

Queensland auditor handbook for contaminated land

Module 3: Assessment of auditor applications

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1 Introduction

This module of the auditor handbook describes the assessment processes for an application to be approved as an auditor in Queensland, a renewal application, and a mutual recognition application. It also describes the roles of the various parties in the application processes. Finally, it outlines the review and appeal processes that a dissatisfied person can use if their application is refused.

2 Roles of the various parties

2.1 Applicant

Applicants are responsible for ensuring they submit their application in the approved form (except for mutual recognition, which does not have an approved form) with the required information. The approved form is *Application for approval as an auditor for contaminated land*, which is available from the Queensland government website. *Module 2: Auditor application requirements* of the *Queensland auditor handbook for contaminated land*, provides advice about the requirements for all types of applications, whether for new approvals, or renewals or mutual recognition of existing approvals.

Before they submit their application, a prospective first-time applicant should take an examination and an associated interview that are periodically held by the various state jurisdictions that approve auditors (see section 6 of this module for more information about the examination and interview). Applicants in Queensland should preferably have taken the examination and interview in Queensland rather than another state as it will help to demonstrate their knowledge of Queensland law and policies. An applicant in Queensland who has undertaken their examination and interview in another state will need to demonstrate their knowledge of Queensland's relevant laws and policies by other means (see section 5.1 of Module 2 of the *Queensland auditor handbook for contaminated land* for further advice about this requirement).

2.2 Department of Environment and Science

The Department of Environment and Science (DES) runs the auditor approval scheme in Queensland as the department that administers the *Environmental Protection Act 1994* (EP Act).

The chief executive of DES, or their delegate, decides whether to approve applications to become an auditor in Queensland.

DES maintains pages on the government's website to provide prospective applicants with the necessary forms and information about applications.

DES receives all applications, and receives the fees for auditor's applications, whether from new applicants, or those wanting renewal or mutual recognition of their existing approval. The department's website provides the current address for applications.

DES processes each application, and makes any necessary background checks about an applicant's professional conduct.

DES evaluates the application and recommends to the chief executive whether or not the application should be approved.

DES corresponds with the applicant about the outcome of their application.

DES informs prospective first-time applicants when they may attend the examination and the interview by the panel of professionals who work in the contaminated land field (see section 7 of this module for more information about the examination and interview).

2.3 External advisor

DES may use an external advisor with extensive experience in the contaminated land field to help evaluate applications.

2.4 Interview panel

In Queensland, a panel of professionals who work in the contaminated land field interviews all new applicants.

The role of the interview panel is to hold a face-to-face discussion with a prospective new applicant, and evaluate whether the prospective applicant has the necessary qualifications, experience and competencies to be an auditor.

The interview panel provides a recommendation report to DES about the suitability of a prospective new applicant to be an auditor.

2.5 Referees

A new applicant must have at least three referees who have good knowledge of the applicant's experience, expertise and competence in the assessment, remediation and management of contaminated land, particularly with regard to their ability to function in the future as an auditor. The referees provide their references directly to the applicant so that the references can be attached to the application. The referees should be able to comment on the applicant's ability to exercise independent professional judgement. The referees must have recognised standing as competent professionals in the contaminated land field, preferably as auditors themselves. However, at least two of the referees must not currently be directly associated in business with the applicant or the company currently employing the applicant.

3 New application—assessment process

This section describes what new applicants can expect after submitting their application.

Firstly, DES will check whether the application is properly completed, and provides all the information required by s. 570 of the EP Act and Module 2 of the *Queensland auditor handbook for contaminated land*. DES will also check whether the form is accompanied by the prescribed fee. If the form is properly completed and the information requirements are met, DES will progress the application for a decision. If the form is not properly completed, it will be returned to the applicant.

When deciding the application, the chief executive of DES, or their delegate, must consider the criteria set out in section 572 of the EP Act (see the text box below).

Excerpt from the *Environmental Protection Act 1994*:

572 Criteria for decision

In deciding the application, the chief executive must consider—

- (a) the application; and
- (b) whether the applicant—
 - (i) has qualifications and experience relevant to performing the functions of an auditor; and
 - (ii) is a member of an organisation prescribed under a regulation; and
 - (iii) has demonstrated knowledge of—
 - (A) the Act; and
 - (B) another Act the chief executive considers is relevant to performing the functions of an auditor; and
 - (iv) has professional indemnity insurance; and
 - (v) has committed an offence under this Act; and
 - (vi) has committed an offence under another Act involving misleading or fraudulent conduct; and
 - (vii) has been appointed or approved as an auditor under a corresponding law.

It is an important consideration for the chief executive that the applicant has demonstrated an appropriate level of qualifications and experience relevant to performing the functions of an auditor. This will include considering whether the applicant has successfully completed the examination and its associated interview that are periodically held by the various state jurisdictions that approve auditors—see section 6 of this module for more information.

For s. 572(b)(ii), the prescribed organisations are listed in Schedule 8 of the Environmental Protection Regulation 2008 (EP Reg). The applicant is expected to be a member of one of those organisations.

DES will decide whether or not to approve the application within 30 business days of its receipt, and will write to inform the applicant within 10 business days of making the decision.

The approval provided to a successful applicant will state how long it remains in force and list any conditions that limit the functions the auditor may perform. A standard condition is that the auditor must follow the code of professional conduct set out in Module 4 of the *Queensland auditor handbook for contaminated land*.

A first-time approval will usually remain in force for one year. If an auditor's performance is satisfactory during that first year, renewed approvals will usually have a period of three years.

The following section describes the process for renewing an approval.

4 Renewal application—assessment process

Auditors who wish to keep operating in Queensland must renew their approval before it expires. The expiry date is stated on each existing approval.

A renewal application must be made in the approved form, *Application for approval as an auditor for contaminated land*, which is available from the Queensland government's website. The application must include the information stated in section 5.2 of *Module 2: Auditor application requirements* of the *Queensland auditor handbook for contaminated land*. However, applicants for renewal are not expected to take the examination and interview described in section 6 of this module before applying.

The application must be accompanied by the fee, which is that prescribed in Schedule 10 of the EP Reg for s. 570(c) of the EP Act. Applicants should check Schedule 10 of the EP Reg to find out the current fee, which is adjusted every year.

DES will check that the application has been made in the approved form, that it includes the required information, and that the fee has been paid. DES will also consider how the auditor has performed during the period of their existing approval. The consideration will include any instance of failure to comply with the code of professional conduct, or a complaint made under s. 574H of the EP Act. DES may ask the applicant for information about their compliance with the code of professional conduct. If the applicant receives an enquiry, they should respond without delay because the statutory timeframe for making a decision about the application does not allow extension.

When deciding the application, DES must consider the same criteria set out in s. 572 of the EP Act that are used for a first-time application (see the text box above).

DES will decide whether or not to approve the application within 30 business days of its receipt, and will write to inform the applicant within 10 business days of making the decision.

5 Mutual recognition application—assessment process

An auditor who has already successfully completed the assessment process and gained approval in another state may apply to be recognised as an auditor in Queensland. This is known as *mutual recognition*. The *Mutual Recognition (Queensland) Act 1992* regulates the registration in Queensland of an auditor from another state, while the EP Act regulates their functions and ongoing approval as an auditor after mutual recognition has been granted.

An application for mutual recognition is made by written notice. The requirements for the notice are stipulated in s. 19 of the Mutual Recognition Act and described in section 5.3 of *Module 2: Auditor application requirements* of the *Queensland auditor handbook for contaminated land*.

Applicants for mutual recognition must pay the fee, which is the same as prescribed in Schedule 10 of the EP Reg for s 570(c) of the EP Act. Applicants should check Schedule 10 of the EP Reg to find out the current fee, which is adjusted every year.

An auditor who applies for mutual recognition must already have professional indemnity insurance for at least \$5 million of cover that does not have any exclusion that may limit the cover for work carried out on an auditor's functions in Queensland. The auditor must provide evidence of their cover with their application for mutual recognition. Furthermore, it will be a condition of approval that they continue the professional indemnity insurance cover while approved as an auditor.

After receiving the written notice, DES will check that: it contains all the information required by s. 19 of the Mutual Recognition Act; the auditor has the necessary level of professional indemnity insurance; they have access to an expert support team; and the application fee has been paid. DES will also contact the authority of the other state(s) with regard to the applicant's performance of their activities as an auditor, and enquire whether the auditor has acted in the other state(s) in a manner that is consistent with the Queensland code of professional conduct set out in *Module 4: Code of professional conduct* of the *Queensland auditor handbook for contaminated land*.

Mutual recognition for suitable applicants is usually granted within one month of receipt of the written notice. However, the grant may be postponed for up to six months if, for example, the written notice is missing any necessary information or supporting documentation.

The approval provided to a successfully applicant will state how long it remains in force, and list any conditions that limit the functions the auditor may perform. Other conditions will require the auditor to: (a) continue to hold professional indemnity insurance for at least \$5 million of cover; (b) follow the code of professional conduct set out in Module 4 of the *Queensland auditor handbook for contaminated land*; and (c) have an expert support team.

After they receive their approval by mutual recognition, an auditor must operate in Queensland in accordance with the laws, National Environment Protection (Assessment of Site Contamination) Measure 1999, and guidelines that also apply to auditors who receive their initial approval in the state. The guidelines include *Module 4: Code of professional conduct* of the *Queensland auditor handbook for contaminated land*.

An auditor must periodically renew their approval using the process described in either section 4 or section 5 of this module.

6 Examination and interview for prospective first-time applicants

Due to the highly specialised nature of the contaminated land field and the lack of specific examinations in the field offered by recognised institutes, new applicants are expected to have passed an examination and an associated interview that are periodically held by the various state jurisdictions that approve auditors. Proof that new applicants have passed the examination and interview will be an important consideration for the chief executive when deciding whether to approve the application to be an auditor.

In Queensland, the examination is held at approximately two-yearly intervals. The Queensland government's website will advise prospective applicants when the next examination and interview will be held. It will also tell prospective applicants how to reserve a place for the examination.

Prospective applicants will be expected to attend the examination and interview in Brisbane, which may be held on separate days. Applicants must make their own arrangements for travel and attendance at the examination and interview.

The examination will test the applicant's knowledge of the scientific, technical, legislative, and policy aspects of contaminated land auditing.

With regard to the interview, the applicant will be told in advance who will be on the interview panel. If the applicant has any professional or personal association with any member of the interview panel that creates a potential conflict of interest, the applicant must inform DES immediately.

At the interview, the panel will question the applicant about their qualifications and work experience, and discuss a case study in some detail. Before the interview, the applicant will be provided with a written description of the case study, and will be given time to consider the scenario and make notes. At the interview, the panel will ask a series of questions that assess whether the applicant understands the role of the auditor, how they would apply auditing principles in the case study, and whether they would be competent in the auditor's role. The panel will also seek to establish that the applicant's professional behaviour to date indicates they will be able to comply with the auditor's code of professional conduct set out in Module 4 of the *Queensland auditor handbook for contaminated land*.

The interview is also an opportunity for the applicant to demonstrate their ability to:

- identify and deal effectively and efficiently with a variety of issues during an audit
- apply Queensland legislation, including subordinate legislation and guidelines relevant to being able to perform an auditor functions for contaminated land
- apply knowledge of the requirements that must be met during different stages of contaminated land assessment, management and/or remediation
- communicate clearly and with influence
- successfully deal with difficult clients or circumstances.

The panel has some flexibility in how they conduct the interview to achieve the main purpose of evaluating the applicant's ability to be an auditor.

DES will write to the prospective applicant to tell them whether or not they have successfully completed the examination and interview.

As previously mentioned, the results of the examination and interview will be an important matter for the chief executive to consider when deciding whether to approve a first-time application. However, there are other considerations, and the chief executive is not bound by the examination results or the panel's report.

7 Appeals against refusal of an auditor's application or conditions on the approval

Decisions under the *Environmental Protection Act 1994*

If an application is refused, and the person involved is dissatisfied, there is a procedure that can be followed to have the decision reviewed and, if needed, appealed. That is because the decision to approve or refuse an *Application for approval as an auditor for contaminated land* under section 571(1)(c) of the EP Act is an *original decision* that is listed in Part 2 of Schedule 2 of the EP Act, and an original decision listed in that part can be appealed in the Planning and Environmental Court.

Firstly, the dissatisfied person should apply for a review of the original decision under s. 521 of the EP Act. That section of the Act describes how the application for a review must be made.

If the person is still dissatisfied after the review, they can appeal against the decision to the Planning and Environmental Court. The EP Act, ss. 531–539, describes how to appeal the decision.

Similarly, if an application is granted under s. 571(1)(b) of the EP Act, but the auditor is dissatisfied with the conditions that are imposed on the approval, they may follow the same review and appeal process. That is because the decision under s. 571(1)(b) of the EP Act to approve the application subject to conditions is also an original decision that can be appealed in the Planning and Environmental Court.

Decisions under the *Mutual Recognition (Queensland) Act 1992*

If an applicant for mutual recognition is dissatisfied with a decision to refuse an auditor's registration in Queensland, the person may apply to the Australian Government's Administrative Appeals Tribunal for a review of the decision. The dissatisfied person should contact the Administrative Appeals Tribunal directly about how to request a review.