

# Environmental Protection (Chain of Responsibility) Amendment Bill 2016

Amendments during consideration in detail to be moved by  
The Honourable the Minister for Environment and Heritage Protection and  
Minister for National Parks and the Great Barrier Reef

## 1      **Clause 3 (Amendment of s 215 (Other amendments))**

Page 4, lines 10 and 11—

*omit, insert—*

(ba) another entity becomes a holder of the authority;

(bb) another entity becomes a holding company of a holder of the authority;

## 2      **Clause 3 (Amendment of s 215 (Other amendments))**

Page 4, line 15, ‘to (p)’—

*omit, insert—*

to (q)

## 3      **Clause 7 (Insertion of new ch 7, pt 5, div 2)**

Page 6, lines 8 and 9—

*omit.*

## 4      **Clause 7 (Insertion of new ch 7, pt 5, div 2)**

Page 6, lines 24 to 29—

*omit, insert—*

(b) the person owns land on which the company carries out, or has carried out, a relevant activity other than a resource activity; or

(c) the person—

(i) is an associated entity of the company;  
and

- (ii) owns land on which the company carries out, or has carried out, a relevant activity that is a resource activity; or
- (d) the administering authority decides under this section the person has a relevant connection with the company.

**5 Clause 7 (Insertion of new ch 7, pt 5, div 2)**

Page 7, lines 1 to 4—

*omit, insert—*

- (a) the person is capable of significantly benefiting financially, or has significantly benefited financially, from the carrying out of a relevant activity by the company; or

**6 Clause 7 (Insertion of new ch 7, pt 5, div 2)**

Page 8, line 31—

*omit, insert—*

- (6) In deciding for subsection (2) whether a person, other than an associated entity of a company, has a relevant connection with the company, it is irrelevant if the person—
  - (a) is capable of significantly benefiting financially, or has significantly benefited financially—
    - (i) under an agreement or obligation relating to native title, Aboriginal cultural heritage or Torres Strait Islander cultural heritage; or
    - (ii) under a conduct and compensation agreement, or from compensation paid or payable, under resource legislation; or

- (iii) under a make good agreement for a water bore under the *Water Act 2000*; or
- (b) is or has been in a position to influence the company's conduct because of an agreement or obligation mentioned in paragraph (a).
- (7) In making a decision under this section, the administering authority must have regard to any relevant guidelines in force under section 548A.
- (8) In this section—

**7 Clause 7 (Insertion of new ch 7, pt 5, div 2)**

Page 9, after line 4—

*insert—*

*owner*, of land, does not include a person mentioned in schedule 4, definition *owner*, paragraph 1(d) to (f).

**8 Clause 7 (Insertion of new ch 7, pt 5, div 2)**

Page 9, before line 5—

*insert—*

**363ABA Decision whether to issue an order**

In deciding whether to issue an environmental protection order to a related person of a company under section 363AC or 363AD, the administering authority—

- (a) must have regard to any relevant guidelines in force under section 548A; and
- (b) may consider whether the related person took all reasonable steps, having regard to the extent to which the person was in a position to influence the company's conduct, to ensure the company—

- (i) complied with its obligations under this Act; and
- (ii) made adequate provision to fund the rehabilitation and restoration of the land because of environmental harm from a relevant activity carried out by the company.

**9 Clause 7 (Insertion of new ch 7, pt 5, div 2)**

Page 10, line 8, before ‘serious’—

*insert—*

unlawful

**10 Clause 7 (Insertion of new ch 7, pt 5, div 2)**

Page 16, after line 10—

*insert—*

**363AJ Review of operation of division**

- (1) The Minister must, within 2 years after the commencement, review the operation of this division to decide whether the provisions of the division remain appropriate.
- (2) The Minister must, as soon as practicable after finishing the review, table a report about its outcome in the Legislative Assembly.

**11 Clause 13 (Insertion of new ss 522A and 522B)**

Page 19, line 6, ‘85%’—

*omit, insert—*

75%

**12 Clause 15 (Insertion of new ss 535B and 535C)**

Page 20, line 2, ‘85%’—

*omit, insert—*

75%

**13 After clause 15**

Page 20, after line 13—

*insert—*

**15A Insertion of new s 548A**

After section 548—

*insert—*

**548A Guidelines about issuing particular environmental protection orders**

- (1) The chief executive may make guidelines about—
  - (a) how the administering authority decides under section 363AB whether a person has a relevant connection with a company; and
  - (b) in relation to a company to which section 363AC or 363AD applies, how the administering authority decides—
    - (i) whether to issue any environmental protection orders to related persons of the company; and
    - (ii) if so, which of the related persons of the company to issue with an order.
- (2) A guideline under this section takes effect when it is approved by regulation.

**14 Clause 16 (Insertion of new ch 13, pt 25)**

Page 20, after line 21—

*insert—*

### **743A Definitions for part**

In this part—

*amending Act* means the *Environmental Protection (Chain of Responsibility) Amendment Act 2016*.

*introduction day* means the day the Bill for the amending Act was introduced into the Legislative Assembly.

*transitional period* means the period from the start of the introduction day to the day the amending Act commenced.

#### **15 Clause 16 (Insertion of new ch 13, pt 25)**

Page 20, lines 25 to 28—

*omit, insert—*

- (1) The reference in section 215(2)(c) to ‘becomes a holder of the authority’ is taken to include ‘became a holder of the authority during the transitional period’.
- (2) The reference in section 215(2)(d) to ‘becomes a holding company of a holder of the authority’ is taken to include ‘became a holding company of a holder of the authority during the transitional period’.

#### **16 Clause 16 (Insertion of new ch 13, pt 25)**

Page 21, line 19, ‘on or after the commencement’—

*omit, insert—*

at the time the order is issued

#### **17 Clause 16 (Insertion of new ch 13, pt 25)**

Page 21, line 27 to page 22, line 1—

*omit.*

**18 Clause 18 (Amendment of sch 4 (Dictionary))**

Page 23, lines 17 and 18—

*omit, insert—*

***holding company*** see the Corporations Act,  
section 9.

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