

COMPLIANCE AND ENFORCEMENT

The EPBC Act (particularly Part 17) includes monitoring, audit, compliance and enforcement for approvals and permits. The Act also provides the regulatory framework for general and specific deterrence for those who choose to take actions without required permits or approvals.

COMPLIANCE APPROACHES

The approach the Department takes to implementing compliance and enforcement provisions under the Act is outlined in its [Compliance Policy](#). The Office of Compliance provides a centralised compliance and enforcement capability for the Department.

The Office of Compliance uses a range of compliance tools with the aim of supporting regulatory outcomes. Compliance activities are risk-based, and informed by intelligence. All alleged contraventions of the Act are assessed to determine the priorities for further action. The Department uses a range of compliance options to create an effective deterrent to non-compliance and provides a flexible regulatory system and considers the circumstances to determine the most appropriate enforcement response.

More detailed information about compliance and enforcement is available on the [Department's website](#).

BREACHES UNDER THE EPBC ACT

Examples of breaches under the EPBC Act include, but are not limited to:

- taking actions without approval that have, will or are likely to significantly impact on matters of national environmental significance protected under Part 3 of the Act;
- non-compliance with an approval condition;
- commencing an action after submitting a referral but before the action is approved;
- failing to take action in a specific manner;
- failing to obtain or not complying with a permit (for example for some research activities, access to biological resources from a Commonwealth area, certain activities in Commonwealth parks and reserves or for the import or export of wildlife).

ENFORCEMENT OPTIONS

The Act includes a broad range of enforcement mechanisms for managing suspected or identified instances of non-compliance. These include:

- warnings, notices or cautions;
- seizing goods;
- suspending, varying or revoking approvals, permits, licenses or registrations;
- applying for injunctions to prevent a party or parties from undertaking or continuing with an activity;
- issuing remediation orders;
- negotiating enforceable undertakings;
- issuing fines; and

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- applying to the court for criminal prosecution and/or to seek civil penalties.

Examples of some of the civil and criminal penalty provisions contained in the Act include:

- A person who takes an action that is likely to have a significant impact on a matter of NES, without first obtaining approval, can be liable for a civil penalty of up to \$1,050,000 for an individual and \$10.5 million for a body corporate, or for a criminal penalty of seven years imprisonment and/or a fine.
- A person who takes an action that is likely to have a significant impact on Commonwealth land, without first obtaining approval, can be liable for a civil penalty of up to \$210,000 for an individual or up to \$2.1 million for a body corporate, or for a criminal penalty of up to two years imprisonment and/or a fine.
- A person who takes, or fails to take, an action that results in contravening a condition of their approval, can be liable to pay a civil penalty of up to \$210,000 for an individual and up to \$2.1 million dollars for a body corporate. The maximum criminal penalty for a breach of a condition is two years imprisonment and/or a fine.
- A person who knowingly or recklessly provides false or misleading information to obtain an approval or a permit can be liable for a criminal penalty of up to two years imprisonment and/or a fine.
(Penalty amounts correct as of November 2019)

The Act provides for the extensions of liability for certain contraventions of the Act, together with limitations on such liability, including:

- liability of executives for contraventions by a corporation;
- corporate liability for the conduct of directors and officers; and
- landholder liability for contraventions by others on their land.

The review acknowledges the Traditional Owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

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