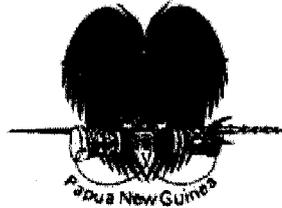


No. 10 of 2014.

Environment (Amendment) Act 2014.

Certified on : **30 MAY 2014**



No. of 2014.

Environment (Amendment) Act 2014.

ARRANGEMENT OF SECTIONS.

**PART I. - AMENDMENTS TO COME INTO OPERATION UPON
NOTIFICATION BY THE HEAD OF STATE.**

1. Interpretation (Amendment of Section 2).
2. How the object of this Act is to be achieved (Amendment of Section 6).
3. General environment duty (Amendment of Section 7).
4. Duty to notify unlawful environmental harm (Amendment of Section 8).
5. Unlawful environmental harm (Amendment of Section 10).
6. Repeal and replacement of Section 13.
7. Functions and powers of the Minister (Amendment of Section 14).
8. Functions and powers of Director of Environment (Amendment of Section 16).
9. Powers and functions of the Council (Amendment of Section 19).
10. Contents of policies (Amendment of Section 32).
11. Repeal of Section 38.
12. Repeal and replacement of Section 42.
13. Repeal and replacement of Section 43.
14. Repeal and replacement of Section 44.
15. Repeal and replacement of Section 45.
16. Restraint on approval by other authorities (Amendment of Section 46).
17. Repeal and replacement of Section 47.
18. Repeal of Sections 48 and 49.
19. Repeal and replacement of Section 50.
20. Repeal and replacement of Section 51.
21. Repeal and replacement of Section 52.
22. Environmental impact statement (Amendment of Section 53).
23. Assessment (Amendment of Section 54).
24. Repeal and replacement of Section 55.
25. Referral to Council and Minister (Amendment of Section 57).
26. Application for a permit (Amendment of Section 60).
27. Repeal and replacement of Section 61.
28. Repeal and replacement of Section 62.
29. Repeal and replacement of Section 64.
30. Repeal of Section 65.
31. Repeal and replacement of Section 66.
32. Procedures for the issue of environment permits (Amendment of Section 67).
33. Repeal and replacement of Section 70.

34. Repeal and replacement of Section 71.
35. Suspension or cancellation (Amendment of Section 72).
36. Repeal and replacement of Section 73.
37. Repeal and replacement of Section 74.
38. Environmental improvement plans (Amendment of Section 75).
39. Repeal and replacement of Section 97.
40. Repeal of Section 98.
41. Environmental bonds (Amendment of Section 99).
42. Environment protection orders (Amendment of Section 101).
43. Clean-up order (Amendment of Section 103).
44. Offences in relation to provision of information (Amendment of Section 114).
45. Institution of proceedings (Amendment of Section 124).
46. Register (Amendment of Section 131).
47. Operational procedures (Amendment of Section 132).
48. Repeal and replacement of Section 133.
49. New Section 133A.
50. Approval permits, licences, etc. to continue in force (Amendment of Section 136).
51. Saving of permit applications.

**PART II. - AMENDMENTS TO COME INTO OPERATION UPON THE
COMMENCEMENT OF THE *CONSERVATION AND
ENVIRONMENT PROTECTION AUTHORITY ACT 2014.***

52. Interpretation (Amendment of Section 2).
53. Repeal and replacement of Section 15.
54. Functions and powers of Director of Environment (Amendment of Section 16).
55. New Section 96A.
56. Recovery of costs (Amendment of Section 105).
57. Appointment of analysts and authorized officers (Amendment of Section 118).
58. Evidence (Amendment of Section 127).
59. Forfeiture of items on conviction (Amendment of Section 128).



No. of 2014

AN ACT

entitled

Environment (Amendment) Act 2014,

Being an Act to amend the *Environment Act 2000*,

MADE by the National Parliament to come into operation -

- (a) in respect of Part I - in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister; and
- (b) in respect of Part II - on the same day as the *Conservation and Environment Protection Authority Act 2014* comes into operation.

**PART I. - AMENDMENTS TO COME INTO OPERATION UPON
NOTIFICATION BY THE HEAD OF STATE.**

1. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended -

- (a) in the definition of "beneficial value", by repealing Paragraph (b) and replacing it with the following new paragraph:

“(b) is declared in an Environment Policy, Regulation, Technical Standard or environment permit to be a beneficial value; or”; and

- (b) in the definition of “carrying out an activity Term” by repealing the word “Term”; and
- (c) by repealing the definition of “contaminant” and replacing it with the following new definition:

““contaminant” means -

- (a) a gas, liquid or solid; or
- (b) an odour; or
- (c) an organism (whether alive or dead), including a virus; or
- (d) energy, including noise, heat, radioactivity and electromagnetic radiation; or
- (e) an ozone-depleting substance; or
- (f) litter; or
- (g) a combination of contaminants,

which when released into the environment causes or is likely to cause serious or material environmental harm;” and

Environment (Amendment)

- (d) in the definition of “environment” by repealing Paragraph (e); and
- (e) by inserting after the definition of “environment” the following two new definitions:

““environment management plan” means a plan to manage the environmental risks of an activity by -

- (a) identifying the risks of the activity and the measures which will be taken to mitigate the risks; and
- (b) providing for internal and external monitoring and reporting, contingency planning and plans for corrective action; and
- (c) any other measure necessary or desirable for managing the environmental risks of the activity;

“environment offset” means a payment to compensate for serious or material environmental harm which cannot be adequately reduced or remedied through avoidance or mitigation;” and

- (f) in the definition of “environment permit” by repealing the section reference “Section 139” and replacing it with the section reference “Section 136”; and
- (g) by repealing the definition of “environmental audit or investigation” and replacing it with -

““environmental audit” or “audit” means a documented evaluation of an activity which provides information on compliance with this Act or a condition of a permit and determines ways in which the carrying out of the activity may be improved to protect the environment;” and

- (h) in the definition of “Environmental Code of Practice” by repealing the section reference “Section 38” and replacing it with the section reference “Section 133A”; and
- (i) by repealing the definition of “environmental harm” and replacing it with the following new definition:

““environmental harm” means any change to the environment, or any part of the environment, which -

- (a) has a detrimental effect on any beneficial value relating to the environment; and
- (b) may be caused by an act or omission whether the harm -
 - (i) is a direct or indirect result of the act or omission; or
 - (ii) results from the act or omission alone or from the combined effects of the act or omission and any other act or omission;” and

- (j) in the definition of “environmental improvement plan” by repealing the words “of an Environment Policy or”; and
- (k) by inserting after the definition of “environmental improvement plan” the following new definition:

““environmental investigation” or “investigation” means an investigation carried out to determine whether or not a process, activity or use that is carried on, or proposed to be carried on -

- (a) has caused, or is likely to cause, environmental harm; or

Environment (Amendment)

- (b) constitutes, or is likely to constitute, a breach of this Act; or
- (c) has caused, or is likely to cause, a failure to comply with -
 - (i) a standard or other requirement of this Act; or
 - (ii) a condition of an environment permit; and

- (l) by repealing the definition of “environmental management programme”; and
- (m) in the definition of “Environment Policy” by repealing the reference “Part 9” and replacing it with the reference “Part 4”; and
- (n) in the definition of “existing permit holder” by repealing the words “a permit” and replacing them with the words “an environment permit”; and
- (o) by repealing the definition of “hazardous contaminant”; and
- (p) by inserting after the definition of “litter” the following new definition:

““major amendment” means an amendment to an environment permit defined as a major amendment in accordance with Section 71;”; and

- (q) by inserting after the definition of “matters of national importance” the following new definition:

““minor amendment” means an amendment to an environment permit other than a major amendment;”; and

- (r) in the definition of “prescribed” by inserting after the words “the Regulations” the words and symbol “, a Technical Standard”; and
- (s) after the definition of “serious environmental harm” by inserting the following new definition:

““Technical Standard” means a standard set by the Minister by notice in the National Gazette in accordance with Section 133A;”; and

- (t) in the definition of “this Act” by repealing the words “and any Environment Policy” and replacing them with the words and symbol “, Environment Policies and Technical Standards”.

2. HOW THE OBJECT OF THIS ACT IS TO BE ACHIEVED (AMENDMENT OF SECTION 6).

Section 6 of the Principal Act is amended in Subsection (2) -

- (a) by repealing Paragraph (c) and replacing it with the following new paragraph:

“(c) applying the environmental objectives to level 2 and level 3 activities by means of conditions in environment permits, conditions in environment management plans and the negotiation of environmental improvement plans; and”; and

Environment (Amendment)

(b) by inserting after Paragraph (e) the following new paragraph:

“(f) requiring persons carrying out activities which cause environmental harm which cannot be adequately reduced or remedied through avoidance or mitigation to pay an environment offset.”.

3. GENERAL ENVIRONMENT DUTY (AMENDMENT OF SECTION 7).

Section 7 of the Principal Act is amended -

(a) by repealing Subsection (1) and replacing it with the following new subsection:

“(1) A person shall not carry out an activity that causes or is likely to cause environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm.”; and

(b) in Subsection (4) -

(i) by repealing the words “serious or material”; and

(ii) by repealing Paragraph (a) and replacing it with the following new paragraph:

“(a) an Environment Policy, a Regulation or a Technical Standard; or”;
and

(iii) in Paragraph (d) by inserting immediately after the words “Protection Order” the words “or Clean-up Order”.

4. DUTY TO NOTIFY UNLAWFUL ENVIRONMENTAL HARM (AMENDMENT OF SECTION 8).

Section 8 of the Principal Act is amended by repealing the words “unlawful serious environmental harm or unlawful material environmental harm” and replacing them with the words “unlawful environmental harm”.

5. UNLAWFUL ENVIRONMENTAL HARM (AMENDMENT OF SECTION 10).

Section 10 of the Principal Act is amended -

(a) in Subsection (1) by repealing Paragraph (b) and replacing it with the following new paragraph:

“(b) an Environment Policy, a Regulation or a Technical Standard; or”; and

(b) by repealing Subsection (2) and replacing it with the following new subsection:

“(2) Subject to Section 111, it is a defence to a charge under Section 11, 12 or 13 where the person charged establishes that -

(a) the act or omission was lawful; and

(b) the person complied with the general environmental duty either by complying with the relevant Environmental Code of Practice or Technical Standard or in some other way.”.

Environment (Amendment)

6. REPEAL AND REPLACEMENT OF SECTION 13.

Section 13 of the Principal Act is repealed and replaced with the following new section:

“13. CAUSING ENVIRONMENTAL HARM.

- “(1) A person who unlawfully causes an environmental harm by -
- (a) releasing noise, dust, odour or electro-magnetism or litter; or
 - (b) creating or permitting an unhealthy, offensive or unsightly condition because of a contaminant; or
 - (c) causing or permitting to be placed in or so that it may be released into the environment any contaminant the use of which is prohibited by or under this Act or does not comply with any standard prescribed for that contaminant; or
 - (d) causing or permitting the release of any contaminant into the environment in contravention of this Act; or
 - (e) using any chemical substance or fuel the use of which is prohibited by or under this Act; or
 - (f) contravening any regulation dealing with the use of any ozone depleting substance, or the manufacture, assembly, operation, maintenance, removal, sale or disposal of goods, equipment, machinery, or plant containing or using an ozone-depleting substance; or
 - (g) placing a contaminant in any position where it could reasonably be expected to gain access to waters in circumstances where if access was gained the contaminant would result in the waters being changed in a manner prohibited by this Act or which does not comply with any standard prescribed for that contaminant; or
 - (h) causing or permitting the temperature of the receiving waters referred to in Paragraph (g) to be raised or lowered by more than prescribed limits; or
 - (i) establishing on land a site for the disposal of refuse, garbage, soil, rock or other solid or liquid waste so as to be obnoxious or unduly offensive to the senses of human beings or so as to interfere with any ground water in a manner prohibited by this Act or which does not comply with any standard prescribed for that contaminant; or
 - (j) in any other way prescribed by regulation or Technical Standard,

is guilty of an offence.

Penalty: A fine not exceeding K20,000.00.

Default penalty: A fine not exceeding K2,000.00.

“(2) In proceedings for an offence against Subsection (1), there is no requirement to prove that the person intended to cause the unlawful environmental harm.”.

Environment (Amendment)

7. FUNCTIONS AND POWERS OF THE MINISTER (AMENDMENT OF SECTION 14).

Section 14 of the Principal Act is amended in Subsection (1) by repealing Paragraph (e).

8. FUNCTIONS AND POWERS OF DIRECTOR OF ENVIRONMENT (AMENDMENT OF SECTION 16).

Section 16 of the Principal Act is amended in Subsection (1) -

- (a) in Paragraph (b) by inserting before the word "permits" the word "environment"; and
- (b) in Paragraph (g) by inserting before the word "permits" the word "environment".

9. POWERS AND FUNCTIONS OF THE COUNCIL (AMENDMENT OF SECTION 19).

Section 19 of the Principal Act is amended by repealing Paragraph (f).

10. CONTENTS OF POLICIES (AMENDMENT OF SECTION 32).

Section 32 of the Principal Act is amended in Subsection (2) by repealing Paragraph (d) and replacing it with the following new paragraph:

“(d) specifying whether or not an environment permit can be issued for a particular activity or what conditions should be included to ensure that the environment permit is consistent with the Policy; and”.

11. REPEAL OF SECTION 38.

Section 38 of the Principal Act is repealed.

12. REPEAL AND REPLACEMENT OF SECTION 42.

Section 42 of the Principal Act is repealed and replaced with the following new section:

“42. LEVEL 1, 2 AND 3 ACTIVITIES.

- (1) The Regulations shall prescribe activities to be level 1, 2 or 3 activities.
- (2) An activity which -
 - (a) may result in serious environmental harm; or
 - (b) may have a significant negative impact on a matter of national importance,is a level 3 activity.
- (3) An activity which is not a level 3 activity but which -
 - (a) may result in material environmental harm; or
 - (b) may have a negative impact on a matter of national importance,is a level 2 activity.
- (4) Any other activity is a level 1 activity.
- (5) The Minister acting on the advice of the Director may, by notice in the National Gazette, amend a regulation made under Subsection (1) -
 - (a) so that a level 1 activity or a specified instance of it becomes a level 2 or 3 activity; or
 - (b) so that a level 2 activity or a specified instance of it becomes a level 3 activity; or

Environment (Amendment)

- (c) so as to declare the level of an activity or a specified instance of an activity where he is of the opinion following a recommendation of the Director that, but for the declaration, doubt would exist as to the level of the activity.”.

13. REPEAL AND REPLACEMENT OF SECTION 43.

Section 43 of the Principal Act is repealed and replaced with the following new section:

“43. EXISTING ACTIVITIES.

For the purposes of this Act, “existing activities” means those activities which -

- (a) are being carried on under an approval, licence or permit deemed under Section 136(1) to be an environment permit under this Act; and
(b) have not been issued an environment permit under this Act.”.

14. REPEAL AND REPLACEMENT OF SECTION 44.

Section 44 of the Principal Act is repealed and replaced with the following new section:

“44. OBLIGATION TO HAVE AN ENVIRONMENT PERMIT AND RIGHTS OF PERMIT HOLDERS.

- (1) A person who carries out an activity which -

- (a) may cause material or serious environmental harm; or
(b) may have a negative or significant negative impact on a matter of national importance,

without an environment permit for that activity is guilty of an offence.

Penalty: (a) In the case of a Corporation, a fine not exceeding K10,000,000.00; and

- (b) In the case of a natural person, a fine not exceeding K5,000,000.00 or imprisonment for a term not exceeding five years, or both.

Default penalty: A fine not exceeding K500,000.00.

- (2) Where a court convicts a person of an offence under Subsection (1), the court may order the forfeiture of any property used in connection with the activity.

- (3) A person who interferes in any way with the exercise by a permit holder of a right conferred by the environment permit is guilty of an offence.

Penalty: A fine not exceeding K5,000,000.00 or imprisonment for a term not exceeding one year, or both.”.

Environment (Amendment)

15. REPEAL AND REPLACEMENT OF SECTION 45.

Section 45 of the Principal Act is repealed and replaced with the following new section:

“45. NOTICE OF REQUIREMENT TO APPLY FOR AN ENVIRONMENT PERMIT.

(1) The Director may by written notice require a person who carries out an activity which -

- (a) may cause material or serious environmental harm; or
- (b) may have a negative or significant negative impact on a matter of national importance,

without an environment permit to apply for an environment permit within a period which is specified in the notice.

(2) Where an existing activity is being carried out and the Director is of the opinion that the activity -

- (a) may cause serious or material environmental harm; or
- (b) may have a negative or significant negative impact on a matter of national importance,

he may by notice served on the person carrying out the activity to apply for an environment permit under this Act within a period (being not less than 28 days) which is specified in the notice.

(3) Where a level 1 activity is being carried out and the Director is of the opinion that the activity -

- (a) may cause serious or material environmental harm; or
- (b) may have a negative or significant negative impact on a matter of national importance,

he may advise the Minister to amend the Regulation made under Section 42(1) so that the activity or this specific instance of it becomes a level 2 or 3 activity, and when the Regulation has been amended, he may by notice served on the person carrying out the activity require the person to apply for an environment permit under this Act within a period (being not less than 28 days) which is specified in the notice.

(4) A person commits an offence where he carries out an activity in respect of which a notice under this section has been served without applying for an environment permit within the time specified in the notice.

Penalty: (a) In the case of a Corporation a fine not exceeding K2,000,000.00; and

- (b) In the case of a natural person a fine not exceeding K1,000,000.00 or imprisonment for a term not exceeding two years, or both.

Default penalty: A fine not exceeding K200,000.00.

(5) Where a court convicts a person of an offence under Subsection (4), the court may order the forfeiture of any property used in connection with the activity.”

Environment (Amendment)

16. RESTRAINT ON APPROVAL BY OTHER AUTHORITIES (AMENDMENT OF SECTION 46).

Section 46 of the Principal Act is amended by repealing Subsection (2).

17. REPEAL AND REPLACEMENT OF SECTION 47.

Section 47 of the Principal Act is repealed and replaced by the following new section:

“47. APPLICATION OF DIVISION 3.

The provisions of this Division apply to -

- (a) an application to carry out a level 3 activity; or
- (b) an application to amend an environment permit in respect of a major amendment.”.

18. REPEAL OF SECTIONS 48 AND 49.

Sections 48 and 49 of the Principal Act are repealed.

19. REPEAL AND REPLACEMENT OF SECTION 50.

Section 50 of the Principal Act is repealed and replaced with the following new section:

“50. NOTICE TO UNDERTAKE ENVIRONMENTAL IMPACT ASSESSMENT.

(1) Where the Director -

- (a) receives a permit application under Section 60 in relation to a proposed level 3 activity; or
- (b) has determined that a permit amendment application is made in respect of a major amendment under Section 71(5)(a),

he shall serve a notice on the applicant requiring the applicant to undertake an environmental impact assessment in relation to the proposed activity.

(2) Where the Director receives a permit application under Section 60 in relation to a proposed level 2 activity which -

- (a) may result in serious environmental harm; or
- (b) may have a significant negative impact on a matter of national importance, or both,

he shall notify the applicant -

- (c) that the activity is not accepted as a level 2 activity; and
- (d) that he requires the applicant to undertake an environmental impact assessment in accordance with this Part in relation to the proposed activity,

and advise the Minister to amend the Regulation under Section 42(5) so that the proposed activity is a specified instance of a level 3 activity.

(3) Where a notice has been served on an applicant under this section, an application for an environment permit may not be approved in relation to the activity unless an environmental impact assessment has been completed and the Minister has given an approval in principle under Section 59 to the activity.

Environment (Amendment)

(4) Nothing in this section prevents the Director from entering into discussions with an applicant concerning the information that will be required in order for the application to be approved.”.

20. REPEAL AND REPLACEMENT OF SECTION 51.

Section 51 of the Principal Act is repealed and replaced with the following new section:

“51. ENVIRONMENTAL IMPACT ASSESSMENT.

- (1) An environmental impact assessment shall involve the following:
- (a) submission of an inception report in accordance with Section 52 setting out the proposed issues to be covered in the environmental impact statement;
 - (b) submission of an environmental impact statement in accordance with Section 53 setting out the environmental impacts which are likely to result from the carrying out of the activity;
 - (c) assessment and public review of the environmental impact statement in accordance with Sections 54 and 55;
 - (d) acceptance of the environmental impact statement by the Director in accordance with Section 56;
 - (e) referral of the environmental impact statement, assessment report and other material to the Council in accordance with Section 57;
 - (f) recommendation by the Council to the Minister in accordance with Section 58;
 - (g) where the Minister has received a recommendation from the Council under Section 58, approval in principle by the Minister under Section 59.

(2) Subject to this Division, the Regulation may prescribe in further detail the process of preparing, submitting, assessing and approving an environmental impact assessment.”.

21. REPEAL AND REPLACEMENT OF SECTION 52.

Section 52 of the Principal Act is repealed and replaced with the following new section:

“52. INCEPTION REPORT.

(1) Prior to submitting an environmental impact statement, an applicant shall submit an inception report listing the proposed issues to be covered by the environmental impact statement.

(2) The Director may issue Operational Procedures in the form of guidelines for preparation of inception reports and an inception report shall comply with those guidelines.

(3) Where an inception report is lodged under Subsection (1), the Director shall enter into discussions with the applicant concerning the proposed issues listed in an inception report with a view to achieving consensus on the proposed issues to be covered in the environmental impact statement.”.

Environment (Amendment)

22. ENVIRONMENTAL IMPACT STATEMENT (AMENDMENT OF SECTION 53).

Section 53 of the Principal Act is amended by repealing Subsection (1).

23. ASSESSMENT (AMENDMENT OF SECTION 54).

Section 54 of the Principal Act is amended -

(a) by repealing Subsection (4) and replacing it with the following new subsection:

“(4) The Director for the purposes of assessing a proposed activity under this section may take all or any of the following courses of action: and

- (a) require any person to provide him with such information as is specified in that requirement; and
- (b) call a conference of interested persons to discuss the application;
- (c) require the applicant to undertake further investigations; and
- (d) appoint a committee to conduct a public inquiry and report its findings to the Director; and
- (e) make such other enquiries as he thinks fit.”; and

(b) by inserting after Subsection (5) the following new subsections:

“(6) In deciding whether or not to approve an environmental impact statement, the Director shall have regard to -

- (a) the objects of this Act; and
- (b) the matters of national importance; and
- (c) the general environmental duty; and
- (d) any relevant Environment Policy, Technical Standard and Regulation; and
- (e) any relevant assessment, report, public submission or other information in relation to the proposed activity the subject of the environmental impact statement; and
- (f) any information provided with the application; and
- (g) the suitability of the applicant to hold an environment permit; and
- (h) any serious or material environmental harm which is likely to result from the proposed activity; and
- (i) the character, resilience and beneficial values of the receiving environment.

(7) The Director may, at any time before accepting the environmental impact statement, refer any issues raised during the assessment and public review of the environmental impact statement back to the applicant and require the statement to be amended to address those issues.”.

Environment (Amendment)

24. REPEAL AND REPLACEMENT OF SECTION 55.

Section 55 of the Principal Act is repealed and replaced with the following new section:

“55. PUBLIC REVIEW AND SUBMISSIONS.

(1) The Director shall cause an environmental impact statement submitted under this Division to be made available for public review and for this purpose may give directions to the applicant requiring the applicant to -

- (a) submit a proposed programme of public review for approval by him; and
- (b) at his expense and to the satisfaction of the Director, make copies of any information or statement and advertise its availability for public review; and
- (c) provide copies of that information or statement to such public authorities and persons and members of the public as the Director determines; and
- (d) make a public presentation to persons who are likely to be affected by the carrying out of the activity; and
- (e) meet the cost of persons (including persons representing the Director) attending a public presentation in relation to the proposed activity.

(2) Where any information -

- (a) relating to a manufacturing or industrial process or trade secret used in carrying on or operating any particular undertaking or equipment; or
- (b) of a business or financial nature in relation to the proposed activity which is confidential to the applicant,

is contained in any statement or report which is to be made available for public review under this section, the Director shall, before causing the statement or report to be made available for public review under Subsection (1), exclude the information from that statement or report.”.

25. REFERRAL TO COUNCIL AND MINISTER (AMENDMENT OF SECTION 57).

Section 57 of the Principal Act is amended by repealing Paragraph (b) and replacing it with the following new paragraph:

“(b) any other report, public submission or other information.”.

26. APPLICATION FOR A PERMIT (AMENDMENT OF SECTION 60).

Section 60 of the Principal Act is amended -

- (a) in Subsection (1) by repealing the words “a permit” and replacing them with the words “an environment permit”; and
- (b) by repealing Subsection (2).

Environment (Amendment)

27. REPEAL AND REPLACEMENT OF SECTION 61.

Section 61 of the Principal Act is repealed and replaced with the following new section:

“61. APPLICATION IN RELATION TO LEVEL 2 ACTIVITIES.

(1) Where the Director is satisfied that an application for an environment permit to carry out a level 2 activity received under Section 60 is made in respect of an activity which will not result in serious environmental harm or have a significant negative impact on a matter of national importance, he shall notify the applicant -

- (a) that the activity is accepted as a level 2 activity; and
- (b) whether the prescribed notification, referral and consultation is required for the assessment of the application; and
- (c) of any further information he requires in order for him to approve the application.

(2) In deciding whether or not to approve a level 2 application, the Director shall have regard to -

- (a) the objects of this Act; and
- (b) the matters of national importance; and
- (c) the general environmental duty; and
- (d) any relevant Environment Policy, Technical Standard and Regulation; and
- (e) any information provided with the application or in response to a requirement under Subsection (1)(b); and
- (f) any public submission made, or views expressed at a presentation, hearing or conference; and
- (g) the suitability of the applicant to hold an environment permit; and
- (h) the character, resilience and beneficial values of the receiving environment.

(3) Nothing in this section prevents the Director from entering into discussions with an applicant for an environment permit concerning the information that will be required in order for the application to be approved.

(4) Where the Director considers that the information he has received in relation to the application contains an adequate description of the nature and extent of the environmental impacts of the proposed project and of the mitigation and management measures proposed to deal with those impacts, and is satisfied that -

- (a) all relevant requirements under this Part have been met; and
- (b) the activity which is the subject of the environment permit will be carried out in a manner which is consistent with all relevant Environmental Policies, Regulations and Technical Standards; and
- (c) all reasonable steps will be taken to minimise any risk of material environmental harm as a result of the activity; and

Environment (Amendment)

(d) the applicant will abide by the conditions of the environment permit, he shall notify the applicant that he approves the application.

(5) The Regulation may make further provision regarding the information required under this section.”.

28. REPEAL AND REPLACEMENT OF SECTION 62.

Section 62 of the Principal Act is repealed and replaced with the following new section:

“62. APPLICATION IN RELATION TO LEVEL 3 ACTIVITIES.

(1) Where an application for an environment permit relates to a level 3 activity (other than an existing activity), the application shall not be approved until an environmental impact assessment has been conducted in relation to the proposed activity in accordance with Division 3 (*Environmental Impact Assessment*) and the Minister’s approval in principle has been obtained.

(2) Nothing in Subsection (1) prevents the Director from entering into discussions with an applicant for an environment permit concerning the information that will be required in order for the application to be approved.”.

29. REPEAL AND REPLACEMENT OF SECTION 64.

Section 64 of the Principal Act is repealed and replaced with the following new section:

“64. NOTIFICATION, REFERRAL AND CONSULTATION REQUIREMENTS.

(1) The Regulation shall provide for notification, referral and consultation requirements in relation to applications for environment permits.

(2) The requirements shall be -

- (a) mandatory for applications for environment permits to carry out level 3 activities and for major amendments to environment permits; and
- (b) at the discretion of the Director for applications for environment permits to carry out level 2 activities and for minor amendments to environment permits.”.

30. REPEAL OF SECTION 65.

Section 65 of the Principal Act is repealed.

Environment (Amendment)

31. REPEAL AND REPLACEMENT OF SECTION 66.

Section 66 of the Principal Act is repealed and replaced with the following new section:

“66. CONDITIONS OF ENVIRONMENT PERMITS.

(1) Where a permit application has been approved, an environment permit may be granted subject to conditions as the Director considers necessary, including but not limited to conditions containing requirements to do all or any of the following:

- (a) installation and operation of certain plant or equipment within a certain time; or
- (b) taking specified action to minimise the risk of serious or material environmental harm; or
- (c) at the cost of the permit holder, installation of monitoring equipment, carrying out a specified monitoring programme and reporting on its progress; or
- (d) preparation and carrying out of an environment management plan; or
- (e) provision of reports on any matter specified by the Director; or
- (f) submission for approval and carrying out of an Environmental Improvement Plan; or
- (g) undertaking an audit at periodic intervals; or
- (h) preparation and lodgement of a plan for emergency response in relation to accidental release of contaminants or risk of other emergency; or
- (i) provision of information reasonably required by the Director for the administration and enforcement of this Act; or
- (j) lodgement of an environmental bond in accordance with Section 99; or
- (k) conducting baseline studies or surveys and reporting the results prior to commencing operations; or
- (l) rehabilitation of the affected area.

(2) In issuing an environment permit and fixing conditions, the Director shall ensure that the environment permit requires compliance with all relevant Environment Policies, Regulations, Technical Standards and all requirements of the environment management plan except where -

- (a) the activity which is the subject of the environment permit is an existing activity; and
- (b) the applicant for the environment permit has submitted an environmental improvement plan and the plan has been approved by the Director; and
- (c) the Director is satisfied that the environmental improvement plan contains measures and a programme of attainment that will ensure compliance with any relevant Environment Policies, Technical Standards and the Regulation within a reasonable time; and
- (d) compliance with the approved environmental improvement plan is a condition of the environment permit.

Environment (Amendment)

(3) No condition of an environment permit shall include a condition in respect of technical standards which are higher than those in current industry practice or in an existing environment permit or a Technical Standard.

(4) Operational Procedures may specify the manner and form of any information or report required to be submitted under a condition fixed in accordance with this section.”.

32. PROCEDURES FOR THE ISSUE OF ENVIRONMENT PERMITS (AMENDMENT OF SECTION 67).

Section 67 of the Principal Act is amended -

- (a) by inserting immediately before the word “permits” (twice occurring) the word “environment”; and
- (b) by repealing the words “a permit” (twice occurring) and replacing them with the words “an environment permit”.

33. REPEAL AND REPLACEMENT OF SECTION 70.

Section 70 of the Principal Act is repealed and replaced with the following new section:

“70. PROCEDURES FOR ADMINISTRATION OF ENVIRONMENT PERMITS.

The regulations shall prescribe -

- (a) procedures for renewal of environment permits; and
- (b) procedures for transfer of environment permits; and
- (c) procedures for amendment of environment permits; and
- (d) procedures for amalgamation of environment permits; and
- (e) procedures for surrender of environment permits; and
- (f) fees in relation to environment permits; and
- (g) reporting by permit holders; and
- (h) the effect on the validity of an environment permit for failure to lodge an annual return or pay fees.”.

34. REPEAL AND REPLACEMENT OF SECTION 71.

Section 71 of the Principal Act is repealed and replaced by the following new section:

“71. AMENDMENT.

(1) In this section, an amendment to an environment permit is a major amendment if the amendment affects or is made in respect of an activity which -

- (a) may result in serious environmental harm; or
 - (b) may have a significant negative impact on a matter of national importance; or
 - (c) may result in a level 2 activity becoming a level 3 activity,
- and any other amendment is a minor amendment.

Environment (Amendment)

- (2) A permit holder may apply to amend his environment permit -
- (a) of his own volition; or
 - (b) where he is directed by the Director under this section to do so.

- (3) Where the Director considers that -
- (a) the existing conditions of an environment permit are inconsistent with an Environment Policy, a Technical Standard or a Regulation; or
 - (b) an activity is being carried out under an inappropriate category of environment permit; or
 - (c) there has been a significant change in the essential nature of the activity being carried out under the environment permit,

he may by written notice require the permit holder to apply to amend the environment permit in such manner and within such time as is set out in the notice.

(4) Where a permit holder applies to amend an environment permit, the Director shall determine whether the proposed amendment is a major amendment or a minor amendment.

(5) Where the Director determines that the amendment is a major amendment, he shall -

- (a) issue a notice under Section 50 to undertake an environmental impact assessment in relation to the proposed amendment; and
- (b) defer the consideration of the application until the Minister grants an approval in principle for the amendment under Section 59.

(6) Where -

- (a) the Minister has issued an approval in principle under Subsection (5)(b) in relation to an application for a major amendment; or
- (b) the Director has determined that an application for amendment is a minor amendment and all prescribed processes have been followed,

the Director shall, having regard to the criteria set out in Section 65(3), and being satisfied of the matters set out in Section 65(1), approve the application and amend the environment permit.

(7) A person who fails to comply with a direction or requirement of the Director under this section is guilty of an offence.

Penalty: (a) In the case of a natural person, a fine not exceeding K50,000.00 or imprisonment for a term not exceeding two years, or both; and

(b) In the case of a corporation, a fine not exceeding K100,000.00.

Default penalty: A fine not exceeding K5,000.00.”.

Environment (Amendment)

35. SUSPENSION OR CANCELLATION (AMENDMENT OF SECTION 72).

Section 72 of the Principal Act is amended -

- (a) in Subsection (1) by repealing the words “a permit” and replacing them with the words “an environment permit”; and
- (b) in Subsection (2) -
 - (i) in Paragraph (a) by repealing the word “office” and replacing it with the word “offence”; and
 - (ii) in Paragraph (b) by inserting before the word “permit” the word “environment”; and
 - (iii) in Paragraph (c) by inserting before the word “permit” (second occurring) the word “environment”; and
 - (iv) in Paragraph (d) by inserting before the word “permit” (second occurring) the word “environment”; and
 - (v) in Paragraph (e) by inserting before the word “permit” (second occurring) the word “environment”; and
- (b) in Subsection (3) by repealing the words “suspend the permit” and replacing them with the words “suspend the environment permit”; and
- (c) by repealing Subsection (6) and replacing it with the following new subsection:

“(6) The regulation may make further provision for the circumstances in which an environment permit may be suspended or cancelled, and the procedures which apply to suspension and cancellation.”.

36. REPEAL AND REPLACEMENT OF SECTION 73.

Section 73 of the Principal Act is repealed and replaced with the following new section -

“73. OFFENCES IN RELATION TO PERMITS.

(1) A person who carries out an activity in relation to which an environment permit has been issued while that environment permit is suspended or cancelled, is guilty of an offence.

- Penalty: (a) In the case of a Corporation, a fine not exceeding K20,000,000.00; and
- (b) In the case of a natural person, a fine not exceeding K10,000,000.00 or imprisonment for a term not exceeding five years, or both.

Default penalty: A fine not exceeding K1,000,000.00.

(2) A person who breaches a condition of an environment permit is guilty of an offence.

- Penalty: (a) In the case of a Corporation, a fine not exceeding K10,000,000.00; and
- (b) In the case of a natural person, a fine not exceeding K5,000,000.00 or imprisonment for a term not exceeding 2 years, or both.

Default penalty: A fine not exceeding K500,000.00.”.

Environment (Amendment)

37. REPEAL AND REPLACEMENT OF SECTION 74.

Section 74 of the Principal Act is repealed and replaced by the following new section:

“74. ENVIRONMENTAL AUDITS AND INVESTIGATIONS.

- (1) The Director may -
 - (a) commission an environmental audit or investigation; or
 - (b) approve the commissioning by a person of an environmental audit or investigation,in relation to an activity the person is carrying out.

- (2) Without limiting the generality of Subsection (1), an environmental audit or investigation may include all or any of the following:
 - (a) an audit of compliance with an Environment Policy, a Technical Standard, a Regulation, an environmental improvement plan or the conditions of an environment permit;
 - (b) a review of the design and conduct of an environment management plan;
 - (c) identification of the cause of any actual or potential risk of serious or material environmental harm and the steps that must be taken to prevent, minimise or mitigate the harm.

- (3) An environmental audit or investigation under Subsection (1) shall be conducted by -
 - (a) a suitably qualified officer carrying out the duties and performing the functions of an office under this Act or any other environmental law; or
 - (b) an independent consultant with expertise in environmental audit or environmental investigation as appropriate, approved by the Director.

- (4) The Director -
 - (a) shall approve the terms of reference for the environmental audit or investigation; and
 - (b) specify the time within which the environmental audit or environmental investigation is to be completed; and
 - (c) in relation to an environmental investigation - any other terms and conditions for the conduct of the investigation which he considers necessary or desirable.

- (5) On receipt of an environmental audit or investigation, the Director may -
 - (a) accept the environmental audit or investigation; or
 - (b) reject the environmental audit or investigation; or
 - (c) return the environmental audit or investigation to the person who conducted it with a request for modifications.

Environment (Amendment)

- (6) The Regulations may prescribe -
- (a) the process for giving directions to undertake an environmental audit or investigation; and
 - (b) time limits for compliance; and
 - (c) the form of the declarations which are to accompany a report; and
 - (d) the process of acceptance of the report provided; and
 - (e) the action which may be taken on refusal of a report; and
 - (f) the circumstances in which the public should have access to the results of an environmental audit or investigation.

(7) A person who fails to comply with a direction in relation to an environmental audit or investigation is guilty of an offence.

- Penalty: (a) In the case of a natural person, a fine not exceeding K50,000.00 or imprisonment for a term not exceeding two years, or both; and
- (b) In the case of a corporation, a fine not exceeding K100,000.00.

Default penalty: A fine not exceeding K10,000.00.”.

38. ENVIRONMENTAL IMPROVEMENT PLANS (AMENDMENT OF SECTION 75).

Section 75 of the Principal Act is amended -

- (a) in Subsection (1) by inserting after the words “the Regulations” the symbol and words “, a Technical Standard”; and
- (b) by repealing Subsection (2) and replacing it with the following new subsection:

“(2) Where the Director is satisfied that -

- (a) a proposed environmental improvement plan will, if carried out, achieve compliance with all relevant Environment Policies, Technical Standards, the Regulations and any other relevant standards or requirements imposed under this Act within a reasonable time; and
- (b) the permit holder submitting the plan will carry out the plan, he may approve the plan, subject to any conditions.”; and

- (c) in Subsection (3) by repealing the words and symbol “, and in conducting such discussions, the Director and the permit holder shall consider the terms of the relevant Environment Policy or Regulation”; and
- (d) repealing Subsection (8) and replacing it with the following new subsection:

“(8) Notwithstanding any provisions or requirements under this Act, where an Environment Policy, a Regulation or Technical Standard is made following the grant of an environment permit, nothing in that Environment Policy, Regulation or Technical Standard shall be taken to limit or restrict in any way the carrying out of any activity in accordance with that environment permit or to amend the terms and conditions of that environment permit unless -

Environment (Amendment)

- (a) the permit holder is first required to submit an environmental improvement plan in accordance with Subsection (1); and
- (b) the process of consideration, discussion, approval or rejection of an environmental improvement plan is completed in accordance with this section.”.

39. REPEAL AND REPLACEMENT OF SECTION 97.

The Principal Act is amended by repealing Section 97 and replacing it with the following new section:

“97. ENVIRONMENT OFFSET FUND.

The Regulations may provide for the establishment, operation and management of an environment offset fund, and for the imposition, collection and application of offset payments made into the fund.”.

40. REPEAL OF SECTION 98.

Section 98 of the Principal Act is repealed.

41. ENVIRONMENTAL BONDS (AMENDMENT OF SECTION 99).

Section 99 of the Principal Act is amended by repealing Subsection (1) and replacing it with the following new subsection:

- “(1) Subject to this section, the Director may require -
- (a) a person carrying out an existing activity; or
 - (b) by the conditions of an environment permit, a person carrying out an activity which is the subject of the environment permit,
- to lodge with the Director an environmental bond supported by a bank guarantee, insurance policy or other security approved by the Director, the discharge of which is conditional upon the person -
- (c) not committing any contravention of this Act, an Environment Policy, a Regulation or a Technical Standard of a specified kind during a specified period; or
 - (d) taking specified action within a specified period to achieve compliance with this Act, an Environment Policy, a Regulation or a Technical Standard.”.

42. ENVIRONMENT PROTECTION ORDERS (AMENDMENT OF SECTION 101).

Section 101 of the Principal Act is amended -

- (a) by repealing Subsection (1) and replacing it with the following new subsection:

- “(1) Where the Director is satisfied that a process, activity or use that is being carried on, or is proposed to be carried on -
- (a) has caused, or is likely to cause, serious or material environmental harm; or
 - (b) constitutes, or is likely to constitute, a breach of this Act, a Regulation or a mandatory provision of an Environment Policy or a Technical Standard; or

Environment (Amendment)

- (c) has caused, or is likely to cause, a failure to comply with -
 - (i) an Environment Policy; or
 - (ii) a Regulation; or
 - (iii) a Technical Standard; or
 - (iv) a condition of an environment permit,he may issue an Environment Protection Order for the purpose of -
 - (d) restraining or preventing the commission of an offence; or
 - (e) securing compliance with -
 - (i) the general environmental duty; or
 - (ii) an Environment Policy or Technical Standard; or
 - (iii) any other requirement under this Act; or
 - (iv) a condition of an environment permit.”; and
- (b) in Subsection (2) by repealing Paragraph (c) and replacing it with the following new paragraph:
 - “(c) where the notice relates to a provision of this Act, a Regulation, an Environment Policy or a Technical Standard - specifying the relevant provision of any or all of them; and”
- (c) in Subsection (3)(e) by repealing Subparagraph (i) and replacing it with the following new subparagraph:
 - “(i) any relevant provision of a Regulation, Environment Policy or Technical Standard; or”.

43. CLEAN-UP ORDER (AMENDMENT OF SECTION 103).

Section 103 of the Principal Act is amended -

- (a) by inserting before the words “environmental harm” (seven times occurring) the words “serious or material”; and
- (b) in Subsection (1) by repealing Paragraph (b) and replacing it with the following new paragraph:
 - “(b) an Environment Policy or Technical Standard; or”; and
- (c) in Subsection (7) by repealing the words “a permit” and replacing them with the words “an environment permit”.

Environment (Amendment)

44. OFFENCES IN RELATION TO PROVISION OF INFORMATION (AMENDMENT OF SECTION 114).

Section 114 of the Principal Act is amended -

(a) by repealing Paragraph (a) and replacing it with the following new paragraph:

“(a) an application for an environment permit or any information provided in connection with an application for an environment permit; or”;
and

(b) in Paragraph (b) by repealing the words “a permit” and replacing them with the words an “environment permit”; and

(c) by repealing Paragraph (c) and replacing it with the following new paragraph:

“(c) any report or other information required to be provided to the Director under this Act or a provision of an environment permit; or”;
and

(d) in Paragraph (i) by repealing the words “a permit” and replacing them with the words “an environment permit”.

45. INSTITUTION OF PROCEEDINGS (AMENDMENT OF SECTION 124).

Section 124 of the Principal Act is amended -

(a) in Subsection (1)(a) by repealing the words “before a Principal Magistrate” and replacing them with the words “in the District Court”; and

(b) in Subsection (1)(b) by repealing the words “in the District Court” and replacing them with the words “before a Principal Magistrate”.

46. REGISTER (AMENDMENT OF SECTION 131).

Section 131(1) of the Principal Act is amended -

(a) by repealing Paragraph (a); and

(b) by repealing Paragraph (j) and replacing it with the following new paragraph:

“(j) such information as the Director considers appropriate in relation to environment permits, including each application for an environment permit, each application for transfer, renewal, amendment or surrender of an environment permit, and a copy of each environment permit and the conditions endorsed on it; and”; and

(c) in Paragraph (m) by repealing the words “a permit” and replacing them with the words “an environment permit”; and

(d) in Paragraph (n) by repealing the words “, and the terms of reference for an audit or investigation and approval of the auditor or investigator by the Council under Section 74”; and

(e) in Paragraph (p) by repealing the words “a permit” and replacing them with the words “an environment permit”.

Environment (Amendment)

47. OPERATIONAL PROCEDURES (AMENDMENT OF SECTION 132).

Section 132 of the Principal Act is amended by inserting after the words "Environment Policy" the words and symbol " , a Technical Standard".

48. REPEAL AND REPLACEMENT OF SECTION 133.

Section 133 of the Principal Act is repealed and replaced with the following new section:

"133. REGULATIONS.

The Head of State, acting on advice, may make Regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for -

- (a) giving effect to any international convention to which the State is a party or agreement between the State and any country or countries relating to the control of contaminants and the protection of the environment; and
- (b) the registration of contaminants and the removal from the register of such contaminants; and
- (c) requiring payment of a deposit at the time of purchase of any material packaged or contained in any class of packaging or container and regulating the amounts, terms and conditions of deposits; and
- (d) providing for the delegation of power to Provincial Governments and Local-level Governments to make laws or rules consistent with this Act, to deal with noise and other environmental harm in their respective areas; and
- (e) making provision for officers of other governmental authorities including Provincial Governments and Local-level Governments, to enforce provisions of this Act in relation to noise and other environmental harm; and
- (f) the establishment, operation and management of funds for purposes connected with this Act; and
- (g) prescribing penalties of fines not exceeding K100,000.00 or imprisonment for a term not exceeding two years for offences against the Regulations."

Environment (Amendment)

49. NEW SECTION 133A.

The Principal Act is amended by inserting after Section 133 the following new section:

“133A. TECHNICAL STANDARDS.

(1) The Minister may by notice in the National Gazette, following a recommendation by the Director, establish a Technical Standard.

(2) A Technical Standard may be established in respect of all or any of the following matters:

- (a) a contaminant; or
- (b) an industry or activity; or
- (c) a technology or process; or
- (d) a beneficial value; or
- (e) waste management or minimization; or
- (f) noise; or
- (g) decommissioning and rehabilitation requirements.

(3) A Technical Standard may do all or any of the following:

- (a) state objectives to be achieved and maintained; or
- (b) state the indicators, parameters, factors or criteria to be used in measuring or deciding any quality or condition of environment; or
- (c) state ways of achieving compliance with the general environmental duty or any activity that causes or is likely to cause environmental harm; or
- (d) establish an Environmental Code of Practice; or
- (e) establish a programme by which the stated objectives are to be achieved and maintained including -
 - (i) the qualities and maximum quantities of any contaminant permitted to be released into the environment; and
 - (ii) the minimum standards to be complied with in installation or operation of vehicles, plant or equipment for control of contaminants or noise or odour from stated sources or places; and
 - (iii) measures designed to protect the environment or minimise the possibility of environmental harm; and
- (f) provide for programme performance assessment procedures; and
- (g) specify whether or not a permit can be issued for a particular activity or what conditions should be included to ensure the permit is consistent with the Regulation; and
- (h) make different provisions according to the matter, location or circumstances to which they are expressed to apply; and
- (i) specify the activities to which the Technical Standard applies; and
- (j) specify the extent to which the Technical Standard will or may affect existing permit holders.

Environment (Amendment)

(4) Where a Technical Standard or an amendment to a Technical Standard is proposed, the Director -

- (a) shall give notice of the draft Technical Standard or amendment -
 - (i) in the National Gazette; and
 - (ii) in a national or local newspaper that is distributed regularly throughout the country; and
 - (iii) to relevant government agencies; and
- (b) may give such other notice to such other persons, agencies, groups or representative bodies as the Director considers appropriate.

(5) Where a proposed Technical Standard or an amendment to a Technical Standard would or might -

- (a) exceed or be made to a higher standard than that of a similar standard already included as a condition of an existing environment permit; or
- (b) otherwise affect the rights of an existing permit holder or a group of existing permit holders or the viability of their activities,

the Director shall, in addition to the notices given under Subsection (3), give written notice of the draft Technical Standard or amendment to the holders or groups of holders of environment permits referred to in Paragraph (a) or to the permit holders or groups of permit holders referred to in Paragraph (b) as the case may be, inviting submissions from them and stating a period of time within which submissions may be made to him.

(6) Where a Technical Standard or an amendment to a Technical Standard has been made which -

- (a) exceeds or is made to a higher standard than that of current industry practice or a similar standard already included as a condition of an existing permit; or
- (b) otherwise affects the rights of an existing permit holder or a group of existing permit holders,

the Director shall by written notice direct the holders of permits referred to in Paragraph (a) or the permit holders referred to in Paragraph (b) to apply for a permit amendment in accordance with Section 71.

(7) Where an application is made for an environment permit for an activity in relation to which there is no existing permit and no Technical Standard, the environment permit may be issued subject to such technical conditions and requirements as the Director sees fit, and those conditions and requirements shall form the basis for a new Technical Standard.

Environment (Amendment)

(8) No -

(a) new environment permit may be granted; and

(b) no amendment may be made to an environment permit,

which includes a technical condition which is higher than those in current industry practice or in an existing environment permit or a Technical Standard, unless that condition is necessary in order to take into account the characteristics of a particular location which require or may require a higher or different condition in that particular case.

(9) A notice under this section may provide for exemptions from the Technical Standard under such circumstances as are specified in the notice.”

50. APPROVAL PERMITS, LICENCES, ETC., TO CONTINUE IN FORCE (AMENDMENT OF SECTION 136).

Section 136 of the Principal Act is amended -

(a) in Subsection (1)(e) by inserting after the word “corresponding” the word “environment”; and

(b) by repealing Subsection (2) and replacing it with the following new subsection:

“(2) Where, prior to the expiry of a permit, licence or approval referred to in Subsection (1), the holder has applied for an environment permit under this Act, the permit, licence or approval granted under the repealed Act shall continue to have full force and effect until the application for an environment permit has been determined in accordance with Part 5.”; and

(c) in Subsection (3)(a) by repealing the words “a permit” (second time occurring) and replacing them with the words “an environment permit”; and

(d) in Subsection (4) by repealing the words “where authorised under an Environment Policy or Regulation approved under Section 33”; and

(e) in Subsection (7)(a) by repealing the words “a permit” and replacing them with the words “an environment permit”.

51. SAVING OF PERMIT APPLICATIONS.

Any permit application which has been lodged but not determined at the time of coming into operation of the amendments in this Part shall be continued as nearly as may be in accordance with those amendments.

Environment (Amendment)

**PART II. - AMENDMENTS TO COME INTO OPERATION UPON THE
COMMENCEMENT OF THE *CONSERVATION AND
ENVIRONMENT PROTECTION AUTHORITY ACT 2013.***

52. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended -

- (a) by inserting after the definition of “approval in principle” the following new definition:

“Authority” means the Conservation and Environment Protection Authority;’; and

- (b) by repealing the definition of “authorized person” and replacing it with the following new definition:

““authorised officer” means a person authorised for the purposes of this Act under Section 118;” and

- (c) inserting after the definition of “Clean-up Order” the following new definition:

“Conservation and Environment Protection Authority” means the Conservation and Environment Protection Authority established by the *Conservation and Environment Protection Authority Act 2014*;”.

53. REPEAL AND REPLACEMENT OF SECTION 15.

Section 15 of the Principal Act is repealed and replaced with the following new section:

“15. DIRECTOR OF ENVIRONMENT.

The Director of Environment for the purposes of this Act is the Managing Director of the Conservation and Environment Protection Authority.”.

54. FUNCTIONS AND POWERS OF DIRECTOR OF ENVIRONMENT (AMENDMENT OF SECTION 16).

Section 16 of the Principal Act is amended -

- (a) by repealing Subsection (2) and replacing it with the following new subsection:

“(2) Subject to Subsection (3), the Director may in writing delegate all or any of his powers and functions under this Act (except this power of delegation) and any power or function delegated to the Director by the Minister under Section 14(2) to an appropriately qualified employee or interim employee of the Authority.”; and

- (b) by repealing Subsection (3) and replacing it with the following new subsection:

“(3) The Director may only delegate a power or function in relation to a level 3 activity to an appropriately qualified employee or interim employee of the Authority.”.

Environment (Amendment)

55. NEW SECTION 96A.

The Principal Act is amended by inserting after Section 96 the following new section:

“96A. FEES AND CHARGES.

All fees and charges under Sections 96, 97 and 100 shall be paid to the Authority.”.

56. RECOVERY OF COSTS (AMENDMENT OF SECTION 105).

Section 105 of the Principal Act is amended in Subsection (3) by repealing the words “due to the State” and replacing them with the words “due to the Authority”.

57. APPOINTMENT OF ANALYSTS AND AUTHORISED OFFICERS (AMENDMENT OF SECTION 118).

Section 118 of the Principal Act is amended in Subsection (1) by inserting immediately after Paragraph (a) the following new paragraph:

“(aa) an appropriately qualified employee or interim employee of the Authority; or”.

58. EVIDENCE (AMENDMENT OF SECTION 127).

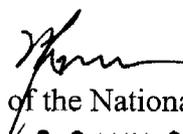
Section 127 of the Principal Act is amended in Subsection (8) by repealing the words “authorised person” and replacing them with the words “authorised officer”.

59. FORFEITURE OF ITEMS ON CONVICTION (AMENDMENT OF SECTION 128).

Section 128 of the Principal Act is amended by repealing Subsection (1) and replacing it with the following new subsection:

“(1) Subject to Subsection (2), where a Court convicts a person of an offence under this Act, the Court may, in addition to imposing the penalty prescribed, order the forfeiture of any property including machinery or equipment retained as evidence and the forfeited thing becomes the property of the Authority and may be retained, leased or sold by tender by the Authority.”.

I hereby certify that the above is a fair print of the *Environment (Amendment) Act 2014* which has been made by the National Parliament.


Clerk of the National Parliament.
30 MAY 2014

I hereby certify that the *Environment (Amendment) Act 2014* was made by the National Parliament on 20 February 2014.


Speaker of the National Parliament.

30 MAY 2014