Product Stewardship (Oil) Amendment Act 2007

No. 155, 2007

An Act to amend the *Product Stewardship (Oil) Act 2000*, and for related purposes

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)

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No. 155, 2007

An Act to amend the *Product Stewardship (Oil) Act 2000*, and for related purposes

[*Assented to 24 September 2007*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Product Stewardship (Oil) Amendment Act 2007*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	24 September 2007
2. Schedule 1	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Product Stewardship (Oil) Act 2000

Product Stewardship (Oil) Act 2000

1 Paragraphs 3(a), (b) and (c)

Omit “waste”, substitute “used”.

2 Subsection 6(1)

Insert:

> ***used oil*** means any oil that has been used and that, as a result of such use, is contaminated by physical or chemical impurities.

3 Subsection 6(1)

Insert:

> ***voting member*** means a member who is appointed on the basis of their knowledge of, or experience in, one or more of the areas referred to in subsection 14(2).

4 Subsection 6(1) (definition of *waste oil*)

Repeal the definition.

5 At the end of section 10

Add:

(5) Despite section 14 of the *Legislative Instruments Act 2003*, regulations made for the purposes of subsection (1) may apply, adopt or incorporate any matter contained in a written instrument specifying:

(a) oil testing methods; or

(b) standards for the accreditation of laboratories undertaking oil testing;

as in force or existing from time to time.

6 Paragraph 12(b)

Omit “waste”, substitute “used”.

7 Subsection 13(3)

Repeal the subsection, substitute:

(3) The performance of a function of the Advisory Council is not affected by the fact that the Advisory Council's membership does not include any members who are appointed:

(a) on the basis of their knowledge of, or experience in, a particular area referred to in subsection 14(2); or

(b) to represent the Commissioner or the Commonwealth in accordance with subsection 14(2B).

8 Subsection 14(2)

Repeal the subsection, substitute:

(2) The Minister must not appoint a person as a member of the Advisory Council (other than as a member mentioned in subsection (2B)) unless the Minister is satisfied that the person has knowledge of, or experience in, one or more of the following areas:

(a) broad waste management issues from a business perspective;

(b) research and development relevant to the product stewardship arrangements for oil;

(c) State or Territory government;

(d) local government;

(e) the non-government sector;

(f) national consumer issues;

(g) remote, including remote Indigenous, issues;

(h) oil production;

(i) used oil recycling;

(j) used oil collection.

(2A) In appointing members of the Advisory Council, the Minister must endeavour to constitute the Advisory Council so that it, as a whole, has knowledge and experience in as many areas mentioned in subsection (2) as is practicable.

(2B) The Minister must ensure that the membership of the Advisory Council includes:

(a) a person representing the Commissioner; and

(b) a person representing the Commonwealth.

(2C) If a person mentioned in subsection (2B) is unable to attend a meeting, the person may authorise a substitute to attend the meeting. The substitute must be an APS employee.

9 Subsection 15(1)

Omit “subsection (2)”, substitute “subsections (1A) and (2)”.

10 After subsection 15(1)

Insert:

(1A) The Minister must not appoint as the Chair a member who has a direct or indirect pecuniary interest in the product stewardship arrangements for oil if, in the Minister’s opinion, that interest could conflict, to a significant extent, with the proper performance of the duties of the Chair.

(1B) The Chair must notify the Minister of any direct or indirect pecuniary interest that he or she acquires in the product stewardship arrangements for oil.

(1C) The notice must be in writing given to the Minister as soon as practicable after the Chair acquires the interest.

11 After paragraph 15(4)(a)

Insert:

(aa) has his or her appointment as Chair terminated by the Minister under subsection (6); or

12 At the end of section 15

Add:

(6) The Minister may terminate the Chair’s appointment if:

(a) the Minister becomes aware, whether because of a notification under subsection (1B) or otherwise, that the Chair has a direct or indirect pecuniary interest in the product stewardship arrangements for oil; and

(b) in the Minister’s opinion, the interest conflicts, or could conflict, to a significant extent, with the proper performance of the duties of the Chair.

13 Paragraph 21(2)(d)

Repeal the paragraph, substitute:

(d) if the member was appointed to represent the Commissioner or the Commonwealth in accordance with subsection 14(2B)—ceases, because of a change in employment, residence or other circumstances, to be, in the Minister's opinion, an appropriate representative of the Commissioner or the Commonwealth, as the case may be.

14 Paragraph 22(3)(b)

After "other", insert "voting".

15 Subsection 23(2)

Before "members present", insert "voting".

16 Section 24

Omit all the words after "majority of", substitute "voting members, or 6 voting members, whichever is the greater, form a quorum".

17 Subsection 25(1)

After "of the", insert "voting".

18 Subsection 27(1)

After "majority of the", insert "voting".

19 Subsection 27(2)

After "one or more", insert "voting".

20 Subsection 27(3)

After "in which a", insert "voting".

21 Subsection 29(2)

Repeal the subsection, substitute:

(2) The disclosure is to be recorded in the minutes of the meeting.

(2A) If:

(a) the member is not the Chair; and

(b) the Chair is present at the meeting; and

(c) the Chair so determines;

the member must not:

(d) be present during any deliberation of the Advisory Council with respect to the matter; or

(e) take part in any decision of the Advisory Council with respect to the matter.

(2B) If:

(a) the member is not the Chair; and

(b) the Chair is not present at the meeting; and

(c) the Advisory Council so determines;

the member must not:

(d) be present during any deliberation of the Advisory Council with respect to the matter; or

(e) take part in any decision of the Advisory Council with respect to the matter.

(2C) If:

(a) the member is the Chair; and

(b) the Advisory Council so determines;

the member must not:

(c) be present during any deliberation of the Advisory Council with respect to the matter; or

(d) take part in any decision of the Advisory Council with respect to the matter.

22 Subsection 29(3)

Omit “such a determination”, substitute “a determination under subsection (2B) or (2C)”.

23 After subsection 29(3)

Insert:

(3A) The Minister may direct the Chair not to make, or to rescind, a determination under subsection (2A).

24 Subsection 29(4)

Omit “subsection (2)”, substitute “subsection (2B) or (2C)”.

[*Minister's second reading speech made in—*
House of Representatives on 24 May 2007
Senate on 17 August 2007]

(92/07)