

Environmental Legislation (Miscellaneous Amendments) Bill 2019

Explanatory Paper



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Introduction

The *Environmental Legislation (Miscellaneous Amendments) Bill 2019* proposes minor improvements to Tasmania's *Environmental Management and Pollution Control Act 1994* (EMPCA) and related legislation. The amendments are summarised below, and described in detail in the sections which follow.

Clean fill

The current definition of “clean fill” in section 3 of EMPCA is too broad. It allows various types of material to be included in clean fill which should instead be recycled, disposed of at an approved landfill or processed prior to use as clean fill.

The meaning of clean fill will be clarified in two new definitions, “clean fill type 1” and “clean fill type 2”. Clean fill type 2 will consist of common demolition materials. The Director of the EPA will be able to specify maximum levels of chemical contaminants or maximum proportions of other inert materials such as wood, plastics and metals.

The Director will also be able to specify maximum dimensions for pieces of material within clean fill. Specifying such matters will ensure that clean fill is of an appropriate quality. Relevant stakeholders will be consulted when parameters are developed. These changes will facilitate the regulation of the use of clean fill and the conduct of landfills (public and private).

Clause 4 of the Bill relates to this matter.

Monitoring information

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

The Director of the EPA will be able to publish or otherwise make available monitoring information. Existing EMPCA provisions on protection of trade secrets will remain, and personal information protection legislation will continue to apply.

Clauses 7 and 8 of the Bill relate to this matter.

Criteria for non-assessment of proposals

The power in section 25(1D) of EMPCA, for the Board of the Environment Protection Authority (EPA) to determine not to assess a proposed development referred to it by a planning authority, is presently unrestricted. The power could potentially be used arbitrarily and unreasonably. On the other hand, because the power is presently unrestricted, successive Boards have been reluctant to use it. This is regrettable as some proposals have a low risk of environmental impact and do not warrant assessment by the Board, at associated expense to applicants and the public.

Provision will be inserted to require the Board to make a decision under section 25(1D) in accordance with criteria prescribed in regulations, which will circumscribe the section 25(1D) power and specify

criteria for activities that do not require assessment. The regulations will be made in accordance with the *Subordinate Legislation Act 1992*, after the Act has been amended.

Clause 10(b) of the Bill relates to this matter.

Offence of conducting a level 2 activity without authorisation

There is presently no penalty under EMPCA for conducting a “level 2” activity without proper environmental authorisation. Most such activities are regulated by the EPA through the conditions of land use planning permits granted by Councils under the Land Use Planning and Approvals Act 1993 (LUPAA).

Under LUPAA it is an offence to commence the use or development of land without a permit, but the penalty is considered inadequate in relation to the types of industrial land use that are an EMPCA level 2 activity. Furthermore, Councils often lack the technical and financial capacity to undertake prosecutions for offences relating to EMPCA level 2 activities.

A new offence of conducting a level 2 activity without a LUPAA permit or environment protection notice will be inserted in EMPCA, similar to the offence of operating a finfish farming activity without an environmental licence that was inserted in 2017 (the new offence will not apply to finfish farming activities).

Clause 47 of the Bill relates to this matter.

Authorized officer emergency powers

Authorized officers who are appointed under EMPCA presently lack an effective power to take direct action, or to instruct another person to take direct action, in an environmental emergency. Such emergency action may be required to prevent or mitigate environmental harm.

Provision will be made for authorized officers to take, or direct another person to take, emergency action. Officers will be able to enter premises (other than residential premises) without warrant for the purpose of taking or directing emergency action. The new provisions are modelled on similar ones in the environmental protection legislation of several other jurisdictions.

Clauses 57 and 58 of the Bill relates to this matter.

Environment protection policies

The process of making and amending Environment Protection Policies (EPPs) in Division 1A of Part 7 of EMPCA will be streamlined to implement an aspect of the Government’s 2018 election campaign environmental platform.

The Chairperson of the Environment Protection Policy Review Panel will now be able to determine whether a proposed EPP amendment is ‘significant’ by referring to specific criteria. The preliminary stage of public consultation on the Minister’s intention to prepare a draft EPP will be removed, but the main stage of public consultation on a prepared draft will be retained and will remain comprehensive. A new provision for the revocation of EPPs will also be included, which will require public consultation.

Clauses 59 to 65 of the Bill relate to this matter.



Schedule 2 changes

Three substantive changes are to be made to Schedule 2 of EMPCA (which specifies level 2 activities that are assessed and regulated by the EPA), as follows.

- Item 3(b) – Waste depots: Certain activities, particularly once-off and temporary activities, do not warrant assessment and regulation as level 2 activities. Provision will be made in regulations to prescribe further exceptions.
- Item 3(d) – Land application of Class 2 or Class 3 Biosolids: The current inclusion of this activity in Schedule 2 is proving to be a major barrier to the efficient disposal of accumulated sludge from the State’s wastewater treatment plants. Much of this material can be disposed of on land, subject to appropriate regulatory controls. If the amendment is approved, the Director EPA will amend the *Approved Management Method for Biosolids Reuse* to allow for more efficient disposal of Class 2 biosolids and to specify arrangements for biosolids that are only suitable for landfill disposal. Class 3 biosolids will be regulated under the *Environmental Management and Pollution Control (Waste Management) Regulations 2010*.
- New item 4(h) – Aquaculture feed works: The aquaculture feed manufacturing industry is expanding as a consequence of the expansion of aquaculture itself. Aquaculture feed works can have significant environmental impacts if not managed properly, and EPA regulation of them is now considered necessary.

Clause 67 of the Bill relates to this matter.

Miscellaneous issues – finfish farming

Various drafting, legal doubt and administrative efficiency issues have been identified in the amendments made to EMPCA by the *Finfish Farming Environmental Regulation Act 2017*. Although the finfish farming provisions are basically sound, minor improvements are required to ensure adequate coordination and enforcement. Minor amendments are also required to sections of the *Living Marine Resources Management Act 1995* and the *Marine Farming Planning Act 1995* that relate to finfish farming.

Relevant amendments are scattered throughout the Bill, and are described in the relevant sections below.

Miscellaneous issues – general

Other drafting, legal doubt and administrative efficiency issues have been identified during the implementation of EMPCA in recent years.

Again, relevant amendments are scattered throughout the Bill and are described below.

ABBREVIATIONS AND ACRONYMS

In this Paper, the following abbreviations and acronyms are used.

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

“EPA” means Environment Protection Authority

“EPN” means environment protection notice

“EPP” means environment protection policy

“Finfish Regulation Act” means *Finfish Farming Environmental Regulation Act 2017*

“LMRMA” means *Living Marine Resources Management Act 1995*

“LUPAA” means *Land Use Planning and Approvals Act 1993*

“MFPA” means *Marine Farming Planning Act 1995*

“the Bill” means *Environmental Legislation (Miscellaneous Amendments) Bill 2019*

Description of Bill Clauses

The descriptions below should be read in conjunction with the Bill itself.

PART I – PRELIMINARY

Clauses 1 and 2 of the Bill are standard provisions included at the start of every Bill.

In regard to clause 2, the Bill will receive Royal Assent after it has been passed by Parliament, but it will not commence (come into effect) until the Governor makes a proclamation on an appropriate date or dates. There may be different dates of proclamation for various provisions of the Bill.

The commencement of the Bill will be delayed until the necessary administrative arrangements have been made for implementation of the amendments, and until regulations have been prepared that will give effect to several new provisions.

PART 2 – AMENDMENTS TO EMPCA

Bill clause	EMPCA provision	Amendment and purpose
3	-	This clause is a standard provision which identifies the Act to be amended.
4(a)	Section 3(1)	<p>The meaning of clean fill is clarified in two new definitions, “clean fill type 1” and “clean fill type 2”.</p> <p>Clean fill type 1 will mean natural materials.</p> <p>Clean fill type 2 will consist of common demolition materials. Provision will be made for the Director to specify maximum levels of chemical contaminants or maximum proportions of other inert materials such as wood, plastics and metals. Provision will also be made for the Director to specify maximum dimensions for pieces of material within clean fill (see explanation of new subsection (3) below).</p> <p>A new definition has been added for “chairperson of the Panel”, which refers to the chairperson of the Environment Protection Policy Review Panel (see Part 7, Division 1A of EMPCA).</p>
4(b), (c) and (d)	Section 3(1)	A reference to “development” will be inserted in the definitions of EL activity, level 2 activity and level 3 activity, to remove doubt that the term “activity” (used throughout the Act) includes development. It could presently be interpreted as meaning the operation of an activity only.
4(e)	Section 3(1)	The definition of “permissible level 2 activity” will be moved from section 25 to section 3(1), because it is used throughout the Act.

Bill clause	EMPCA provision	Amendment and purpose
4(f)	Section 3(3) and (4)	<p>New subsection (3) will be inserted, to enable the setting of maximum levels of contaminants, substances and material dimensions in clean fill, to support the amendments to the clean fill definition in subsection (1).</p> <p>New subsection (4) will ensure that a copy of a declaration under subsection (3) is published on a website of the Department.</p>
5	Section 5C(2)(b)	<p>Provision will be made for prescribing (in regulations) activities that are associated with, and for the purpose of, finfish farming as defined in paragraph (a) of section 5C. The present paragraph (b) has proven to be too broad and has generated much uncertainty about which secondary activities should be assessed and regulated as part of a finfish farming activity.</p> <p>It is likely that the necessary regulations will be prepared before this Act amendment commences, and they will be made in accordance with the <i>Subordinate Legislation Act 1992</i>.</p>
6	Section 6	<p>Section 6 is currently deficient in that it does not define the circumstances under which a person may or may not be taken to have polluted a place which that person occupies or has charge of. New subsections (2)-(5) clarify this matter.</p> <p>Persons should be held responsible for pollution on their own land, except where pollutant discharges occur lawfully. It should be noted that section 6 is not enforceable in its own right; it supports the enforcement provisions of the Act which refer to pollution and pollutants.</p>
7	Section 22(1)	<p>New paragraph (ea) is consequential to new section 23AA. The section 22 register is the formal repository of publicly available information under the Act.</p>
8	Section 23AA	<p>New section 23AA provides the Director of the EPA with a power to make public any environmental monitoring information provided to the Board or Director under the Act.</p> <p>Subsection (1) comprehensively defines the type of information that may be released.</p> <p>Subsection (2) specifies the ways in which information may be made available.</p> <p>Subsection (3) removes doubt that information may be released without the consent of the person that provided it.</p>

Bill clause	EMPCA provision	Amendment and purpose
9	Section 24(3)	This amendment clarifies that subsection (3) relates to an application referred to the Board under subsection (1).
10(a)	Section 25(1A)	This amendment is consequential to the amendment to section 5C(2)(b) (clause 5 of the Bill). Activities prescribed as being associated with, and for the purpose of, finfish farming must not be taken to be ancillary for the purposes of section 25(1) and (1A). The amendment will ensure that permit applications for such activities are referred by planning authorities to the Board.
10(b)	Section 25(1DAAA)	<p>New section 25(1DAAA) will enable regulations to be made which specify criteria for activities that do not require assessment under section 25.</p> <p>The section 25(1D) power is presently unrestricted, which has led to uncertainty about when and how it will be exercised. It should be noted, however, that section 25(1D) does not apply to EL activities (finfish farming).</p> <p>It is likely that the necessary regulations will be prepared before this Act amendment commences, and they will be made in accordance with the <i>Subordinate Legislation Act 1992</i>.</p>
10(c) and (d)	Section 25(1DAC)	These amendments correct an oversight in the Finfish Regulation Act. At present, the Board is obliged to make a determination under subsection (1DAA) or (1DAB) of section 25 where it has already made a similar determination under section 27B(1A)(a) (on lodgement of a notice of intent). The amendment to section 25(1DAC) will remove this duplication. This matter relates to EL activities (finfish farming) only.
10(e)	Section 25(1E)	This amendment corrects an error in amendments made under the Finfish Regulation Act. Paragraph (b) of subsection (1E) is presently inconsistent with subsections (1DAA) and (1DAB), as the latter require the Board to make a determination on whether or not to assess a proposed activity – there is no default position as there is with subsection (1D). The amendment will remove existing paragraph (b).
10(f)	Section 25(2)(d)	This amendment corrects an oversight in the Finfish Regulation Act. It extends the period during which a planning authority may request additional information from a permit applicant, under section 54(1) of LUPAA, where the Board will assess the proposed activity.

Bill clause	EMPCA provision	Amendment and purpose
		A longer period is necessary in the case of an EL activity, where the Board has 42 days under subsection (1DAA) or (1DAB) to determine whether or not it will refuse an environmental licence or variation and assess or not assess an activity. It is inappropriate for the planning authority to request additional information until the Board has made its determination.
10(g) and (h)	Section 25(3)	<p>These amendments correct an error in amendments made under the Finfish Regulation Act. Subsection (3) is presently inconsistent with subsection (1DAA) and partly inconsistent with subsection (1DAB).</p> <p>If the Board has decided to refuse an environmental licence or licence variation, and consequently not to assess an activity, then it is inappropriate for the planning authority to further process the associated permit application. The amendment restricts subsection (3) to Board decisions made under subsections (1D) and (1DAB)(c)(i).</p>
10(i)	Section 25(4)(a)	This amendment is consequential to the amendment to subsection (1DAC).
10(j) and (k)	Section 25(8)(c)	<p>These amendments will ensure that planning authorities notify the Board promptly after making a decision on a permit application and also provide it with a copy of the permit if granted.</p> <p>This is necessary because of the EPA's responsibility for regulating an approved activity that the Board has assessed – it cannot do so effectively without having a copy of the permit, in a timely manner.</p>
10(l)	Section 25(8A)	This amendment corrects an error in amendments made under the Finfish Regulation Act. Subsection (8A) is not relevant to EL activities, and the amendment ensures that it will not apply to them.
10(m)	Section 25(9)	The subsection (9) provision has been relocated to section 3(1), as it has general application.
11	Section 25A(3AB)-(3AG)	<p>Section 25A provides for EPA Board assessments of permit applications associated with a proposed amendment to the relevant planning scheme (initiated under LUPAA Part 3B, Division 4).</p> <p>It was previously understood that the Board would conduct an assessment under section 25A in accordance with section 25, and that it could direct a planning authority in</p>

Bill clause	EMPCA provision	Amendment and purpose
		<p>accordance with section 25(5) after completion of the assessment. It is now evident that is not the case – section 25A is a “stand-alone” process and the Board can presently only make recommendations to the planning authority in respect of its decision on a permit application.</p> <p>The new subsections (3AB)-(3AG) of section 25A will provide the Board with similar powers to the section 25 powers. The amendments do not relate to permit applications involving EL activities (section 25A already contains adequate provisions relating to EL activities).</p>
12(a)	Section 27(1)	<p>In some cases it is unclear to the EPA whether or not a proposed level 2 activity requires a LUPAA permit. This is particularly so where the proposal involves the expansion of an existing activity and the planning authority is obliged to make a decision on whether or not the proposal constitutes a substantial intensification under section 12(7) of LUPAA.</p> <p>The amendment will clarify that a proposal must be referred to the Board where the proponent has been notified by the planning authority that a permit is not required.</p>
12(b)	Section 27(1AA)	<p>New subsection (1AA) provides an exception to the requirement to refer an activity to the Board under section 27(1), in relation to existing activities that have newly become a level 2 activity because of an amendment to Schedule 2 of the Act.</p> <p>Such activities do not require assessment by the Board, and provision will be made for the Director to issue an EPN for them under new section 44(1B) (see clause 46(a) of the Bill for further information).</p>
12(c) and (d)	Section 27(2A)	<p>Requirements for referrals under subsections (1) and (2) are currently inconsistent. New subsection (2A) specifies consistent requirements.</p>
12(e) and (f)	Section 27(6)(a)	<p>These amendments will transfer the power to issue an EPN (after a section 27 assessment) from the Director to the Board itself. The existing Board power to “cause the Director” to issue an EPN, and reasons for the EPN conditions, is not delegable. This has been operationally inconvenient.</p> <p>Under the amendments, the Board will issue the EPN in accordance with new section 44(1A) (see clause 46(a) of the</p>



Bill clause	EMPCA provision	Amendment and purpose
		Bill). The power under section 27(6)(a) will be delegable in the normal manner, to the Director or another officer.
12(g)	Section 27(8)	This amendment corrects an error made in amendments under the Finfish Regulation Act. It clarifies that section 27 does not apply in any way to EL activities (the assessment of which is already provided for in section 27AA and other provisions).
13	Section 27AA(1A)	This amendment corrects an oversight in the Finfish Regulation Act and removes an inconsistency between subsection (1) of section 27AA and section 42N. A proposed expansion, intensification or modification of an EL activity should not be directly referred to the Board under section 27AA(1); it should initially be the subject of a licence variation application under section 42N(1).
13	Section 27AA(1B)	New subsection (1B) specifies requirements for referrals under subsection (1), in a similar manner to new section 27(2A) for section 27 referrals.
14(a)	Section 27AB(6A)	This amendment corrects an oversight in the Finfish Regulation Act. New subsection (6A) will ensure that the Board does not notify the PORS Panel that it will not assess a proposed EL activity, until the appeal period (in relation to the Board's refusal to grant or vary an environmental licence) ends or until after the appeal is determined if one is lodged. This is simply a coordination measure.
14(b)	Section 27AB(7)(b)	This amendment corrects an omission in the Finfish Regulation Act. It will be necessary for the Board to provide a notice under section 42R if the PORS proposal involves the variation of an environmental licence.
15	Section 27AC(2A)	New subsection (2A) will ensure that the Board does not direct a planning authority to refuse to grant a permit until the appeal period (in relation to the Board's refusal to grant or vary an environmental licence) ends or until after the appeal is determined if one is lodged. This is simply a coordination measure.

Bill clause	EMPCA provision	Amendment and purpose
16	Section 27AE	<p>This amendment, and new section 27AE, corrects errors made in amendments under the Finfish Regulation Act. The new section replaces section 42P(8). The existing location of the similar provisions in section 42P requires that a dormant activity be assessed as an environmental licence variation initiated by the Director, which will not always be appropriate. The new provisions enable a variation to be optional.</p> <p>The new section also remedies shortcomings in section 42P(8). The Board will assess a dormant activity as well as the area associated with it, which is more appropriate and consistent with other assessment provisions of the Act.</p> <p>Under subsection (2)(a) the Board will also assess activities that have been dormant for 10 years that were granted environmental licences under the transitional provisions of Subdivision 2 of Division 8 of Part 3 (although this will not apply retrospectively to activities that were dormant for 10 years or more before the amendment commences).</p> <p>Subsection (2)(c) clarifies the meaning of dormancy, and ensures that activities where fish have been kept for special or emergency purposes will not be exempt from assessment. These provisions reflect the understood intent of Parliament in the Finfish Regulation Act.</p>
17(a)	Section 27A(1)	This amendment is consequential to the insertion of new section 27AE.
17(b)	Section 27A(1A)	<p>Paragraph (a) of new subsection (1A) corrects an omission and makes clear that the Board must determine a class of assessment.</p> <p>Paragraph (b) of the new subsection removes doubt that the Board may reclassify an assessment during an assessment process. This may be necessary where new information about the proposed activity or its potential impacts emerges during the assessment process.</p>
18	Section 27B(1), (1A) and (2)	This series of minor amendments makes no substantive changes, but clarifies the wording of section 27B and replaces references to a “project” with references to an “activity”. The term “project” is too narrow and could be taken to exclude the operational phase of an ongoing activity.

Bill clause	EMPCA provision	Amendment and purpose
19	Section 27C	<p>Section 27C has to be extensively amended to correct an oversight in the Finfish Regulation Act. Section 27C is not properly coordinated with section 25(1DAA) and (1DAB) and section 27AA.</p> <p>For a proposed EL activity where the Board must make a preliminary determination on whether or not to grant or vary an environmental licence (and consequently whether or not to assess the activity), the 14-day period currently specified in section 27C must begin after the Board's determination. There is no point in the Board notifying (under section 27C) an applicant of the class of assessment if the Board has not yet determined whether to assess the activity.</p>
20(a) and (b)	Section 27F(2A)	<p>New subsection (2A) corrects an oversight in the Finfish Regulation Act. It will enable the Board to waive the requirement for a case for assessment where a proposal for assessment is referred to the Board by the Director under section 27AE or section 42P.</p> <p>Such referrals relate to the assessment of dormant activities and proposed licence variations initiated by the Director, and are not the subject of an application by the licence holder. Under those circumstances the licence holder may have no interest in preparing a case for assessment and no incentive to provide a satisfactory one if required by the Board to do so.</p> <p>Where the Board waives the requirement it will conduct its assessment based upon information provided by the Director, relevant specialists and submissions made during public consultation.</p> <p>The power of the Director under section 42ZA to obtain information is to be strengthened (see clause 37 of the Bill), which will enable the Director to obtain particular information from a licence holder to assist with a Board assessment initiated under section 27AE or section 42P. The Director also has an existing general power to obtain information under section 43.</p>
20(c)	Section 27F(5)	<p>This amendment corrects an oversight in the Finfish Regulation Act. There should be a right of appeal in relation to EL activities as well as others.</p>

Bill clause	EMPCA provision	Amendment and purpose
21 (a)	Section 27G(1)(a)	This amendment will transfer the power of directing a planning authority to advertise an application from the Director to the Board itself. The existing Board power to “cause the Director” to direct the planning authority is not delegable. This has been operationally inconvenient. The Board’s power to direct the planning authority will be delegable in the normal manner, to the Director or another officer.
21 (b)	Section 27G(1)(b)	This amendment is consequential to the insertion of new section 27AE.
21 (c)	Section 27G(4)	There is presently no obligation on a planning authority to notify the Board that no representations have been received, where that is the case. Failure to notify can delay an assessment process. This amendment prescribes an obligation to notify.
22	Section 27H(1)	This amendment complements the amendment to section 27G(4).
23	Section 42I(5)	This amendment corrects an error in amendments made under the Finfish Regulation Act. It alters the wording of section 42I(5) to ensure that it applies to all marine farming activities.
24	Section 42K(2)(a)	The 28-day period currently specified is inconsistent with the 42-day period specified in section 25(IDAA). This amendment corrects the inconsistency.
25(a) and (b)	Section 42L(2)(b) & (d)	These amendments correct wording errors in amendments made under the Finfish Regulation Act.
25(c)	Section 42L(2)(f)	This amendment provides the Director and Board with a wider power to refuse to grant an environmental licence on the basis of unpaid fees. It will be a significant incentive to licence holders and applicants to pay any fees due under the Act.
26(a)	Section 42M(2)(e)	This amendment corrects an oversight in the Finfish Regulation Act. Notification needs to be provided where the Board makes a determination under section 27B(1A).
26(b)	Section 42M(2)(e)	This amendment replaces the term “project” with the term “activity”. The term “project” is too narrow and could be taken to exclude the operational phase of an ongoing activity.

Bill clause	EMPCA provision	Amendment and purpose
26(c)	Section 42M(5)	This amendment corrects an oversight in the Finfish Regulation Act. A proponent and planning authority should be notified of a Board decision to assess or not assess an activity, as well as the associated decision to refuse or not refuse to grant the environmental licence for the activity under section 25(1DAA).
27(a) and (b)	Section 42N(2A)	New subsection (2A) corrects an oversight in the Finfish Regulation Act. The new subsection precludes an environmental licence variation for a marine farming activity where there is no authority for the activity under the marine farming legislation. It has the same purpose as section 42I(5) in respect of proposed new activities.
27(c)	Section 42N(4)	<p>This amendment corrects an oversight in amendments made under the Finfish Regulation Act. It was intended that the Director be able to vary a licence otherwise than in accordance with the variation applied for by the licence holder, where appropriate.</p> <p>Refusal of a variation may be unnecessary, but it may be necessary to vary the licence in a somewhat different manner to that applied for, to avoid unnecessary environmental impacts or to maintain the internal integrity of the licence. Furthermore, an application for a licence variation will often trigger a general review of the licence, which may reveal a need for variations additional to those applied for.</p>
27(d)	Section 42N(5)(c)	This amendment provides the Director with a wider power to refuse to vary an environmental licence on the basis of unpaid fees. It will be a significant incentive to licence holders to pay any fees due under the Act.
28(a)	Section 42O(1)(b)	This amendment corrects a wording error in amendments made under the Finfish Regulation Act. The amendment ensures that subsection (1) applies to all marine farming activities.
28(b)	Section 42O(3)(b)	This amendment corrects a wording error in amendments made under the Finfish Regulation Act. The amendment ensures that subsection (1) applies only to inland fish farming activities.
28(c)	Section 42O(4)	This amendment corrects a wording error in amendments made under the Finfish Regulation Act.

Bill clause	EMPCA provision	Amendment and purpose
29(a)	Section 42P(5)(b)	This amendment complements the amendments to subsections (6) and (7). It clarifies that the Director must refer certain variation proposals to the Board for assessment.
29(b) and (d)	Section 42P(6) and (7)	These amendments clarify that the Director must refer a variation proposal to the Board where the relevant criteria in section 42O require it. Subsections (6) and (7) were not intended to be discretionary.
29(c) and (e)	Section 42P(6) and (7)	These amendments clarify the purpose of a referral to the Board.
29(f)	Section 42P(8) and (8A)	These amendments are consequential to the relocation of the existing subsection (8) provisions to new section 27AE. The Director may, optionally, propose a variation to an environmental licence for a dormant activity at the same time as the activity is referred to the Board for assessment under section 27AE.
30(a) and (b)	Section 42Q(1)	These amendments are consequential to the insertion of new section 27AE (see clause 16 of the Bill).
30(c) and (d)	Section 42Q(1)	These amendments are for the purpose of better consistency with terms used in sections 27AB and 27B.
30(e)	Section 42Q(2)(a)	The 28-day period currently specified is inconsistent with the 42-day period specified in section 25(1DAB). This amendment corrects the inconsistency.
30(f)	Section 42Q(4)	<p>This amendment corrects an oversight in amendments made under the Finfish Regulation Act. It was intended that the Board be able to vary a licence otherwise than in accordance with the variation applied for by the licence holder, where appropriate.</p> <p>Refusal of a variation may be unnecessary, but it may be necessary to vary the licence in a somewhat different manner to that applied for, to avoid unnecessary environmental impacts or to maintain the internal integrity of the licence. Furthermore, an application for a licence variation will often trigger a general review of the licence, which may reveal a need for variations additional to those applied for.</p>
30(g) and (h)	Section 42Q(5)(ba)	These amendments are consequential to the insertion of new section 27AE (see clause 16 of the Bill). New paragraph (ba) will enable the Board to refuse to vary an environmental licence following an assessment under section 27AE which also involves a proposed variation.

Bill clause	EMPCA provision	Amendment and purpose
30(i)	Section 42Q(5)(b)(iii)	This amendment corrects a wording error in amendments made under the Finfish Regulation Act.
30(j)	Section 42Q(5)(c)	This amendment provides the Board with a wider power to refuse to vary an environmental licence on the basis of unpaid fees. It will be a significant incentive to licence holders to pay any fees due under the Act.
31 (a) and (b)	Section 42R(1) and (4)	New paragraph (ba) corrects omissions in the Finfish Regulation Act. A proponent or planning authority must be notified of a Board decision to assess or not assess an activity, as well as the associated decision to refuse or not refuse to vary the environmental licence for the activity under section 25(1DAB).
32(a) and (b)	Section 42S(2) and (3)	These amendments clarify application lodgement requirements.
32(c)	Section 42S(3A)	New subsection (3A) corrects an oversight in the Finfish Regulation Act. The new subsection precludes the renewal of an environmental licence for a marine farming activity where there is no authority for the activity under the marine farming legislation. It has the same purpose as section 42I(5), which applies to proposed new activities.
33(a)	Section 42T(4)(d)	This amendment provides the Director with a wider power to refuse to renew an environmental licence on the basis of unpaid fees. It will be a significant incentive to licence holders to pay any fees due under the Act.
33(b)	Section 42T(5)	This amendment corrects an error made in amendments under the Finfish Regulation Act.
33(c)	Section 42T(7A)	New subsection (7A) corrects an oversight in the Finfish Regulation Act. The new subsection clarifies that new conditions may be imposed upon a renewed licence, but precludes conditions that would authorise the expansion, intensification or modification of the activity. The latter should be the subject of a licence variation in accordance with Subdivision 4.
33(d)	Section 42T(9)(c)	This amendment corrects an error made in amendments under the Finfish Regulation Act. Reasons need only be provided for conditions that differ from those in the licence before it was renewed. Existing conditions carried over require no justification.

Bill clause	EMPCA provision	Amendment and purpose
33(e)	Section 42T(9)(ca)	This amendment corrects an oversight in the Finfish Regulation Act. New paragraph (ca) requires that the applicant be notified of any existing conditions or restrictions not carried over to the renewed licence, and the reasons for that.
34(a) and (b)	Section 42U(4)	These amendments correct a wording error made in amendments under the Finfish Regulation Act.
34(c)	Section 42U(4A)	New subsection (4A) corrects an oversight in the Finfish Regulation Act. The new subsection clarifies that new conditions may be imposed upon a renewed licence, but precludes conditions that would authorise the expansion, intensification or modification of the activity. The latter should be the subject of a licence variation in accordance with Subdivision 4.
34(d)	Section 42U(6)(a)	This amendment corrects an oversight in the Finfish Regulation Act. Reasons must be provided where the Director renews a licence on his/her own initiative.
34(e)	Section 42U(6)(b)	This amendment corrects an error made in amendments under the Finfish Regulation Act. Reasons need only be provided for conditions that differ from those in the licence before it was renewed. Existing conditions carried over require no justification.
34(f)	Section 42U(6)(ba)	This amendment corrects an oversight in the Finfish Regulation Act. New paragraph (ba) requires that the applicant be notified of any existing conditions not carried over to the renewed licence, and the reasons for that.
35(a)	Section 42W(4A)	New subsection (4A) corrects an oversight in the Finfish Regulation Act. The new subsection clarifies that new conditions may be imposed upon a transferred licence, but precludes conditions that would authorise the expansion, intensification or modification of the activity. The latter should be the subject of a licence variation in accordance with Subdivision 4.
35(b)	Section 42W(6)	This amendment corrects an oversight in the Finfish Regulation Act. The transferee (or proposed transferee) must also be notified of the Director's decision.
35(c)	Section 42W(6)(c)	This amendment corrects an error made in amendments under the Finfish Regulation Act. Reasons need only be provided for conditions that differ from those in the licence

Bill clause	EMPCA provision	Amendment and purpose
		before it was transferred. Existing conditions carried over require no justification.
35(d)	Section 42W(6)(ca)	This amendment corrects an oversight in the Finfish Regulation Act. New paragraph (ca) requires that the applicant and transferee/proposed transferee be notified of any existing conditions not carried over to the transferred licence, and the reasons for that.
35(e)	Section 42W(6)(d)	This amendment corrects an oversight in the Finfish Regulation Act, and makes it clear that only the applicant for the transfer has appeal rights.
36(a)	Section 42Z(2A)	<p>New subsection (2A) corrects an oversight in the Finfish Regulation Act, and clarifies two matters.</p> <p>Paragraph (a) makes clear that the conditions of an environmental licence may relate to an area of water or land other than that on which the activity itself takes place. Such conditions may relate to environmental monitoring, traffic to and from the activity, or other matters distant from the activity.</p> <p>Paragraph (b) makes clear that the conditions of an environmental licence may relate to waters that are part of an exclusion zone established under the <i>Marine Farming Planning Act 1995</i>, provided that the keeping of fish is not authorised.</p> <p>There may be a marine farming activity near to a zone, and it may be necessary to impose conditions on the environmental licence for that activity relating to environmental monitoring, vessel movements to and from the activity, or other matters that take place within the exclusion zone.</p>
36(a)	Section 42Z(2B)	New subsection (2B) complements paragraph (b) of subsection (2A) and makes clear that activities associated with environmental licence conditions may be carried out within a <i>Marine Farming Planning Act 1995</i> exclusion zone, provided that they do not involve the keeping of fish.
36(b)	Section 42Z(3)(a)	This amendment corrects an error in amendments made under the Finfish Regulation Act. Paragraph (a) is presently inconsistent with sub-paragraph (m)(i) of subsection (2).
36(c)	Section 42Z(8)	New subsection (8) corrects an oversight in the Finfish Regulation Act and has a similar purpose to subsections (6) and (7). It is important that the conditions of an environmental licence take precedence over any

Bill clause	EMPCA provision	Amendment and purpose
		environmentally relevant conditions of a LUPAA permit relating to the activity.
37(a) and (b)	Section 42ZA(1)	New paragraph (ca) corrects an error in amendments made under the Finfish Regulation Act. A variation proposed by the Director under section 42P must be treated differently to a variation applied for by a licence holder under section 42N. New paragraph (cb) is consequential to the insertion of new section 27AE (see clause 16 of the Bill).
37(c) and (d)	Section 42ZA(2)	These amendments correct an oversight in the Finfish Regulation Act. A requirement to a person should be by notice, and it is important that a date for provision of information be specified in such a notice (otherwise a dispute may arise about the appropriate timeframe for compliance with the notice).
38(a) and (b)	Section 42ZE(2) and (3)	The new paragraphs (ab) in each subsection correct an oversight in the Finfish Regulation Act. The Director of Inland Fisheries and the Secretary of the Department should be notified of the referral to the Board of all finfish farming matters, to assist with coordination of regulation.
39	Section 42ZEA	The new section enables the Director to correct manifest errors of a clerical, arithmetic or numeric nature in an environmental licence. The provision is similar to existing section 44A which enables the correction of manifest errors in an EPN.
40(a)	Section 42ZF(2A)	New subsection (2A) provides the Director with a power to cancel an environmental licence where the Board has completed an assessment under section 27AE and advised that the relevant area is not suitable for the keeping of finfish. The Director must additionally be satisfied that varying the conditions of the licence will not remedy the problems identified by the Board (this latter provision applies where the Board has not also considered a variation to the licence proposed by the Director under section 42P).

Bill clause	EMPCA provision	Amendment and purpose
40(b)-(d)	Section 42ZF(4) and (5)	These amendments correct an oversight in the Finfish Regulation Act. A notice issued under subsection (1) that relates to cancellation of an environmental licence must be able to include conditions which the former licence holder must comply with.
40(e) and (f)	Section 42ZF(5)	New paragraph (d) corrects an oversight in the Finfish Regulation Act. It describes an additional action that is likely to be required in some cases of licence suspension or cancellation.
40(g)	Section 42ZF(5A)	<p>The new subsection (5A) complements the amendments under clauses 41 (b)-(d) relating to conditions of a cancellation notice. It makes it an offence to fail to comply with a requirement of a licence cancellation notice issued under subsection (1).</p> <p>There may be very significant environmental impacts where a former licence holder fails to take appropriate action (the removal of fish stock for example). There is no need for a similar offence in relation to a licence suspension notice as the need to get the licence suspension revoked will be an incentive for the licence holder to undertake any required action.</p>
41	Section 42ZH(3A)	The new subsection (3A) corrects an oversight in the Finfish Regulation Act and makes it an offence to fail to comply with a requirement of a licence surrender notice issued under subsection (1). There may be very significant environmental impacts where a former licence holder fails to take appropriate action (the removal of fish stock for example).
42(a)	Section 42ZI(2)(b)	This amendment corrects an oversight in the Finfish Regulation Act. An applicant should have a right of appeal where the Director or Board grants a licence for a fixed term, against the wishes of the applicant.
42(b)	Section 42ZI(3)(d)	This amendment, along with new subsection (3A) (clause 42(h) of the Bill) corrects an oversight in the Finfish Regulation Act. It is associated with the amendment to section 42Q(4) (clause 30(f) of the Bill).
42(c)	Section 42ZI(3)(fa)	New paragraph (fa) corrects an oversight in the Finfish Regulation Act. It enables an appeal to be lodged against the period for which a renewed licence will remain in force (where the licence has been renewed on application under section 42T).

Bill clause	EMPCA provision	Amendment and purpose
42(d)	Section 42ZI(3)(ga)	New paragraph (ga) corrects an oversight in the Finfish Regulation Act. It enables an appeal to be lodged against the period for which a renewed licence will remain in force (where the licence has been renewed by the Director under section 42U).
42(e) and (f)	Section 42ZI(3)(h) and (j)	These amendments correct an oversight in the Finfish Regulation Act. They enable an appeal to be lodged against amended conditions in a renewed or transferred licence.
42(g)	Section 42ZI(3)(ja)	New paragraph (ja) corrects an oversight in the Finfish Regulation Act. It enables an appeal to be lodged against the period for which a transferred licence will remain in force (where the licence has been transferred on application under section 42W).
42(h)	Section 42ZI	This amendment is associated with the amendment to subsection (3)(d) (clause 42(b) of the Bill). Paragraph (a) restricts appeals to a variation of a licence that is not a variation applied for. Paragraph (b) is a restriction currently specified in subsection (3)(d).
43(a)	Section 42ZJ(1)	This amendment is consequential to the insertion of new section 27AE.
43(b)	Section 42ZJ(2)(c)	This amendment corrects an oversight in the Finfish Regulation Act. It enables an appeal to be lodged against refusal by the Board to impose a licence condition proposed in a representation made during a public consultation.
43(c)	Section 42ZJ(2)	This amendment corrects an error in the Finfish Regulation Act. It is unnecessary to identify the Appeal Tribunal in EMPCA, because the expressions used therein have the same meaning as in LUPAA (see section 3(2) of EMPCA).
44(a), (b), (d), (f), (g), (h), (i), (j) and (k)	Section 42ZK(1), (2), (5), (6), (7), (8), (9), (10) and (11)	These amendments correct an error made in amendments under the Finfish Regulation Act. The word “appeal” rather than “application” is used in the corresponding provisions of section 42ZI and so must be used in these provisions.

Bill clause	EMPCA provision	Amendment and purpose
44(c)	Section 42ZK(3)	<p>Replacement subsection (3) corrects an error in amendments made under the Finfish Regulation Act.</p> <p>Paragraph (a) retains the status quo for licence applications assessed by the Board.</p> <p>Paragraphs (b) and (c) provide that, where an appeal is lodged against a licence granted by the Director under section 42J, it will remain fully in force pending the determination of the appeal.</p> <p>Licences are granted in section 42J in relation to new marine farming activities where the licence application does not have to be referred to the Board, and it is to the advantage of both the activity operator and the EPA that such a licence (including any disputed conditions) comes into effect immediately.</p>
	Section 42ZK(4)	<p>New subsection (4) has a similar effect to subsection (3)(b) and (c) and for a similar reason. Where an appeal is lodged against a licence variation made by the Director, the variation will remain fully in force pending the determination of the appeal.</p>
	Section 42ZK(4A)	<p>New subsection (4A) retains the status quo for licence variation applications assessed by the Board.</p>
44(e)	Section 42ZK(5A)	<p>New subsection (5A) provides that the validity period of a licence set by the Director under section 42T, 42U or 42W, against which an appeal is lodged, remains in effect until the determination of the appeal. Such a validity period will have been set for operational reasons relating to the protection of the environment, and it should remain in effect unless overturned on appeal.</p>
44(l)	Section 42ZK(11A)	<p>New subsection (11A) corrects an omission in the Finfish Regulation Act.</p> <p>Paragraph (a) provides that, where a representor lodges an appeal against the variation of a licence by the Board under section 42Q, the variation is of no effect until determination of the appeal.</p> <p>Paragraph (b) provides that where a representor lodges an appeal against a condition or restriction imposed by the Board or which the Board refuses to impose, when granting a licence under section 42K, the licence is of no effect until determination of the appeal.</p>

Bill clause	EMPCA provision	Amendment and purpose
45	Section 42ZL	This amendment corrects an error made in amendments under the Finfish Regulation Act. The word “appeal” rather than “application” is used in section 42ZL.
46(a)	Section 44(1A)	New subsection (1A) complements the amendment to section 27(6)(a) which transfers the power to issue an EPN (after a section 27 assessment) from the Director to the Board (see clauses 12(e) and (f) of the Bill). The scope of such an EPN is specified.
46(a)	Section 44(1B)	New subsection (1B) provides a power for the Director to issue an EPN to regulate an activity that has newly become a level 2 activity because of an amendment to Schedule 2 of the Act. Paragraph (a) relates to an activity which was previously a level 1 activity (i.e. which has a LUPAA permit). Paragraph (b) relates to an activity that was not a level 1 or level 3 activity. These provisions are necessary as a result of the recent prescription of the tyre storage depots as a level 2 activity (see item 3(ab) in Schedule 2) and the proposed prescription of aquaculture feed works as a level 2 activity (see clause 70(d) of the Bill). The provisions also enable the regulation of any further new level 2 activities in future.
46(b)	Section 44(3)	New paragraph (ca) removes doubt that an EPN may vary the conditions or restrictions of a LUPAA permit.
46(c)	Section 44(8)	This amendment is consequential to the insertion of new subsections (1A) and (1B) (see clause 46(a) of the Bill).
47	Section 51C	New section 51C introduces an offence of conducting a level 2 activity without a LUPAA permit or environment protection notice, similar to the offence of operating a finfish farming activity without an environmental licence that was inserted in 2017 (the new offence will not apply to EL activities). Penalties are the same as those for the offence of operating without an environmental licence. Existing offence provisions under LUPAA have been ineffective in respect of level 2 activities.
48	Section 55(1)	This amendment clarifies that the onus is on the defendant to prove one or other of the specified defences (which was the original intention of the provision). This issue arose from a prosecution and subsequent appeal to the Supreme Court (<i>Hobart City Council v Budd [2008] TASSC 68</i>).

Bill clause	EMPCA provision	Amendment and purpose
49(a) and (b)	Section 55A(1)	These amendments correct an omission. They will ensure that a defence is available where a defendant has complied with a maximum quantity, etc set in an EPN, similar to the defence relating to the instruments currently specified.
49(c), (d) and (e)	Section 55A(1)(a)	These amendments are for a similar purpose to the amendment to section 55(1). They clarify that the onus is on the defendant to prove one or other of the specified defences (which was the original intention of the provision).
50	Section 72	These amendments remove references to the <i>Pollution of Waters by Oil and Noxious Substances Act 1987</i> . That Act is to be replaced in the near future and the superseding Act will include provision for the issuing of infringement notices. The EMPCA provisions relating to the <i>Pollution of Waters by Oil and Noxious Substances Act 1987</i> have not been utilised anyway.
51(a)	Section 74(3)	This amendment is consequential to the insertion of new section 27AE, and also corrects an oversight in the Finfish Regulation Act. In respect of assessments undertaken by the EPA Board for the purposes of section 27AE or 42P, the Director effectively becomes the proponent where the Board exercises its power under new section 27F(2A).
51(b)	Section 74(4)	This amendment is consequential to the insertion of new section 27F(2A). It will be unnecessary to provide the proponent with guidance where the power under new section 27F(2A) is exercised.
52(a)-(c)	Section 74D(1)(c), (e) & (f)	The provision for the Director to apportion works and actions between two or more persons that are responsible for a contaminated site has proven to be impractical. These amendments will instead make the persons jointly and severally liable for works and actions, and the onus will be upon those persons to themselves apportion the works and actions.
52(d)	Section 74D(1)(g)	This amendment introduces a necessary distinction between investigation notices and remediation or site management notices. At the investigation notice stage, the Director may be uncertain as to whether or not an area of land is a contaminated site – in fact the purpose of an investigation notice may be to assist with the resolution of that question. By the time a remediation or site management notice is issued, the Director will have formed an opinion that an area of land is a contaminated site.

Bill clause	EMPCA provision	Amendment and purpose
52(e)	Section 74D(2)	The removal of subsection (2) is associated with, and is for the same purpose as, the amendments to subsection (1)(c), (e) & (f).
53(a)	Section 74E(2)	This amendment will enable the Director to serve an investigation notice on a person who has actually accepted responsibility for wholly or partly causing an area of land to be a contaminated site.
53(b)	Section 74E(5)	This amendment is consequential to the amendment to subsection (2) – it is unnecessary to refer to a person “not referred to in subsection (2) or (4)” because all relevant persons will now be referred to in subsection (2).
54	Section 74F	These amendments are similar to, and for the same purpose as, the amendments to section 74E.
55(a)	Section 74K(1)	Subsection (1) presently only allows the Director to revoke a contaminated site notice by issuing another contaminated site notice. In some cases that is unnecessary and inappropriate. The amendment provides for a contaminated site notice to alternatively be revoked by a simple notice of revocation.
55(b)	Section 74K(2)	Subsection (2) presently only allows the Director to issue a completion certificate when a notice has been fully complied with. In some cases that it impractical or unnecessary. The amendment provides for the Director to issue a completion certificate when he satisfied that a notice has been adequately complied with.
56(a)	Section 92(1)(j)	This amendment will enable an authorized officer to require a suspected perpetrator to provide his/her date of birth as well as name and address. Date of birth is of assistance in verifying the identity of persons during investigations.
56(b)	Section 92(7A)	This amendment will protect a person from liability where that person takes action, or does not take action, in response to a direction of an authorized officer or council officer under section 92. The protection is limited to liability for taking or not taking the action or damages relating to it, and the person must take, or not take, an action in good faith.

Bill clause	EMPCA provision	Amendment and purpose
57	Section 92AA	<p>The new section will enable authorized officers to take, or direct another person to take, emergency action. The existing powers under section 92(1) have been ineffective in emergency situations.</p> <p>Subsection (2) provides the emergency powers, and subsection (3) requires an oral direction to be confirmed in writing.</p> <p>Under subsection (4), officers will be able to enter premises (other than residential premises) without warrant for the purpose of taking or directing emergency action.</p> <p>Subsection (6) provides a similar protection to that in new subsection (7A) of section 92.</p>
58	Section 92B(c)	This amendment is consequential to the insertion of new section 92AA (see clause 57 of the Bill).
59	Section 96D(2A)	New subsection (2A) clarifies the responsibility for implementation specified in paragraph (ba) of subsection (1). It is important that EPPs are implemented by the relevant regulatory authorities when carrying out functions under other legislation
60	Section 96G	Section 96G will be repealed. Preliminary notice that an EPP is to be prepared is now considered to be an unnecessary step in the process. It was of little benefit in the two previous cases where EPPs have been prepared. Public and stakeholder input is still provided for in section 96I.
61	Section 96H(1)	These amendments are consequential to the repeal of section 96G. The replacement subsection (1) will in future be the first step in the process of preparing an EPP, and new subsection (1A) will enable the Minister (and Department) to obtain and consider any necessary information.
62(a)	Section 96I(2)(a)	Newspaper advertising is of less importance than when the EPP provisions were inserted into EMPCA (in 2000). Advertising on one Saturday only should suffice.
62(b)	Section 96I(5)	New subsection (5) requires that notice of a draft EPP must be given on a website of the Department, in accordance with contemporary practice in public consultation.
62(b)	Section 96I(6)	New subsection (6) clarifies the conditions under which a person or body may make a submission on a draft EPP.
63	Section 96L(1)	Section 96L(1) will be amended to allow the Governor to make an interim EPP at any time in the process (if satisfied by

Bill clause	EMPCA provision	Amendment and purpose
		the Minister's advice that there should be no delay in doing so). An interim EPP will still be disallowable by Parliament and have a maximum life of 12 months. A 'permanent' EPP, if necessary to replace the interim EPP, will still need to be prepared under other relevant provisions.
64(a) to (f), and (h)	Section 96M – subsections (2) – (5), and (11)	Section 96M will be amended so that the EPP Review Panel's role in determining whether a proposed amendment is significant will be delegated to the Chairperson of the Panel. This will greatly simplify the administrative process.
64(g)	Section 96M – subsection (5)	This amendment provides criteria to which the Chairperson can refer when determining if an EPP amendment "is not a significant change."
64(i)	Section 96M – subsection 11	This amendment is consequential to the repeal of s96G in EMPCA (see clause 60 above)
65	Section 96M	New section 96MA corrects an omission. It provides the Minister with a power to revoke an EPP and the process for doing so (which is effectively the same as the process for making a new EPP). This will ensure public and stakeholder input to any proposal to revoke an EPP.
66	Section 98AA(1)(a)	This amendment corrects an omission. It specifies liability for payment of an assessment fee that relates to a section 25A assessment.
67(a)	Clause 3(b)(ia), Schedule 2	This amendment is consequential to the amendments to the "clean fill" definition in section 3(1).
67(b)	Clause 3(b)(iia), Schedule 2	This amendment will enable further exceptions to the category of 'Waste Depots' to be prescribed in regulations. It is likely that the necessary regulations will be prepared before this Act amendment commences, and they will be made in accordance with the <i>Subordinate Legislation Act 1992</i> .
67(c)	Clause 3(d)(ii), Schedule 2	This amendment removes the land application of class 2 and 3 biosolids from Schedule 2. The activity will no longer be a Level 2 activity for the purposes of the Act.
67(d)	Clause 4(h), Schedule 2	This amendment inserts the new activity of 'Aquaculture Feed Works' into the Level 2 activities defined in Schedule 2.
68(a) & (b)	Item 3(b), Schedule 5	These amendments correct an inaccuracy in the wording of existing sub-paragraph (b)(ii) of item 3, and reposition it as a separate paragraph.

PART 3 – AMENDMENTS TO THE LMRMA

Bill clause	LRMRA provision	Amendment and purpose
69	-	This clause is a standard provision which identifies the Act to be amended.
70	Clause 12(3)	New clause 12(3A) requires the Minister to notify the Director EPA if a person <u>applies</u> to the Minister for a permit related to finfish farming.
71	Clause 13(3)	New clause 13(4) requires the Minister to notify the Director EPA if the Minister <u>grants</u> an application in relation to finfish farming.
72	Section 92A(2)(a)	This amendment corrects an omission in the amendments made under the Finfish Regulation Act. It ensures that the Secretary of the Department will notify the EPA Director of any variation to a marine farming licence that relates to finfish farming. Such notification is necessary for the coordination of regulation.

PART 4 – AMENDMENTS TO THE MFPA

Bill clause	MFPA provision	Amendment and purpose
73	-	This clause is a standard provision which identifies the Act to be amended.
74	Section 17(A)(5)(a)	This amendment corrects an omission under the Finfish Regulation Act. It enables the EPA Director is notified in relation to marine farming development plans, not the planning authority.
75	Section 29(2A)	New section 29(2A) corrects an omission under the Finfish Regulation Act. It requires the Marine Farming Planning Review Panel to notify the EPA Director of any modification of the draft plan by the Minister.
76	Section 31(4A)	New section 31(4A) corrects an omission under the Finfish Regulation Act. It requires the Minister to notify the EPA Director of the final approval of a draft plan. Such notification is necessary for the coordination of regulation.
77	Section 41(2A)	This amendment corrects an omission under the Finfish Regulation Act. New subsection (2A) requires the Marine Farming Planning Review Panel to notify and consult the EPA Director in advance of making any modification to a draft plan.
78	Section 42(4A)	This amendment corrects an omission under the Finfish Regulation Act. New subsection (4A) requires the Minister to advise the EPA Director when final approval of any draft amendment is given.
79	Section 48(1A) and 48(3)(bc)	These amendments correct omissions in the amendments under the Finfish Regulation Act. New subsection (1A) requires the planning authority to notify the EPA Director of a review of a marine farming development plan, and to consider any advice provided by the Director before making any notification under subsection (2). New subsection (3)(ba) requires the Minister to notify the EPA Director when the planning authority is given direction to modify any draft plan. These amendments ensure that any regulatory modifications may be made, if appropriate.
80	Schedule 2(a) and (b)	These minor amendments correct omissions under the Finfish Regulation Act to ensure proper membership of the Panel.

PART 5 – CONCLUDING PROVISION

Bill clause	MFPA provision	Amendment and purpose
81	-	This clause is a standard provision which identifies the Act to be repealed.



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