergency authorisations;</li> <li>• Financial assurances;</li> <li>• Environmental improvement programmes; and</li> <li>• Environmental protection notices.</li> </ul> <p>Council registers must keep details of any environment protection notices, including amendments or revocation.</p> <p>Subsection 22(2) allows a person, on payment of a fee, to search a register. This effectively means that information stored on Board and council registers is available to the public, businesses, and other organisations.</p> <p>Section 23 (‘Trade secrets’) places two constraints on the public availability of items on section 22 registers, where that information relates to trade secrets.</p> <p>Firstly, the Board and councils must consider whether register information could be a trade secret and whether the release of such information would be likely to cause financial loss to any person. If so, the affected person must be consulted and may make a representation to the Board or relevant council, who must then serve a notice on that person about their decision. That person has appeal rights under subsection 23(3) if they do not agree with the decision.</p> <p>Secondly, subsection 23(4) prevents the disclosure of trade secrets without the consent of the person involved.</p> <p><b>New subsection 23(5)</b> allows monitoring information ‘...published, provided, or made available for viewing by members of the public or a person or body...’ [under the new subsection 23AA described below] to be <u>exempt</u> from the existing ‘trade secret’ and ‘consent’ constraints in section 23.</p>

Bill clause	EMPCA provision	Current powers and proposed amendments
11	Section 23	<p><b>New subsections 23AA(2) and (3)</b> propose that the EPA Director would be able to publish or otherwise make available any ‘relevant [environmental monitoring] information’ provided under the Act, <u>with or without the approval of the person or body who provided that information to the Director.</u></p> <p>In summary, <b>subsection (1)</b> defines ‘relevant information’ as information relating to monitoring of environmental impacts including:</p> <ul style="list-style-type: none"> <li>• Any test or measurement results related to emissions, discharge or deposition;</li> <li>• Reports of environmental condition, including any analysis or interpretation; and</li> <li>• Any photographs or audio/visual recordings.</li> </ul> <p><b>New subsection 23AA(1)</b> also provides definitions for ‘council -owned company’, ‘public authority’ and ‘State-owned company’, as these terms are used in subsection (4) – see below.</p> <p><b>New subsection 23AA(4)</b> requires the Director to consider whether any relevant information relating to the business affairs of a person would be exempt within the meaning of the <i>Right to Information Act 2009</i>. This is to ensure consistency between the Act and the Amendment Bill.</p> <p>Exemptions include matters such as business affairs of a third party, disclosure of personal information and information obtained in confidence.</p>

## Table 4 - Environmental Standards & Technical Standards

Bill clause	EMPCA provision	Current powers and proposed amendments
12	Section 25(6)	<p><b>Current powers:</b> Subsection 25(6) defines the conditions that the EPA Board may require to be contained in a permit granted by the planning authority (i.e., by the local council) under the <i>Land Use Planning and Approvals Act 1993</i> (LUPAA).</p> <p><b>Subsection 25(6) is amended</b> to allow the inclusion of a condition that gives effect to an environmental standards condition or a technical standard.</p>
13	Section 37	<p><b>Current powers:</b> Section 37 specifies that an ‘environmental improvement programme’ (EIP) can be used to achieve a particular activity’s transition to compliance with EMPCA. (Note that under s.37 the EPA Board may require a person undertaking an activity to prepare and submit a draft EIP for approval.)</p> <p>Subsection 37(b) uses the generic term ‘environmental standard’, which is unrelated to the proposed new powers within the Bill to create environmental standards for specified activities or purposes.</p> <p><b>Subsection 37(b) is amended</b> to change the existing term to ‘standard for the environment’, to distinguish between the two types of wording.</p> <p><b>Subsection 37(b) is amended</b> so that the Board may <u>also</u> require an EIP to detail a transition to an environmental standard or technical standard.</p> <p>Consequently, 37(b) will refer to a ‘...transition to a standard for the environment, environmental standards or a technical standard.’</p>
14	Section 39	<p><b>Current powers:</b> Section 39 specifies when and how the EPA Board may require a person to submit a draft EIP for approval.</p> <p>Subsection 39(1) enables the Board to require a draft EIP if an activity causes or may cause environmental harm: or</p> <p>If it is not practicable for a person to comply with:</p> <ul style="list-style-type: none"> <li>• A State Policy;</li> <li>• A provision of EMPCA;</li> <li>• Regulations; or</li> <li>• An environment protection policy (EPP).</li> </ul> <p><b>New subsection 39(1)(ab)</b> adds a power for the Board to require an EIP if is not practicable for a person to comply with an environmental standards condition or offence provision, or a technical standard.</p>

Bill clause	EMPCA provision	Current powers and proposed amendments
15	Section 42Z	<p><b>Current powers:</b> Subsection 42Z(2) lists the conditions or restrictions that may be imposed upon an environmental licence.</p> <p><b>New subsection 42Z(2)(ia)</b> adds an ‘environmental standards condition’ to the list.</p> <p><b>Subsection 42Z(2)(j)</b> is amended to add a ‘technical standard’ to the list.</p>
16	Section 44	<p><b>Current powers:</b> Section 44 allows the EPA Director or a council officer to serve an environment protection notice (EPN) on a person responsible for an ‘environmentally relevant activity’. Amongst other things, this can occur if the serving of an EPN is necessary to give effect to a State Policy or EPP.</p> <p><b>Subsections 44(1) and (2) are amended</b> to include ‘environmental standards’ and a ‘technical standard’ as instruments to which the serving of an EPN may refer.</p>
17	Part 7	<p><b>New Division 1B inserted – ‘Environmental standards and technical standards’</b></p>
<p><b>New Subdivision 1 – ‘Environmental standards’:</b></p>		
	Section 96O	<p><b>Purpose and contents of environmental standards:</b></p> <p><b>New subsection 96O(1)</b> allows the creation of environmental standards (ES) and explains that their high-level purpose is to manage, mitigate or reduce potential environmental harm.</p> <p>This broad scope means that an ES can be made to cover any environmentally significant activity or situation.</p> <p><b>New subsection 96O(2) states</b> that an ES can include three things:</p> <ol style="list-style-type: none"> <li>1. One or more specific ES</li> <li>2. Provisions related to purpose or intent of any included ES; and</li> <li>3. Other provisions necessary for effective operation of the ES.</li> </ol> <p>For example, an overarching ES could be created for a particular industry and, if necessary, it could incorporate several individual environmental standards for each significant activity undertaken by that industry (see subsection (4) below for more detail).</p> <p><b>New subsections 96O(3)(a) and (b)</b> explain that an ES can indicate that its provisions must be used by the EPA Board or Director:</p> <ul style="list-style-type: none"> <li>• when considering whether to issue a permit, licence, environment protection notice or site management notice;</li> </ul> <p>or</p>

Bill clause	EMPCA provision	Current powers and proposed amendments
		<ul style="list-style-type: none"> <li>• when assessing a proposed or existing activity.</li> </ul> <p><b>New subsection 96O(3)(c):</b></p> <ul style="list-style-type: none"> <li>• requires a person to comply with any ‘environmental standards offence provision’ in an ES (if it applies to them) or they will be guilty of an offence; or</li> <li>• specifies that an ‘environmental standards condition’ within an ES may be imposed as a condition or restriction on a permit, EL, site management notice, or EPN.</li> </ul> <p><b>New subsection 96O(4)</b> provides further detail on the wide range of activities to which an environmental standard may relate, including one or more of the following:</p> <ul style="list-style-type: none"> <li>• Environmentally relevant activities;</li> <li>• Pollutants and chemicals;</li> <li>• An industry or activity;</li> <li>• Waste management;</li> <li>• Environmental monitoring</li> <li>• Adoption of a national or international standard.</li> </ul> <p><b>New subsection 96O(5)</b> allows an ES to specify whether the standard, or a provision within it, applies to all or part of the State.</p> <p><b>New subsection 96O(6)</b>, in summary, allows an ES to:</p> <ul style="list-style-type: none"> <li>• Authorise anything in the ES to be determined, applied, or regulated by the EPA Board or Director;</li> <li>• Refer to Australian Standards or legislative and administrative documents made in other jurisdictions;</li> <li>• Authorise or require the Director to make a technical standard for implementing the ES (see new section 96X below);</li> <li>• Contain conditions or restrictions; and</li> <li>• Apply to specific persons and circumstances.</li> </ul> <p><b>New subsection 96O(7)</b> explains that, <u>in matters of interpretation</u>, reference should be made to the <i>Acts Interpretation Act 1931</i>, with ES to be interpreted as if they were bylaws.</p>
	Section 96P	<p><b>Environmental standards to be consistent with certain instruments</b></p> <p><b>New section 96P</b> requires ES to be consistent with the objectives (in Schedule I) and provisions of EMPCA, any State Policy and any EPP.</p>
	Section 96Q	<p><b>Making, amendment and revocation of environmental standards</b></p>

Bill clause	EMPCA provision	Current powers and proposed amendments
		<p><b>New subsections 96Q(1), (2) and (3)</b> allow the Minister to make, amend or revoke an ES.</p> <p><b>New subsection 96Q(4)</b> requires the Minister to consult with the Secretary of NRE Tas, the EPA Director and ‘any other person that the Minister thinks fit’.</p> <p><b>New subsection 96Q(5)</b> specifies that the Minister may not make, amend, or revoke an ES unless they have consulted in accordance with section 96R (see below) and considered all submissions.</p>
	Section 96R	<p><b>Public consultation in relation to proposed environmental standards</b></p> <p>In summary, <b>section 96R</b> requires the Minister to:</p> <ul style="list-style-type: none"> <li>• consult with the public before making, amending, or revoking an ES;</li> <li>• exhibit a draft ES, amendment, or revocation for 6 weeks; and</li> <li>• place a notice of exhibition in a newspaper with state-wide circulation.</li> </ul> <p>The notice is to:</p> <ul style="list-style-type: none"> <li>• give the period of exhibition;</li> <li>• provide reasons for the making, amendment, or revocation;</li> <li>• state where a copy can be viewed; and</li> <li>• Invite submissions</li> </ul>
	Section 96S	<p><b>Environmental standards are not statutory rules</b></p> <p>In summary, <b>section 96S</b> explains that ES, ES amendments and revoked ES <u>are not, for the purposes of publication and printing:</u></p> <ul style="list-style-type: none"> <li>• regulations, rules, or bylaws made under an Act; or</li> <li>• proclamations or other notices that affect the operation of an Act; or</li> <li>• other legislative instruments.</li> </ul> <p>This means that ES are not subject to the printing, numbering and publication rules that normally apply to statutory rules.</p>
	Section 96T	<p><b>Environmental standards may be disallowed by House of Parliament</b></p> <p><b>New section 96T</b> establishes that either House of Parliament may disallow an ES, or its amendment, or its revocation.</p> <p>In summary, the relevant parts of section 43 of the <i>Acts Interpretation Act 1931</i> require the Minister to:</p>

Bill clause	EMPCA provision	Current powers and proposed amendments
		<ul style="list-style-type: none"> <li>• Place a notice in the Gazette, within 21 days, advising that an ES has been made, amended, or revoked; and</li> <li>• Table the ES, amendment, or revocation in each House of Parliament within 10 sitting days of Gazettal.</li> </ul> <p>Either House, within 15 sitting days of tabling, may pass a resolution to disallow all or part of an ES.</p> <p>A disallowed ES that is substantially the same cannot take effect within 12 months of its disallowance by either House:</p> <ul style="list-style-type: none"> <li>• unless it has been tabled in that House for 30 days, or</li> <li>• a resolution is passed by that House to allow it.</li> </ul> <p>An ES, amendment or revocation takes effect on Gazettal, or on another date specified in the notice.</p>
	Section 96U	<p><b>Effect of environmental standard</b></p> <p><b>New section 96U</b> confirms that the EPA Board and Director are to give effect to environmental standards in accordance with section 96(O).</p>
	Section 96V	<p><b>Copies of environmental standards to be made available for viewing by public</b></p> <p><b>New section 96V</b> requires the Minister to ensure that ES are to be published on a website of the EPA and made available to the public in any other appropriate manner.</p>
	Section 96W	<p><b>Review of environmental standards</b></p> <p><b>New section 96W</b> requires the Minister to review an ES ten years after it came into effect.</p> <p>The review must take place within 6 months of the ES's 10<sup>th</sup> anniversary.</p> <p>The purpose of the review is to determine whether the ES should be amended or revoked.</p>
<b>New Subdivision 2 inserted – ‘Technical standards’ (TS):</b>		
	Section 96X	<p><b>Purposes and contents of technical standards</b></p> <p><b>New subsection 96X(1)</b> allows a TS to be made for:</p> <ul style="list-style-type: none"> <li>• supporting an ES; or</li> <li>• assist in implementing a State Policy, EPP, or National Environmental Protection Measure.</li> </ul> <p><b>New subsection 96X(2)</b> requires each TS to state its purpose.</p> <p><b>New subsection 96X(3)</b> allows a TS to be made for any matter*. In most cases, however, a TS will be one of the following seven things:</p>

Bill clause	EMPCA provision	Current powers and proposed amendments
		<ul style="list-style-type: none"> <li>• A scientific method</li> <li>• A description of a process</li> <li>• An environmental monitoring method</li> <li>• A data collection and management protocol</li> <li>• A qualitative (i.e., non-numerical) or quantitative assessment method</li> <li>• A scientific equipment standard</li> <li>• A pollution or emission standard</li> </ul> <p>* An example of a TS would be a 'Soil Sampling Protocol', that defined an acceptable process for collecting (how, when, and where), storing, analysing, and recording samples from, say, a contaminated site.</p> <p>Another example of a TS would be a 'Water Quality Sampling Equipment Standard' that describes the type of equipment to be used, and how it is to be cleaned and maintained.</p> <p><b>New subsection 96X(4)</b> allows a TS to:</p> <ul style="list-style-type: none"> <li>• Authorise anything in the TS to be determined, applied, or regulated by the Board or Director; and</li> <li>• Refer to Australian Standards or legislative and administrative documents made in other jurisdictions.</li> </ul> <p><b>New subsection 96X(5)</b> explains that, <u>in matters of interpretation</u>, reference should be made to the <i>Acts Interpretation Act 1931</i>, with TS to be interpreted as if they were bylaws.</p>
	Section 96Y	<p><b>Director may make technical standard</b></p> <p><b>New section 96Y</b> enables the Director to make a TS, which will either take effect when a notice is published in the <i>Gazette</i>, <u>or</u> on a later day specified in the TS.</p>
	Section 96Z	<p><b>Amendment, revocation, or expiry of technical standard</b></p> <p><b>New subsections 96Z(1) and (2)</b> allow the Director to amend or revoke a TS by issuing a notice.</p> <p><b>New subsection 96Z(3)</b> clarifies that an amendment or revocation takes effect when a notice to that effect is published in the <i>Gazette</i> <u>or</u> on a specified later date.</p> <p><b>New subsection 96Z(4)</b> requires the Director to revoke a TS if one of the following instruments for which it was made is revoked or expires:</p> <ul style="list-style-type: none"> <li>• environmental standard;</li> <li>• State Policy;</li> <li>• EPP; or</li> <li>• National Environmental Protection Measure.</li> </ul>

Bill clause	EMPCA provision	Current powers and proposed amendments
	Section 96ZA	<p><b>Technical standards etc. are not statutory rules</b></p> <p>In summary, <b>new section 96ZA</b> explains that TS, amendments to TS and revocations of TS <u>are not, for the purposes of publication and printing:</u></p> <ul style="list-style-type: none"> <li>• regulations, rules, or bylaws made under an Act; or</li> <li>• proclamations or other notices that affect the operation of an Act; or</li> <li>• other legislative instruments.</li> </ul>
	Section 96ZB	<p><b>Copies of technical standards to be made available for viewing by public</b></p> <p><b>New section 96ZB</b> requires the EPA Director to publish technical standards on the EPA's website <u>and</u> make them available to the public in any other manner the Minister considers appropriate.</p>



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