



Commonwealth of Australia

Statement of reasons for revoking an exemption under section 158 of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*

I, Greg Hunt, Minister for the Environment, provide these reasons for my decision under section 158 of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (**EPBC Act**) and section 33(3) of the *Acts Interpretation Act 1901 (Cth)* (**Interpretation Act**), to revoke an exemption dated 28 August 2000 for action or actions undertaken by persons acting in accordance with the *National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances (Old Plan)*, from the application of all of the provisions of Part 3 of the EPBC Act.

Legislation

Section 158 of the EPBC Act provides:

158 Exemptions from Part 3 and this Chapter

- (1) A person proposing to take a controlled action, or the designated proponent of an action, may apply in writing to the Minister for an exemption from a specified provision of Part 3 or of this Chapter.
- (2) The Minister must decide within 20 business days of receiving the application whether or not to grant the exemption.
- (3) The Minister may, by written notice, exempt a specified person from the application of a specified provision of Part 3 or of this Chapter in relation to a specified action.
- (4) The Minister may do so only if he or she is satisfied that it is in the national interest that the provision not apply in relation to the person or the action.
- (5) In determining the national interest, the Minister may consider Australia's defence or security or a national emergency. This does not limit the matters the Minister may consider.
- (6) A provision specified in the notice does not apply in relation to the specified person or action on or after the day specified in the notice. The Minister must not specify a day earlier than the day the notice is made.
- (7) Within 10 business days after making the notice, the Minister must:

- (a) publish a copy of the notice and his or her reasons for granting the exemption in accordance with the regulations; and
- (b) give a copy of the notice to the person specified in the notice.

Section 33 of the Interpretation Act provides (in part):

33 Exercise of powers and performance of functions or duties

Power to make instrument includes power to vary or revoke etc. instrument

(3) Where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Background and Reasons

1. On 28 August 2000, former Minister for the Environment and Heritage, Hon. Robert Murray Hill exempted action or actions undertaken by persons acting in accordance with the Old Plan from all of the provisions of Part 3 of the EPBC Act.
2. The Old Plan was replaced on 5 March 2014 by the *National Plan for Maritime Environmental Emergencies (National Plan)*.
3. I have today granted a new exemption under section 158 of the EPBC Act for action or actions undertaken by any persons managing or responding to maritime environmental emergencies in accordance with the National Plan from the application of all of the provisions of Part 3 of the EPBC Act.
4. Due to the replacement of the Old Plan by the National Plan as discussed in paragraph 2 above, and the granting of the exemption discussed in paragraph 3 above, I consider that it is no longer in the national interest that an exemption from all of the provisions of Part 3 of the EPBC Act be granted for action or actions undertaken by persons acting in accordance with the Old Plan. Accordingly, I have decided to revoke the exemption discussed in paragraph 1 above.



Minister for the Environment

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