

Serial 66
Environment Protection Legislation Amendment (Chain of Responsibility)
Bill 2022
Ms Moss

A Bill for an Act to amend the *Environment Protection Act 2019* and the
Environment Protection Regulations 2020 to include chain of responsibility
provisions and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

ENVIRONMENT PROTECTION LEGISLATION AMENDMENT (CHAIN OF RESPONSIBILITY) ACT 2022

Act No. [] of 2022

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2022

An Act to amend the *Environment Protection Act 2019* and the *Environment Protection Regulations 2020* to include chain of responsibility provisions and for related purposes

[Assented to [] 2022]
[Introduced [] 2022]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 1 July 2024, it commences on that day.

Part 2 Amendment of Environment Protection Act 2019

3 Act amended

This Part amends the *Environment Protection Act 2019*.

4 Section 4 amended (Definitions)

(1) Section 4

insert

Aboriginal and Torres Strait Islander corporation means a corporation registered under the CATSI Act.

administered Aboriginal and Torres Strait Islander corporation means an Aboriginal and Torres Strait Islander corporation:

- (a) for which a special administrator has been appointed under Part 11-2 of the CATSI Act; or
- (b) for which a receiver or another controller of its property has been appointed under Part 5.2 of the *Corporations Act 2001* (Cth) as applied by Part 11-3 of the CATSI Act; or
- (c) for which an administrator has been appointed under Part 5.3A of the *Corporations Act 2001* (Cth) as applied by Part 11-4 of the CATSI Act; or
- (d) that is being wound up under Chapter 5 of the *Corporations Act 2001* (Cth) as applied by Part 11-5 of the CATSI Act.

associated entity:

- (a) in relation to a body corporate (other than an Aboriginal and Torres Strait Islander corporation) – see section 50AAA of the *Corporations Act 2001* (Cth); and
- (b) in relation to an Aboriginal and Torres Strait Islander corporation – see section 50AAA of the *Corporations Act 2001* (Cth) as if that section applied to the corporation.

CATSI Act means the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth).

Chapter 5 body corporate, see section 9 of the *Corporations Act 2001* (Cth).

compliance notice means:

- (a) an environment protection notice issued under section 176(1) or (2); or
- (b) a prescribed direction.

contractor, for Part 9, Division 2, Subdivision 2, see section 192B(1)(b).

executive officer, of a body corporate, means a director or other person who is concerned with, or takes part in the management of the body corporate.

high risk entity means a person, body or entity who or which is, or was, the holder of a prescribed approval or a prescribed environmental duty and who or which:

- (a) is a Chapter 5 body corporate; or
- (b) is an administered Aboriginal and Torres Strait Islander corporation; or
- (c) is an associated entity of a body mentioned in paragraph (a) or (b); or
- (d) is bankrupt, has applied to take the benefit of a law for the relief of bankrupt or insolvent debtors or has compounded with creditors or made an assignment of remuneration for their benefit; or
- (e) has failed to comply with the requirements of a compliance notice; or
- (f) has failed to comply with the requirements of the prescribed approval or the prescribed environmental duty.

holding entity, for Part 9, Division 2A, see section 192L.

monitor, for Part 9, Division 2, Subdivision 2, see section 192B(2)(a).

petroleum activity means an activity for which any of the following is required:

- (a) an exploration permit under the *Petroleum Act 1984*;
- (b) a retention licence under the *Petroleum Act 1984*;
- (c) a production licence under the *Petroleum Act 1984*;
- (d) a permit or lease mentioned in section 119(1) of the *Petroleum Act 1984*.

prescribed Act, for Part 9, Division 2A, see section 192L.

prescribed approval, for Part 9, Division 2A, see section 192L.

prescribed direction, for Part 9, Division 2A, see section 192L.

prescribed environmental duty, for Part 9, Division 2A, see section 192L.

related person, of a high risk entity, see section 192M.

relevant commencement, for Part 9, Division 2A, see section 192L.

relevant decision-maker, for Part 9, Division 2A, see section 192L.

- (2) Section 4, definition **environment protection notice**, paragraph (a)

omit

section 176

insert

section 176(1) or (2)

- (3) Section 4, definition **environmental officer**, paragraph (b)

omit

officer.

insert

officer; or

- (4) Section 4, definition **environmental officer**, after paragraph (b)

insert

- (c) for Part 9, Division 2A – in relation to a prescribed Act, an inspector or other person appointed or authorised to enforce the prescribed Act.

5 Part 9, Division 2, Subdivision 1 heading inserted

Before section 176, in Part 9, Division 2

insert

Subdivision 1 Environment protection notices

6 Section 176 amended (Environment protection notice – purpose and issue)

(1) Section 176, before "The"

insert

(1)

(2) Section 176, at the end

insert

(2) In addition to subsection (1), the CEO may issue an environment protection notice under this Division in the circumstances set out in Division 2A.

7 Section 183 amended (Emergency environment protection notice issued by environmental officer)

Section 183(3)

omit

in accordance with the regulations

8 Part 9, Division 2, Subdivision 2 and Division 2A inserted

After section 192

insert

Subdivision 2 Powers of persons to enter land**192A Application**

This Subdivision applies in relation to an environment protection notice issued to a person if:

- (a) the environment protection notice requires the person to enter land or premises in order to comply with the notice; and
- (b) the person:
 - (i) is not the owner or occupier of the land or premises required to be entered; or
 - (ii) does not have a right of access to the land or premises required to be entered.

192B Power to enter land

- (1) The following persons may enter land or premises specified in an environment protection notice to comply with the environment protection notice:
 - (a) the person to whom the environment protection notice is issued or an employee of that person;
 - (b) a person engaged by the person to whom the environment protection notice is issued to carry out works on the land or premises (a **contractor**) or an employee of the contractor.
- (2) The following persons may enter land or premises specified in an environment protection notice to monitor the carrying out of the works on the land or premises to which the environment protection notice applies:
 - (a) a person engaged by the person to whom the environment protection notice is issued to monitor the carrying out of the works (a **monitor**) or an employee of the monitor;
 - (b) the CEO.
- (3) A person permitted to enter land or premises under this section may only enter:
 - (a) with the consent of the owner or occupier of the land; or
 - (b) if the person gives at least 10 business days prior written notice to the owner or occupier of the land; or
 - (c) in an emergency, if there is a risk of environmental harm if works are not carried out immediately.
- (4) A person entering land or premises under subsection (3)(c) must:
 - (a) if possible, give oral notice of the entry to the owner or occupier of the land as soon as possible before, on or after that entry; and
 - (b) give written notice of the entry to the owner or occupier within 10 business days after that entry or the giving of the oral notice, whichever occurs first.
- (5) The notice under subsection (3)(b) or (4) must inform the owner or occupier of the land of the matters prescribed by regulation.

- (6) Despite subsection (3), a person must not enter residential premises under this section without the consent of the owner or occupier of the land.
- (7) The power of a person to enter land or premises under this section may be exercised, despite:
 - (a) the land being, or the premises being on, Aboriginal land; and
 - (b) the person not holding a permit under the *Aboriginal Land Act 1978* to enter or remain on Aboriginal land.

192C Notice to CEO

- (1) The person to whom the environment protection notice is issued must give written notice to the CEO of the intention of the person, a contractor or monitor engaged by the person or an employee of any of them, to enter land or premises under section 192B.
- (2) The notice must be given at least 10 business days before entry to the land or premises.
- (3) Despite subsection (2), if entry to the land or premises is made in an emergency under section 192B(3)(c), the person to whom the environment protection notice is issued must:
 - (a) give oral notice of the entry to the CEO as soon as possible before, on or after that entry; and
 - (b) give written notice of the entry to the CEO within 10 business days after that entry or the giving of the oral notice, whichever occurs first.
- (4) The notice given by a person under subsection (1) or (3) must inform the CEO of the matters prescribed by regulation.

192D Powers on entry

A person who is authorised under section 192B to enter land or premises may on entry do any of the following to comply with the environment protection notice or to monitor the carrying out of works under that notice:

- (a) inspect the land or premises and anything found there;
- (b) dig up any land and operate any machinery or equipment on the land;

- (c) bring equipment, machinery and materials onto the land or premises and install and maintain any equipment, machinery or materials;
- (d) take photographs and make sketches or other records of the land or premises;
- (e) measure anything, or take samples of anything, on the land or premises;
- (f) take any other action reasonably required to comply with the environment protection notice or monitor the carrying out of works.

192E Duties on entry

A person who is authorised under section 192B to enter land or premises:

- (a) must take reasonable steps to minimise disruption to the owner or occupier of the land or premises caused by the entry to the land or premises or the taking of an action specified in section 192D; and
- (b) must not remain on the land or premises any longer than is reasonably necessary to comply with the environment protection notice or to monitor the carrying out of works under the environment protection notice.

192F Recovery of costs

- (1) A person is entitled to be paid reasonable compensation under this section for loss or damage incurred because of action taken under this Subdivision by:
 - (a) a person to whom an environment protection notice is issued or an employee of the person; or
 - (b) a contractor or monitor engaged by a person to whom an environment protection notice is issued or an employee of a contractor or monitor.
- (2) The person to whom the environment protection notice is issued is liable to pay the compensation for the loss or damage.
- (3) If the environment protection notice is issued to a person who is or was a related person of a high risk entity, this section does not apply to loss or damage incurred by the high risk entity.
- (4) No action lies against the Territory for the loss or damage.

192G Offence to obstruct

- (1) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct obstructs another person from taking any action that is authorised under this Subdivision to comply with an environment protection notice and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

- (2) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct obstructs another person from carrying out the monitoring of works that is authorised under this Subdivision and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

- (3) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

192H Offence to fail to give notice

- (1) A person commits an offence if:
- (a) the person is required to give a notice under section 192B or 192C; and
 - (b) the person contravenes that requirement.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

192J Offence to fail to comply with duty on entry

- (1) A person commits an offence if:
- (a) the person has a duty under section 192E; and
 - (b) the person intentionally engages in conduct; and

- (c) the conduct results in a contravention of that duty and the person is reckless in relation to that result.

Maximum penalty: 100 penalty units.

- (2) Strict liability applies to subsection (1)(a).
- (3) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Division 2A Chain of responsibility

Subdivision 1 Preliminary matters

192K Purpose of Division

The purpose of this Division is to enable a compliance notice in relation to a petroleum activity to be issued to a related person of a high risk entity.

192L Definitions

In this Division:

holding entity means:

- (a) for a body corporate (other than an Aboriginal and Torres Strait Islander corporation) – a holding company as defined in section 8 of the *Corporations Act 2001* (Cth); and
- (b) for an Aboriginal and Torres Strait Islander corporation – a holding body corporate as defined in section 700-1 of the CATSI Act.

prescribed Act means an Act prescribed by regulation for this Division.

prescribed approval means:

- (a) an environmental approval; or
- (b) an authorisation, or a plan approved, under a prescribed Act that is prescribed by regulation for this Division.

prescribed direction means a direction, notice or order (however described) that:

- (a) is made or issued under a prescribed Act; and
- (b) relates to compliance with a prescribed approval or prescribed environmental duty under the prescribed Act; and
- (c) is prescribed by regulation for this Division.

prescribed environmental duty means a duty, requirement or obligation under a prescribed Act that is prescribed by regulation for this Division.

relevant commencement means:

- (a) except as provided under paragraph (b) – the commencement of section 8 of the *Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022*; or
- (b) in relation to the issue of, or a decision relating to the issue of, a prescribed direction to a related person of a high risk entity – the commencement of the regulation prescribing the prescribed direction.

relevant decision-maker means:

- (a) in relation to an environment protection notice or environmental approval – the CEO; or
- (b) in relation to a prescribed direction, prescribed approval or prescribed environmental duty under a prescribed Act – the Chief Executive Officer, office holder or statutory authority responsible for enforcing the prescribed direction, prescribed approval or prescribed environmental duty under the prescribed Act.

192M Meaning of *related person* of high risk entity

- (1) A person is a ***related person*** of a high risk entity if:
 - (a) the relevant decision-maker decides in accordance with section 192N that the person has a relevant connection to the high risk entity; or
 - (b) the person is a holding entity of the high risk entity; or
 - (c) the person:
 - (i) is an associated entity of the high risk entity; and

- (ii) is the owner or occupier of land on which the high risk entity carries out or has, in the preceding 3 years, carried out, a petroleum activity.
- (2) A person is not a related person of a high risk entity if:
 - (a) the person is acting in the capacity of liquidator, receiver, receiver and manager or administrator of the high risk entity in accordance with:
 - (i) the *Corporations Act 2001* (Cth); or
 - (ii) the CATSI Act; or
 - (b) the person is acting as a special administrator of the high risk entity under Part 11-2 of the CATSI Act; or
 - (c) the person is acting in the capacity of small business restructuring practitioner for the high risk entity in accordance with the *Corporations Act 2001* (Cth); or
 - (d) the person is acting as a trustee in bankruptcy for the high risk entity under the *Bankruptcy Act 1966* (Cth).
- (3) The period of 3 years mentioned in subsection (1)(c):
 - (a) refers to a period ending immediately before the decision whether to issue a compliance notice to the person in accordance with this Division is made; and
 - (b) may include a period before the relevant commencement.
- (4) In this section:
 - owner**, of land, does not include:
 - (a) for land for which there is a native title holder under the *Native Title Act 1993* (Cth) – the native title holder; or
 - (b) for Aboriginal land – a traditional Aboriginal owner (as defined in section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth)) of the land.

192N Relevant connection to high risk entity

- (1) This section applies to the making of a decision by the relevant decision-maker as to whether a person has a relevant connection to a high risk entity.

- (2) In making the decision, the relevant decision-maker must consider the extent to which the person is, or was at any time within the preceding 3 years, in a position to influence the high risk entity's conduct in relation to:
- (a) the way in which the high risk entity complies with a prescribed approval, prescribed environmental duty or compliance notice; or
 - (b) the extent to which the high risk entity complies with a prescribed approval, prescribed environmental duty or compliance notice.
- (3) In making the decision, the relevant decision-maker must also consider the extent of any financial interest held by the person in the high risk entity, including any financial interest held at any time within the preceding 3 years.
- (4) In making the decision, the relevant decision-maker must also consider the following, to the extent the relevant decision-maker considers relevant:
- (a) the extent of the person's control of the high risk entity;
 - (b) whether the person is, or was at any time within the preceding 3 years, an executive officer of:
 - (i) the high risk entity; or
 - (ii) a holding entity or other body corporate with a financial interest in the high risk entity;
 - (c) any agreements or other transactions the person has, or had at any time within the preceding 3 years, with the high risk entity or with a holding entity or other body corporate mentioned in paragraph (b)(ii) other than an agreement for access to land under an enactment prescribed by regulation;
 - (d) the extent of the dealings the person has, or had at any time within the preceding 3 years, with the high risk entity or with a holding entity or other body corporate mentioned in paragraph (b)(ii);
 - (e) the extent of the person's cooperation and compliance with an information requirement relevant to the relevant decision-maker making the decision.

- (5) A reference in subsection (2) to a person being in a position to influence a high risk entity's conduct includes a person being in that position whether:
- (a) by acting alone or jointly with an associated entity of the high risk entity; or
 - (b) by giving a direction or approval, by making funding available or in another way.
- (6) The matters the relevant decision-maker may consider for subsection (4)(d) include the following:
- (a) how arm's length the dealings were;
 - (b) whether any transactions were made at market value or not;
 - (c) whether the dealings were on an independent, commercial footing;
 - (d) whether the dealings were for providing professional advice;
 - (e) whether the dealings were for providing finance, including any mortgage, charge or other security in relation to the provision of finance.
- (7) Subsections (2) to (6) do not limit the matters the relevant decision-maker may consider in deciding whether a person has a relevant connection to a high risk entity.
- (8) The period of 3 years mentioned in this section:
- (a) refers to a period ending immediately before the decision to which this section applies is made; and
 - (b) may include a period before the relevant commencement.
- (9) In this section:
- control:**
- (a) in relation to a high risk entity (other than an Aboriginal and Torres Strait Islander corporation) – see section 50AA of the *Corporations Act 2001* (Cth); and
 - (b) in relation to a high risk entity that is an Aboriginal and Torres Strait Islander corporation – see section 689-25 of the CATSI Act.

financial interest, in a high risk entity, means a direct or indirect legal or equitable interest in:

- (a) shares in the high risk entity; or
- (b) a mortgage, charge or other security given by the high risk entity; or
- (c) income or revenue of the high risk entity.

information requirement means:

- (a) a requirement under section 163, 172 or 175 or under another provision of this Act under which information may be required to be provided; or
- (b) a provision of a prescribed Act under which information may be required to be provided.

Subdivision 2 Redirection to related persons by issue of compliance notices

192P Purpose of Subdivision

This Subdivision sets out the circumstances in which a compliance notice in relation to a petroleum activity may be issued to a related person of a high risk entity.

192Q Matters to be considered in deciding to issue compliance notice to related person

- (1) This section sets out matters for the relevant decision-maker to consider in deciding whether to issue a compliance notice in relation to a petroleum activity to a related person of a high risk entity.
- (2) The relevant decision-maker must consider the following:
 - (a) if the compliance notice is issued under section 176(2) – the objects of this Act;
 - (b) if the compliance notice is issued under a prescribed Act – the objects (if any) of the prescribed Act;
 - (c) whether the related person took all reasonable and practical steps to influence the high risk entity's compliance with a prescribed approval, prescribed environmental duty or compliance notice relating to the petroleum activity;

- (d) whether the related person took all reasonable and practical steps to influence the high risk entity's financial management of and provision in funding for:
 - (i) the requirements for compliance with a prescribed approval, prescribed environmental duty or compliance notice relating to the petroleum activity; and
 - (ii) the remediation and rehabilitation of the environment to address the environmental impacts of the petroleum activity over the lifetime of the activity.
- (3) The relevant decision-maker may also consider any financial assurance held under this Act or a prescribed Act in relation to the petroleum activity.
- (4) Subsections (2) and (3) do not limit the matters the relevant decision-maker may consider in deciding whether to issue a compliance notice to a related person of a high risk entity.
- (5) The relevant decision-maker must not issue a compliance notice to a related person of a high risk entity if a reasonable person would consider the issue of the notice to the related person to be oppressive, unjust or unreasonable in the circumstances.
- (6) In this section:

financial assurance includes a bond (including an environment protection bond) and a security.

192R Issue of compliance notice to related person of high risk entity issued with notice

- (1) A relevant decision-maker may issue a compliance notice to a related person of a high risk entity if the high risk entity:
 - (a) was issued with a compliance notice in the preceding 3 years in relation to non-compliance with a prescribed approval, prescribed environmental duty or compliance notice in relation to a petroleum activity; and
 - (b) failed to comply with that compliance notice.
- (2) The period of 3 years mentioned in subsection (1)(a):
 - (a) refers to a period ending immediately before the issue of the compliance notice to the related person; and
 - (b) may include a period before the relevant commencement if the relevant decision-maker was not aware of the non-compliance

with the prescribed approval, prescribed environmental duty or compliance notice by the high risk entity until on or after the relevant commencement.

192S Issue of compliance notice to related person of high risk entity not issued with notice

- (1) A relevant decision-maker may issue a compliance notice to a related person of a high risk entity in relation to non-compliance with a prescribed approval, or prescribed environmental duty in relation to a petroleum activity if:
- (a) the high risk entity failed to comply with the prescribed approval or prescribed environmental duty in the preceding 3 years; and
 - (b) the relevant decision-maker is satisfied the high risk entity has a history of poor compliance or non-compliance with the prescribed approval or prescribed environmental duty, whether or not enforcement action has been taken against the high risk entity; and
 - (c) the relevant decision-maker reasonably considers:
 - (i) the site in relation to which the prescribed approval or prescribed environmental duty applies or applied is not being managed appropriately and there is a risk of material environmental harm or significant environmental harm; and
 - (ii) the high risk entity has not taken, or is not taking, all reasonable steps to comply with the prescribed approval or prescribed environmental duty; and
 - (d) the relevant decision-maker reasonably considers:
 - (i) for a high risk entity that is a body corporate – the high risk entity is in financial difficulty and is likely to become a Chapter 5 body corporate or an administered Aboriginal and Torres Strait Islander corporation; or
 - (ii) for a high risk entity that is an individual – the high risk entity is in financial difficulty and is likely to become bankrupt or apply to take the benefit of a law for the relief of bankrupt or insolvent debtors or to compound with creditors or make an assignment of remuneration for their benefit; or

- (iii) there is a real possibility the Territory will bear the costs of the remediation and rehabilitation of the environment to address the environmental impacts of the petroleum activity.
- (2) For subsection (1) it is immaterial whether a compliance notice was issued in the preceding 3 years to the high risk entity in relation to non-compliance with the prescribed approval or prescribed environmental duty.
- (3) The period of 3 years mentioned in subsection (1)(a) or (2):
 - (a) refers to a period ending immediately before the issue of the compliance notice to the related person of the high risk entity; and
 - (b) may include a period before the relevant commencement if the relevant decision-maker was not aware of the non-compliance with the prescribed approval or prescribed environmental duty by the high risk entity until on or after the relevant commencement.
- (4) Nothing in this section prevents the relevant decision-maker from issuing a compliance notice to a high risk entity after issuing a compliance notice to a related person of the high risk entity.

192T Issue of compliance notice after compliance notice issued to related person of high risk entity

- (1) A relevant decision-maker may issue a compliance notice to a related person of a high risk entity in relation to compliance with a prescribed approval, prescribed environmental duty or compliance notice if a compliance notice was issued in accordance with section 192R or 192S in the preceding 3 years to another related person of the high risk entity in relation to compliance with the same prescribed approval, prescribed environmental duty or compliance notice.
- (2) The period of 3 years mentioned in subsection (1) refers to a period ending immediately before the issue of the compliance notice to the related person in accordance with subsection (1).

192U Issue of compliance notice to previous owner or occupier of land

- (1) A relevant decision-maker may issue a compliance notice in accordance with section 192R, 192S or 192T to a person who is a previous owner or occupier (the **original landholder**) of land on which a petroleum activity is being or was carried out by a high risk entity if:
 - (a) the ownership or occupancy of the land was transferred from the original landholder to another person within the preceding 3 years; and
 - (b) the original landholder was the owner or occupier of the land at the time the environmental impact to which the compliance notice relates occurred; and
 - (c) the original landholder was at any time within the preceding 3 years a related person of the high risk entity.
- (2) If a compliance notice is issued to the original landholder in accordance with subsection (1), this Division applies as if the original landholder were a related person of the high risk entity.
- (3) If the original landholder is a body corporate, a compliance notice may be issued to the original landholder in accordance with subsection (1) even if the body corporate was wound up within the preceding 3 years or is in the process of being wound up.
- (4) The period of 3 years mentioned in subsection (1) or (3):
 - (a) refers to a period ending immediately before the issue of the compliance notice to the original landholder; and
 - (b) may include a period before the relevant commencement.
- (5) A reference in subsection (3) to the winding up of a body corporate includes the winding up of:
 - (a) a Chapter 5 body corporate under Chapter 5 of the *Corporations Act 2001* (Cth); and
 - (b) an Aboriginal and Torres Strait Islander corporation under Chapter 5 of the *Corporations Act 2001* (Cth) (as applied by Part 11-5 of the CATSI Act).

192V Provisions applying to issue of compliance notice

- (1) The power in a prescribed Act to issue a prescribed direction includes a power to issue a prescribed direction in accordance with this Division and the provisions of that Act apply to a prescribed direction issued in accordance with this Division, including:
 - (a) provisions relating to the issue of, compliance with and enforcement of compliance with the prescribed direction; and
 - (b) provisions relating to any appeal or review relating to the issue of the prescribed direction.
- (2) A compliance notice issued in accordance with this Division to a related person of a high risk entity may impose:
 - (a) any requirement that can be imposed by a compliance notice on the high risk entity; and
 - (b) conditions that vary from the conditions imposed on any compliance notice issued to the high risk entity.

192W Joint and several liability for compliance

If a compliance notice is issued in accordance with this Division to 2 or more related persons, the related persons are jointly and severally liable for compliance with the notice, including for the costs of compliance.

192X Enforcement of compliance by high risk entity not affected

Nothing in this Subdivision affects any liability of a high risk entity under this Act or a prescribed Act for any failure to comply with:

- (a) a compliance notice; or
- (b) a prescribed approval or prescribed environmental duty.

Subdivision 3 Corporations legislation displacement and excluded matter**192Y Compliance notice to be excluded matter**

A compliance notice issued in the circumstances set out in this Division is declared to be an excluded matter for the purposes of section 5F of the *Corporations Act 2001* (Cth) in relation to the whole of the Corporations legislation to which Part 1.1A of that Act applies.

192Z Displacement of other laws

The provisions of Subdivisions 1 and 2 are declared to be Corporations legislation displacement provisions for the purposes of section 5G of the *Corporations Act 2001* (Cth) in relation to the provisions of Chapter 5 of that Act.

Note for section 192Z

Section 5G of the Corporations Act 2001 (Cth) provides that if a Territory law declares a provision of a Territory law to be a Corporations legislation displacement provision for the purposes of that section, any provision of the Corporations legislation with which the Territory provision would otherwise be inconsistent does not operate to the extent necessary to avoid the inconsistency.

9 Section 215 amended (CEO may accept enforceable undertaking)

(1) After section 215(1)

insert

(1A) The CEO may accept an enforceable undertaking made by a related person of a high risk entity to do any specified act or thing approved by the CEO if an environment protection notice was issued to the related person in accordance with Part 9, Division 2A.

(2) Section 215(2) and (3)

omit

or the approval holder

insert

, the approval holder or the related person

(3) Section 215(3)

omit

or approval holder

insert

, approval holder or related person

(4) Section 215(3), after "contravention"

insert

or non-compliance

10 Section 216 amended (Enforcement orders)

(1) Section 216(1)

omit

or an approval holder

insert

, an approval holder or a related person

(2) Section 216(2)

omit (all references)

or the approval holder

insert

, the approval holder or the related person

11 Section 217 amended (CEO may do specified acts or things)

Section 217(1), (2)(a), (b) and (c), (3)(b) and (4)

omit (all references)

or the approval holder

insert

, the approval holder or the related person

12 Section 218 amended (Withdrawal or variation of enforceable undertaking by proponent or approval holder)

(1) Section 218, heading

omit

or approval holder

insert

, approval holder or related person

(2) Section 218(1)

omit

or an approval holder

insert

, an approval holder or a related person

13 Section 219 amended (Withdrawal of acceptance by CEO of enforceable undertaking)

Section 219(2)(a), (b) and (c)

omit

or the approval holder

insert

, the approval holder or the related person

14 Section 265 amended (Criminal liability of executive officer of body corporate)

Section 265(8), definition **executive officer**

omit

15 Schedule amended (Reviewable decisions and affected persons)

Schedule

omit

section 176

insert

section 176(1) or (2)

Part 3 Amendment of Environment Protection Regulations 2020

16 Regulations amended

This Part amends the *Environment Protection Regulations 2020*.

17 Parts 9A and 9B inserted

After regulation 254

insert

Part 9A Environment protection notices**254A Information to be provided in notice of entry to land**

For sections 192B(5) and 192C(4) of the Act, a notice under section 192B(3)(b) or (4) or 192C(1) or (3) of the Act must inform the owner or occupier of the land or the CEO (as the case requires) of the following:

- (a) the intention to enter the land or premises;
- (b) the name of each person who is to enter the land or premises;
- (c) the petroleum activity for which the environment protection notice was issued;
- (d) in the case of a environment protection notice issued under section 176(2) – the name of the high risk entity;
- (e) the purpose of the entry and proposed works on the land or premises;
- (f) the days and times when the entry is to be made and the expected duration of the proposed works;
- (g) the equipment, machinery or materials to be brought onto the land or premises;
- (h) the changes to infrastructure and the surrounding environment that are expected as a result of the proposed works.

Part 9B Compliance notices**254B Prescribed enactments for section 192N of Act**

The following Acts are prescribed for section 192N(4)(c) of the Act:

- (a) the *Petroleum Act 1984*;
- (b) the *Native Title Act 1993* (Cth);
- (c) the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth);

(d) the repealed Act as defined in section 5 of the *Petroleum Act 1984* and continued by section 119 of that Act.

18 Schedule 2 amended (Infringement notice offences and prescribed amounts)

Schedule 2, item for section 146(1)

omit, insert

sections 146(1) and 192H(1) 10 50

Part 4 Act repealed

19 Act repealed

This Act is repealed on the day after it commences.