

Environmental Protection (Bilateral Agreements) Regulations 2021

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Environmental Protection (Bilateral Agreements) Regulations 2021

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Environmental Protection (Bilateral Agreements) Regulations 2021*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Environmental Protection Amendment Act 2020* section 100 comes into operation.

3. Terms used

In these regulations —

bilateral application means an application referred to in regulation 4(1);

initiating process, for a matter, means an application or other process that initiates consideration of the matter under the Act;

relevant State entity, for a matter, means the State entity who is given the initiating process for the matter.

4. Application to have matter dealt with as bilateral matter

- (1) A person may, in respect of a matter, apply to the relevant State entity for the matter to be dealt with under the Act as a bilateral matter if, under a bilateral agreement, the performance of functions in respect of the matter by a State entity will or may have effect for the purposes of the Commonwealth Environment Act.
- (2) The person must make a bilateral application in relation to a matter —
 - (a) if the initiating process for the matter is a referral of a proposal by a person other than the proponent and the proponent receives a requisition under section 38F(2) of the Act — on or before the day on which the compliance period specified in the requisition under that section ends; or
 - (b) in any other case — on the day on which the initiating process for the matter is given to the relevant State entity for the matter.
- (3) However, if a bilateral application in relation to a matter is not made in accordance with subregulation (2), the relevant State entity for the matter may decide to accept a bilateral application on a later day if the relevant State entity considers it appropriate to do so.
- (4) When making a decision under subregulation (3), without limiting the matters to which the relevant State entity for the matter may have regard, the relevant State entity must have regard to the extent to which the relevant State entity has performed their functions under the Act in relation to the matter.

5. Requirements for bilateral application

A bilateral application must —

- (a) be in writing; and

- (b) if a form is approved for use in submitting the application under section 122B of the Act —
 - (i) be in the approved form; and
 - (ii) contain or be accompanied by any information required as indicated in the form.

6. Transitional provision relating to applications about bilateral matters made before commencement day

- (1) This regulation applies if, before the day (*commencement day*) on which this regulation comes into operation —
 - (a) a person has applied under Part V Division 2 of the Act for a clearing permit; and
 - (b) the clearing permit application is being assessed in accordance with the “Bilateral agreement made under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) relating to environmental assessment” entered into by the State and the Commonwealth on 3 October 2014.
- (2) The person who applied for the clearing permit is taken to have made, on commencement day, a bilateral application in respect of the clearing permit application in accordance with these regulations.

Clerk of the Executive Council