

Notes

- ¹ This is a compilation of the *Environmental Protection Act 1986* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Environmental Protection Act 1986</i>	87 of 1986	10 Dec 1986	20 Feb 1987 (see s. 2 and <i>Gazette</i> 20 Feb 1987 p. 440)
<i>Acts Amendment (Public Service) Act 1987 s. 32</i>	113 of 1987	31 Dec 1987	16 Mar 1988 (see s. 2 and <i>Gazette</i> 16 Mar 1988 p. 813)
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Environmental Protection Amendment Act 1993</i> ⁵	34 of 1993	16 Dec 1993	14 Jan 1994 (see s. 2 and <i>Gazette</i> 14 Jan 1994 p. 69)
<i>Acts Amendment (Public Sector Management) Act 1994 s. 19</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Statutes (Repeals and Minor Amendments) Act 1994 s. 4</i>	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
<i>Planning Legislation Amendment Act (No. 2) 1994 s. 46(1) and (6)</i>	84 of 1994	13 Jan 1995	1 Mar 1995 (see s. 2 and <i>Gazette</i> 21 Feb 1995 p. 567)
<i>Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995 s. 188</i>	73 of 1995	27 Dec 1995	1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 29 Dec 1995 p. 6291)
Reprint of the <i>Environmental Protection Act 1986</i> as at 7 Mar 1996 (includes amendments listed above)			
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Planning Legislation Amendment Act 1996 Pt. 3</i>	23 of 1996	11 Jul 1996	4 Aug 1996 (see s. 2 and <i>Gazette</i> 2 Aug 1996 p. 3615)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Acts Amendment (Assemblies and Noise) Act 1996 Pt. 3</i>	50 of 1996	31 Oct 1996	4 Dec 1996 (see s. 2 and <i>Gazette</i> 3 Dec 1996 p. 6695)
<i>Transfer of Land Amendment Act 1996 s. 153(1)</i>	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Land Administration) Act 1997</i> Pt. 25	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Statutes (Repeals and Minor Amendments) Act 1997</i> s. 54	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Environmental Protection Amendment Act 1998</i> ⁶	14 of 1998	21 May 1998	s. 1-3, 21, 26, 27, 29, 32-34, 36 and 37: 21 May 1998 (see s. 2(1)); s. 20: 1 Jul 1998 (see s. 2(2) and <i>Gazette</i> 26 Jun 1998 p. 3369); s. 4, 6-9, 11, 12 and 14 (to the extent that it inserts Pt. VIA heading, Div. 3 and 4 headings and s. 99Q-99X and 99Z-99ZB), 15-19, 22-25, 28, 30, 31 and 35: 1 Jul 1998 (see s. 2(3) and <i>Gazette</i> 26 Jun 1998 p. 3369); s. 10, 13 and 14 (to the extent that it inserts Div. 1 and 2 headings and s. 99A-99P and 99Y): 8 Jan 1999 (see s. 2 and <i>Gazette</i> 8 Jan 1999 p. 35); s. 5: 10 Sep 2005 (see s. 2 and <i>Gazette</i> 9 Sep 2005 p. 4155)
Reprint of the <i>Environmental Protection Act 1986</i> as at 16 Apr 1999 (includes amendments listed above except those in the <i>Environmental Protection Amendment Act 1998</i> s. 5)			
<i>Midland Redevelopment Act 1999</i> s. 71	38 of 1999	11 Nov 1999	1 Jan 2000 (see s. 2 and <i>Gazette</i> 31 Dec 1999 p. 7059)
Reprint of the <i>Environmental Protection Act 1986</i> as at 7 Jul 2000 (includes amendments listed above except those in the <i>Environmental Protection Amendment Act 1998</i> s. 5)			
<i>Rights in Water and Irrigation Amendment Act 2000</i> s. 84	49 of 2000	28 Nov 2000	10 Jan 2001 (see s. 2 and <i>Gazette</i> 10 Jan 2001 p. 163)
<i>Criminal Property Confiscation (Consequential Provisions) Act 2000</i> s. 13(1) ⁷	69 of 2000	6 Dec 2000	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7903)
<i>Hope Valley-Wattleup Redevelopment Act 2000</i> s. 37	77 of 2000	7 Dec 2000	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7904)
<i>Corporations (Consequential Amendments) Act 2001</i> Pt. 23	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)

Short title	Number and year	Assent	Commencement
<i>Armadale Redevelopment Act 2001</i> s. 69	25 of 2001	26 Nov 2001	23 Mar 2002 (see s. 2 and <i>Gazette</i> 22 Mar 2002 p. 1651)
Reprint of the <i>Environmental Protection Act 1986</i> as at 11 Jan 2002 (includes amendments listed above except those in the <i>Environmental Protection Amendment Act 1998</i> s. 5 and the <i>Armadale Redevelopment Act 2001</i>)			
<i>Environmental Protection Amendment Act 2003</i> ⁸⁻¹²	54 of 2003	20 Oct 2003	Act, other than s. 37, 54(2), 55, 72(2) and (4), 75(3) and (4) and Pt. 9: 19 Nov 2003 (see s. 2 and <i>Gazette</i> 18 Nov 2003 p. 4723); s. 37, 54(2), 55, 72(2) and (4), 75(3) and (4) and Pt. 9: 8 Jul 2004 (see s. 2 and <i>Gazette</i> 30 Jun 2004 p. 2581)
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80 and 82	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
Reprint 5: The <i>Environmental Protection Act 1986</i> as at 16 Sep 2005 (includes amendments listed above)			

- 1a On the date as at which this reprint was prepared, provisions referred to in the following table had not come into operation and were therefore not included in compiling the reprint. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Contaminated Sites Act 2003</i> s. 100 ¹³	60 of 2003	7 Nov 2003	To be proclaimed (see s. 2)
<i>Planning and Development (Consequential and Transitional Provisions) Act 2005</i> s. 15 ¹⁵	38 of 2005	12 Dec 2005	To be proclaimed (see s. 2)

- 2 Repealed by the *Acts Amendment and Repeal (Environmental Protection) Act 1986*.
- 3 Act No. 77 of 1986.
- 4 Repealed by the *Acts Amendment (Occupational Health, Safety and Welfare) Act 1987*.
- 5 The *Environmental Protection Amendment Act 1993* s. 5(2), (3) and (4) are transitional provisions that are of no further effect.

6 The *Environmental Protection Amendment Act 1998* Pt. 3 Div. 3 reads as follows:

“

Division 3 — Recovery of certain costs

26. Interpretation

In this Division —

“**agreement**” means an agreement —

- (a) made between the State and another party in respect of disposal of waste at the Mt Walton East waste facility before the coming into operation of this section; and
- (b) declared by the Minister, by notice published in the *Gazette*, to be an agreement to which this Division applies,

and includes —

- (c) that agreement as varied from time to time in accordance with its provisions; and
- (d) any annexure to that agreement;

“**Mt Walton East waste facility**” means the intractable waste disposal facility at Mt Walton East, Shire of Coolgardie in Western Australia situated on reserve number 42001 (Jaurdi Location 73).

27. Recovery of costs from other party

- (1) The State may recover directly from the other party to an agreement costs (within the meaning of the agreement) incurred by the State in conducting the Works (within the meaning of the agreement).
- (2) The power of the State under subsection (1) is to be exercised subject to, and in accordance with, the terms of the relevant agreement.

”.

7 The *Criminal Property Confiscation (Consequential Provisions) Act 2000* s. 13(2) reads as follows:

“

- (2) Despite the amendment effected by subsection (1), section 99U(4) of the *Environmental Protection Act 1986* as in force before the commencement of this Act continues to apply to any exercise under this Act of the court’s powers under the *Crimes (Confiscation of Profits) Act 1988*.

”.

8 The *Environmental Protection Amendment Act 2003* s. 45(4) reads as follows:

“

- (4) A pollution abatement notice served before the coming into operation of this section is taken to be an environmental protection notice within the meaning of the *Environmental Protection Act 1986* as amended by this Act.

”.

9 The *Environmental Protection Amendment Act 2003* s. 51(6) reads as follows:

“

- (6) A direction given under section 73 before the coming into operation of this section is taken to be a prevention notice within the meaning of the *Environmental Protection Act 1986* as amended by this Act.

”.

10 The *Environmental Protection Amendment Act 2003* s. 97(4) and (5) read as follows:

“

- (4) The amendments to approved policies effected by this section have effect as though the provisions were enacted as part of the *Environmental Protection Act 1986* on and from the day on which this section comes into operation.
- (5) Nothing in this section affects the operation of the *Environmental Protection Act 1986* with respect to amendments to the approved policies as amended by this section and revocation of approval of the approved policies as amended by this section.

”.

11 The *Environmental Protection Amendment Act 2003* s. 110(2)-(4) are transitional provisions that are of no further effect.

12 The *Environmental Protection Amendment Act 2003* s. 111(2)-(5) read as follows:

“

- (2) In subsections (3) to (5) —
- “**CEO**” has the same meaning as it has in the EP Act;
- “**EP Act**” means the *Environmental Protection Act 1986* as amended by this Act;
- “**transitional period**” means the period beginning on 26 June 2002 and ending on the day before the day on which this section comes into operation;
- “**unlawful clearing**” means anything within the meaning of “clearing” in Part V Division 2 of the EP Act that —
- (a) constituted, at the time when the thing was done, a contravention of —
- (i) section 28 or 35 of the Soil and Land Conservation Act 1945;
 - (ii) the Soil and Land Conservation (Clearing Control) Regulations 1991 or regulation 4 or 5 of the Soil and Land Conservation Regulations 1992;
 - (iii) section 109, 110, 111 or 267(2)(c) or (f) of the Land Administration Act 1997; or
 - (iv) section 12B of the Country Areas Water Supply Act 1947;

or

- (b) would have constituted a contravention of section 41A of the EP Act if that section had been inserted into the EP Act before the thing was done,
but does not include clearing of a kind set out in Schedule 6 to the EP Act.
- (3) If the CEO suspects on reasonable grounds that unlawful clearing has taken place on any land during the transitional period, the CEO may cause a notice to be given under this subsection in respect of the land.
- (4) Section 70(3) to (11) and 74A of the EP Act apply in relation to a notice given under subsection (3) as if it were a vegetation conservation notice given under section 70(2)(b) of the EP Act and as if the reference to an offence in section 70(6) were a reference to an offence under an enactment mentioned in the definition of “unlawful clearing” in subsection (2).
- (5) Section 74A, Part VA and sections 89 and 103 of the EP Act apply in relation to a notice given under subsection (3) as if it were a vegetation conservation notice given under section 70(2)(b) of the EP Act.

”.

13 On the date as at which this reprint was prepared, the *Contaminated Sites Act 2003* s. 100, which gives effect to Sch. 3, had not come into operation. It reads as follows:

“

100. Consequential amendments to other Acts

Schedule 3 has effect.

”.

The relevant provisions of Schedule 3 are in cl. 1 which reads as follows:

“

1. Environmental Protection Act 1986 amended

- (1) The amendments in this clause are to the *Environmental Protection Act 1986*.
- (2) Section 3(1) is amended by inserting in the appropriate alphabetical positions the following definitions —

“

“**contaminated**” has the same meaning as it has in the *Contaminated Sites Act 2003*;

“**contaminated sites auditor**” means a person accredited as a contaminated sites auditor under the *Contaminated Sites Act 2003*;

”.

- (3) Section 40(2)¹⁴ is amended as follows:
 - (a) by inserting after paragraph (a) the following paragraph —

“

- (aa) require the proponent to provide to the Authority a contaminated sites auditor’s report on the proposal, which complies with any relevant regulations made under the *Contaminated Sites Act 2003*;

”;

- (b) by deleting “any 2 or all 3” and inserting instead —
“ any or all ”.

(4) Section 40(4)(a) is amended as follows:

- (a) by inserting after “information” —
“ or report ”;
- (b) by inserting after “(2)(a)” —
“ or (aa) ”.

(5) Section 48C(1) is amended by inserting after paragraph (a) the following paragraph —

“

- (aa) require the responsible authority, if it wishes that scheme to proceed, to provide to the Authority a contaminated sites auditor’s report on that scheme, which complies with any relevant regulations made under the *Contaminated Sites Act 2003*;

”.

(6) Section 48C(4)(a) is amended by inserting after “(1)(a)” —
“ or (aa) ”.

(7) Section 89(2)¹⁴ is amended by deleting “environment.” and inserting instead —

“

environment or believes on reasonable grounds that the dwelling-house or land is contaminated.

”.

(8) Section 89(3) is amended as follows:

- (a) by deleting “groundwater” and inserting instead —
“ water ”;
- (b) after paragraph (a) by deleting “or”;
- (c) after paragraph (b) by deleting the comma and inserting —

“

; or

- (c) if the inspector believes on reasonable grounds that the land or water is contaminated, to investigate whether contamination is present or to monitor or assess any contamination that is present,

”.

(9) Section 90(1)(a)(i)¹⁴ is amended by inserting after
“discharged” —

“ or onto which any waste has been or is being discharged ”.

14 The amendments to s. 40(2), 89(2) and 90(1)(a)(i) in the *Contaminated Sites Act 2003* Sch. 3 cl. 1(3)(b), (7) and (9) would conflict with amendments in the *Environmental Protection Amendment Act 2003* s. 9, 57 and 58.

15 On the date as at which this compilation was prepared, the *Planning and Development (Consequential and Transitional Provisions) Act 2005* s. 15, which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

15. Acts in Schedule 2 amended

The Acts mentioned in Schedule 2 are amended as set out in that Schedule.

”

Schedule 2, cl. 21 reads as follows:

“

Schedule 2 — Consequential amendments

[s. 15]

21. Environmental Protection Act 1986

(1) Section 3(1) is amended by deleting the definitions of “Metropolitan Region Scheme”, “regional planning scheme” and “town planning scheme”.

(2) Section 3(1) is amended by inserting in the appropriate alphabetical positions the following definitions —

“

“**local planning scheme**” has the meaning given to that term in the *Planning and Development Act 2005* section 4;

“**region planning scheme**” has the meaning given to that term in the *Planning and Development Act 2005* section 4;

”

(3) Section 3(1) is amended in the definition of “assessed scheme” by deleting paragraph (b)(iii) and inserting instead —

“

(iii) which is a local planning scheme, or an amendment to a local planning scheme, in respect of which sections 124, 125, 126 or 128 of the *Planning and Development Act 2005* have been complied with to the extent, if any, necessary in relation to a region planning scheme, or an amendment to a region planning scheme, which amendment or scheme is a scheme referred to in paragraph (a) or subparagraph (i) or (ii);

”

- (4) Section 3(1) is amended in the definition of “final approval” by deleting paragraphs (c), (d), (e) and (f) and “or” after paragraph (e) and inserting instead —

“

- (c) a region planning scheme, or an amendment to a region planning scheme, means an approval under section 53 or 62, as the case requires, of the *Planning and Development Act 2005*;
- (d) a local planning scheme, or an amendment to a local planning scheme, means an approval under section 87(2) of the *Planning and Development Act 2005*; or
- (e) a State planning policy to which section 32 of the *Planning and Development Act 2005* applies, or an amendment to such a policy, means an approval under section 87(2), as read with section 32, of that Act;

”.

- (5) Section 3(1) is amended in the definition of “period of public review” by deleting paragraphs (c), (d), (e) and (f) and “or” after paragraph (e) and inserting instead —

“

- (c) a region planning scheme, or an amendment to a region planning scheme, means the period referred to in section 44(1) or 58(1)(b), as the case requires, of the *Planning and Development Act 2005*;
- (d) a local planning scheme, or an amendment to a local planning scheme, means the period of advertisement for public inspection prescribed for the purposes of section 84 of the *Planning and Development Act 2005*; or
- (e) a State planning policy to which section 32 of the *Planning and Development Act 2005* applies, or an amendment to such a policy, means the period of advertisement for public inspection prescribed for the purposes of section 84, as read with section 32, of that Act;

”.

- (6) Section 3(1) is amended by deleting the definition of “responsible authority” and inserting instead —

“

“responsible authority”, in relation to —

- (a) a scheme which is —
 - (i) prepared under the *Armadale Redevelopment Act 2001*, means the Armadale Redevelopment Authority established under that Act;
 - (ii) prepared under the *East Perth Redevelopment Act 1991*, means the East Perth Redevelopment Authority established by that Act;

- (iii) prepared under the *Hope Valley-Wattleup Redevelopment Act 2000*, means the Western Australian Land Authority established by section 5(1) of the *Western Australian Land Authority Act 1992*;
- (iv) prepared under the *Midland Redevelopment Act 1999*, means the Midland Redevelopment Authority established by that Act;
- (v) prepared under the *Subiaco Redevelopment Act 1994*, means the Subiaco Redevelopment Authority established by that Act;
- (vi) a region planning scheme, or an amendment to a region planning scheme, means the Western Australian Planning Commission;
- (vii) a local planning scheme, or an amendment to a local planning scheme, means the local government which is responsible for the local planning scheme or amendment; or
- (viii) a State planning policy to which section 32 of the *Planning and Development Act 2005* applies, or an amendment to such a policy, means the Western Australian Planning Commission;

or

- (b) a subdivision which is —
 - (i) an activity requiring approval under Part 10 Division 2 of the *Planning and Development Act 2005*, means the Western Australian Planning Commission; or
 - (ii) a strata plan, strata plan of subdivision or strata plan of consolidation required to be accompanied by a certificate issued under section 23 of the *Strata Titles Act 1985*, means the local government within the district of which the subdivision is proposed;

”.

- (7) Section 3(1) is amended in the definition of “scheme” by deleting paragraphs (f), (g), (h) and (i) and “or” after paragraph (h) and inserting instead —

“

- (f) a region planning scheme, or an amendment to a region planning scheme;
- (g) a local planning scheme, or an amendment to a local planning scheme; or
- (h) a State planning policy to which section 32 of the *Planning and Development Act 2005* applies, or an amendment to such a policy;

”.

- (8) Section 3(1) is amended by deleting the definition of “scheme Act” and inserting instead —

“

“**scheme Act**” means *Armadale Redevelopment Act 2001, East Perth Redevelopment Act 1991, Hope Valley-Wattleup Redevelopment Act 2000, Midland Redevelopment Act 1999, Subiaco Redevelopment Act 1994 or Planning and Development Act 2005*;

”.

- (9) Section 3(1) is amended in the definition of “Western Australian Planning Commission” by deleting “section 4 of the *Western Australian Planning Commission Act 1985*” and inserting instead —

“ the *Planning and Development Act 2005* ”.

- (10) Section 3(2a)(a) is amended by deleting “under Part III of the *Town Planning and Development Act 1928*” and inserting instead —

“

under Part 10 Division 2 of the *Planning and Development Act 2005*

”.

- (11) Section 48C(7) is amended in the definition of “public review” by deleting paragraphs (c), (d), (e) and (f) and “or” after paragraph (e) and inserting instead —

“

- (c) a region planning scheme, or an amendment to a region planning scheme, means procedure referred to in sections 43, 44, 46 and 48, or section 58, as the case requires, of the *Planning and Development Act 2005*;
- (d) a local planning scheme, or an amendment to a local planning scheme, means procedure referred to in sections 84 and 87(1) of the *Planning and Development Act 2005*; or
- (e) a State planning policy to which section 32 of the *Planning and Development Act 2005* applies, or an amendment to such a policy, means procedure referred to in sections 84 and 87(1), as read with section 32, of that Act.

”.

- (12) Section 51O(1) is amended in the definition of “planning instrument” by deleting paragraphs (b) and (c) and “or” after paragraph (b) and inserting instead —

“

- (b) a State planning policy approved under section 29 of the *Planning and Development Act 2005* and published in the *Gazette*; or
- (c) a local planning strategy made under the *Planning and Development Act 2005*.

”.

- (13) Section 68 is amended by deleting “under section 20 of the *Town Planning and Development Act 1928*” and inserting instead —

“

under section 135 of the *Planning and Development Act 2005*

”.

(14) Schedule 6 clause 9 is amended as follows:

(a) by deleting “*Town Planning and Development Act 1928*”
and inserting instead —

“ *Planning and Development Act 2005* ”;

(b) in paragraph (a) by deleting “section 20D” and inserting
instead —

“ section 157 ”.

”.