

Queensland



*Environmental Protection Act 1994*

# **ENVIRONMENTAL PROTECTION REGULATION 1998**

**Reprinted as in force on 24 September 1999  
(includes amendments up to SL No. 208 of 1999)**

**Reprint No. 1C**

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This regulation is reprinted as at 24 September 1999. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in the reprint, including table of corrected minor errors.**

# Queensland



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# ENVIRONMENTAL PROTECTION REGULATION 1998

[as amended by all amendments that commenced on or before 24 September 1999]

## PART 1—PRELIMINARY

### Short title

1. This regulation may be cited as the *Environmental Protection Regulation 1998*.

### Commencement

- 2.(1) Part 5, division 5 commences on 1 July 1998.
- (2) Schedule 1, items 38 and 39, commence on 1 January 2000.
- (3) The remaining provisions commence on 1 March 1998.

### Definitions—dictionary

3. The dictionary in schedule 9 defines particular words used in this regulation.

## PART 2—ENVIRONMENTALLY RELEVANT ACTIVITIES

### Levels 1 and 2 environmentally relevant activities

4.(1) An activity mentioned in schedule 1, column 1, is an environmentally relevant activity of the level set out opposite the activity in schedule 1, column 2.

(2) However, an activity lawfully carried out under a local law in a detached house or in a separate building within the curtilage of a detached house by 1 or more of the permanent residents of the house is not an environmentally relevant activity.

(3) Despite subsection (1), an activity mentioned in schedule 1, items 16, 24, 26, 31, 35, 43, 45, 52, 59, 68, 77, 79 and 80, is a level 1 environmentally relevant activity until 30 June 1998.

### **Approval required to carry out level 2 environmentally relevant activity**

**5.(1)** A person must not carry out a level 2 environmentally relevant activity without a level 2 approval.

Maximum penalty—165 penalty units.

(2) This section does not apply if—

- (a) the activity is carried out under a single environmental authority issued under section 61<sup>1</sup> of the Act; or
- (b) the person has a development approval for carrying out the activity.

### **New approval required to carry out level 2 environmentally relevant activity if significant change in way activity is carried out**

**6.(1)** This section applies if—

- (a) the holder of an approval (other than an approval to explore for or mine minerals) proposes to carry out works for the construction or alteration of a building or structure, or for the installation or alteration of plant or equipment, for carrying out the

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<sup>1</sup> On application for an environmental authority to carry out different activities, the administering authority may, under section 61 of the Act, issue a single environmental authority for the activities. Under section 46(1) of the Act, the administering authority may issue an environmental authority subject to the relevant conditions it considers necessary or desirable, including, relevant conditions relating to any activity carried out by the licensee as part of carrying out an environmentally relevant activity.

environmentally relevant activity concerned; and

- (b) the construction, alteration or installation will result in an increase of 10% or more in the release of contaminant into the environment under the approval.

(2) The person must not carry out the works without an approval to carry out the activity on the basis of the increased quantity of contaminant to be released into the environment.

Maximum penalty—100 penalty units.

### **Environmentally relevant activity—waste disposal**

**6A.** A person who carries out the environmentally relevant activity of operating a facility mentioned in schedule 1, item 75(a) must ensure the limited regulated waste received at the facility in a year is not more than 10% of the waste received at the facility in the year.

Maximum penalty—50 penalty units.

## **PART 3—OZONE DEPLETING SUBSTANCES**

### *Division 1—Controlled articles*

#### **Responsibilities of owner or person in possession of controlled article**

**7.(1)** A person who owns, or has possession of, a controlled article must—

- (a) operate and maintain the article in the way required by the applicable industry code of practice for carrying out that activity; and
- (b) engage only a qualified person to install, commission, service or decommission the article.

Maximum penalty—50 penalty units.

(2) Subsection (1)(b) does not apply if the article—

- (a) uses a controlled substance as a solvent for cleaning or degreasing; or
- (b) is sterilisation equipment.

### **Labelling by manufacturers and importers**

**8.(1)** A manufacturer or importer of a controlled article must attach a label that complies with subsection (2) to the article in a way that the label is visible to a person about to work on the article.

Maximum penalty—50 penalty units.

**(2)** The label must—

- (a) specify the controlled substances contained or used in the article; and
- (b) be legible; and
- (c) contrast in colour with the article; and
- (d) be capable of enduring for the life of the article.

### **Labelling on charging of motor vehicle airconditioning equipment with refrigerant**

**9.(1)** A person who charges motor vehicle airconditioning equipment with refrigerant must attach a label that complies with subsection (2) to—

- (a) the equipment; or
- (b) a prominent place on the vehicle to which the equipment is fitted.

Maximum penalty—50 penalty units.

**(2)** The label must state—

- (a) the person's name; and
- (b) the date of the charging; and
- (c) the date of the last replacement of the filter; and
- (d) the refrigerant and lubricant type used.

**Labelling on charging of certain airconditioning or refrigeration equipment with refrigerant**

**10.(1)** A person who charges any of the following airconditioning or refrigeration equipment with a CFC or HCFC must attach a label that complies with subsection (2) to the equipment—

- (a) commercial or industrial airconditioning equipment;
- (b) commercial or industrial refrigeration equipment;
- (c) domestic airconditioning equipment;
- (d) domestic refrigeration equipment.

Maximum penalty—50 penalty units.

**(2)** The label must state—

- (a) the person's name; and
- (b) the date of the charging; and
- (c) the refrigerant and lubricant type used.

***Division 2—Controlled substances******Subdivision 1—Restriction on dealing with controlled substances*****Release of controlled substance**

**11.(1)** A person must not, in carrying out a schedule 3 activity, release a controlled substance into the environment from any equipment mentioned in the schedule for the activity or from any storage vessel.

Maximum penalty—50 penalty units.

**(2)** However, a person does not commit an offence against subsection (1) if the substance is released in the way required by the applicable industry code of practice for carrying out the activity.

**Restriction on sale or buying of controlled substances**

**12.(1)** A person who sells a controlled substance must comply with

schedule 2, section 1.

Maximum penalty—50 penalty units.

(2) A person who buys a controlled substance must comply with schedule 2, section 2.

Maximum penalty—50 penalty units.

### **Restriction on handling or use of controlled substances**

**13.** A person must not engage in a schedule 3 activity involving the handling or use of a controlled substance, unless the person—

- (a) is a qualified person for the activity; or
- (b) engages in the activity under the direct supervision of a qualified person for the activity.

Maximum penalty—50 penalty units.

### **Duty to recover and reclaim controlled substances**

**14.(1)** This section applies to a person who engages in a schedule 3 activity that results in, or might result in, the release of a controlled substance into the environment.

(2) The person must ensure any controlled substance released in carrying out the activity is recovered and reclaimed in the way required by the applicable industry code of practice for carrying out the activity and schedule 2, sections 3 and 4.

Maximum penalty—50 penalty units.

### **Disposal of a controlled substance**

**15.(1)** If a person, other than a seller of controlled substances, comes into possession of a controlled substance (other than a halon)—

- (a) that is contaminated; or
- (b) the use of which is prohibited under this regulation;

the person must deliver the substance to a person who sells controlled substances.



Maximum penalty—50 penalty units.

(2) A seller of controlled substances who comes into possession of a controlled substance mentioned in subsection (1) must ask the chief executive to approve the disposal or destruction of the substance.

Maximum penalty—50 penalty units.

(3) The chief executive must give written notice to the person—

(a) directing the way the substance is to be disposed of or destroyed;  
and

(b) of the day for complying with the notice.

(4) The person must comply with the notice.

Maximum penalty—50 penalty units.

### *Subdivision 2—Equipment using controlled substances*

#### **Procedure for operation and maintenance of equipment**

16.(1) A person who owns bulk storage equipment used in carrying out a schedule 3 activity must maintain the equipment in the way required by the applicable industry code of practice for carrying out the activity.

Maximum penalty—50 penalty units.

(2) A person who operates bulk storage equipment in carrying out a schedule 3 activity, must operate the equipment in the way required by the applicable industry code of practice for carrying out the activity.

Maximum penalty—50 penalty units.

(3) In this section—

**“bulk storage equipment”** means equipment used in the handling or transfer of a controlled substance to or from a bulk storage vessel having a capacity of more than 100 kg.

#### **Solvent cleaning or degreasing**

17. A person who operates or services equipment that uses a controlled substance as a solvent for cleaning or degreasing must—

- (a) in operating or servicing the equipment, comply with the applicable industry code of practice for carrying out that activity; and
- (b) ensure all controlled substances are recovered and reclaimed in the way required by schedule 2, section 4.

Maximum penalty—50 penalty units.

### **Dry cleaning equipment**

**18.** A person who operates or services dry cleaning equipment that uses a controlled substance in its operation must, in operating or servicing the equipment, comply with the applicable industry code of practice for carrying out that activity.

Maximum penalty—50 penalty units.

### **Sterilisation equipment**

**19.(1)** A person must not install in premises sterilisation equipment that contains or uses a controlled substance.

Maximum penalty—50 penalty units.

**(2)** A person who operates or services sterilisation equipment that uses a controlled substance in its operation must, in operating or servicing the equipment, comply with the applicable industry code of practice for carrying out that activity.

Maximum penalty—50 penalty units.

## ***Subdivision 3—Products containing controlled substances***

### **Aerosols containing controlled substances**

**20.(1)** A person must not manufacture or sell an aerosol product containing a controlled substance unless the person holds a current exemption granted under the *Ozone Protection Act 1989* (Cwlth), section 40.

Maximum penalty—50 penalty units.

(2) Subsection (1) does not apply to the sale of an aerosol product that contains methyl chloroform or a HCFC as the only controlled substance.

### ***Division 3—Refrigeration and airconditioning***

#### **Refrigeration and airconditioning**

**21.** A person who manufactures, installs or services any of the following equipment that uses a controlled substance must, in manufacturing, installing or servicing the equipment, comply with the applicable industry code of practice for carrying out that activity—

- (a) commercial or industrial refrigeration equipment;
- (b) commercial or industrial airconditioning equipment;
- (c) motor vehicle airconditioning equipment;
- (d) domestic refrigeration equipment;
- (e) domestic airconditioning equipment.

Maximum penalty—50 penalty units.

#### **Installation of refrigeration or airconditioning equipment**

**22.(1)** A person must not install in premises commercial or industrial refrigeration or airconditioning equipment that contains or uses a CFC.

Maximum penalty—50 penalty units.

(2) However, subsection (1) does not apply to—

- (a) the installation of equipment that merely involves relocating the equipment in premises; or
- (b) the installation of equipment in premises immediately after its removal from other premises if both premises are owned or occupied by the same person.

***Division 4—Foams*****Manufacture of plastic foams**

**23.** A person must not use a CFC in the manufacture of a plastic foam unless the person holds a current exemption under the *Ozone Protection Act 1989* (Cwlth), section 40.

Maximum penalty—50 penalty units.

***Division 5—Fixed halon and HCFC systems******Subdivision 1—Fixed halon systems*****Manufacture etc. of fixed halon system**

**24.** A person who manufactures, installs, services, maintains or decommissions a fixed halon system must comply with the applicable industry code of practice for carrying out that activity.

Maximum penalty—50 penalty units.

**Restriction on installing, keeping and refilling of fixed halon system**

**25.(1)** A person must not, without a certificate of approval—

- (a) install a fixed halon system in premises or a vehicle; or
- (b) being the owner of premises or a vehicle, allow a fixed halon system to remain in the premises or vehicle; or
- (c) refill a fixed halon system.

Maximum penalty—50 penalty units.

**(2)** An application for the approval must be made to the chief executive in the approved form.

**(3)** The chief executive must consider each application and must either grant or refuse it.

**(4)** If the chief executive is satisfied the essential use criteria mentioned in

schedule 4 are satisfied, the chief executive must grant the application and issue a certificate of approval.

(5) The chief executive may impose reasonable conditions on the approval.

(6) If the chief executive imposes conditions on the approval, the chief executive must—

- (a) endorse the conditions on the certificate of approval; and
- (b) give the applicant written notice that the applicant may apply for a review of, or appeal against, the chief executive's decision to impose the conditions within 14 days after receipt of the notice.

(7) If the chief executive refuses the application, the chief executive must promptly give written notice to the applicant—

- (a) stating the application is refused and the reasons for the refusal; and
- (b) that the applicant may apply for a review of, or appeal against, the chief executive's decision to refuse the application within 14 days after receipt of the notice.

### **Testing fixed halon systems**

**26.** A person must not test a fixed halon system in a way that results in, or might result in, the release of a controlled substance into the environment.

Maximum penalty—50 penalty units.

### **Release of controlled substances**

**27.** The owner or occupier of premises or a vehicle in which a fixed halon system is installed who becomes aware of a release of a controlled substance from the system must, within 30 days after the release, give written notice to the chief executive of the release and the reason for the release.

Maximum penalty—50 penalty units.

***Subdivision 2—Fixed HCFC systems*****Testing of fixed HCFC systems**

**28.** A person must not test a fixed HCFC system in a way that results in, or might result in, the release of a HCFC into the environment.

Maximum penalty—50 penalty units.

***Division 6—Portable halon fire extinguishers*****Restriction on sale or refilling of portable halon fire extinguishers**

**29.(1)** A person must not sell a portable halon fire extinguisher to someone else (the “**customer**”) unless the customer produces to the person a certificate of approval to buy, and have possession of, a portable halon fire extinguisher.

Maximum penalty—50 penalty units.

**(2)** A person must not refill a portable halon fire extinguisher for someone else (also the “**customer**”) unless the customer produces to the person a certificate of approval to have the portable halon fire extinguisher refilled.

Maximum penalty—50 penalty units.

**Approval to buy or refill a portable halon fire extinguisher**

**30.(1)** An application for an approval to buy, and have possession of, a portable halon fire extinguisher or have a portable halon fire extinguisher refilled, must be made to the chief executive in the approved form.

**(2)** The chief executive must consider each application and must either grant or refuse it.

**(3)** If the chief executive is satisfied the essential use criteria mentioned in schedule 4 are satisfied, the chief executive must grant the application and issue a certificate of approval.

**(4)** The chief executive may impose reasonable conditions on the approval.

(5) If the chief executive imposes conditions on the approval, the chief executive must—

- (a) endorse the conditions on the certificate of approval; and
- (b) give the applicant written notice that the applicant may apply for a review of, or appeal against, the chief executive's decision to impose the conditions within 14 days after receipt of the notice.

(6) If the application is refused, the chief executive must promptly give written notice to the applicant—

- (a) of the refusal and the reasons for the refusal; and
- (b) that the applicant may apply for a review of, or appeal against, the chief executive's decision to refuse the application within 14 days after receipt of the notice.

### **Possession of portable halon fire extinguishers**

31. A person must not have a portable halon fire extinguisher in the person's possession without a certificate of approval for the extinguisher.

Maximum penalty—50 penalty units.

## *Division 7—General*

### *Subdivision 1—Fire extinguishers and refrigerant cylinders*

#### **Discharge of HCFC fire extinguishers**

32. A person must not discharge a fixed HCFC system or a portable HCFC fire extinguisher into the environment other than to extinguish a fire in an emergency.

Maximum penalty—50 penalty units.

#### **Discharge of halon fire extinguishers**

33. A person must not discharge a fixed halon system or a portable halon fire extinguisher into the environment other than to extinguish a fire in an

emergency.

Maximum penalty—50 penalty units.

### **Aerosol or non-refillable fire extinguishers**

**34.** A person must not sell an aerosol fire extinguisher or a non-refillable fire extinguisher that uses a controlled substance other than HCFC.

Maximum penalty—50 penalty units.

### **Non-refillable refrigerant cylinders**

**35.** A person must not—

- (a) manufacture or bring into Queensland a non-refillable cylinder containing a refrigerant that is a CFC; or
- (b) commission a non-refillable cylinder using a refrigerant that is a CFC.

Maximum penalty—50 penalty units.

### *Subdivision 2—Cancellation of certificates of approval*

#### **Cancellation of certificate of approval**

**36.** The chief executive may cancel a certificate of approval on the following grounds—

- (a) the certificate holder has contravened a condition of the certificate;
- (b) the certificate holder has been convicted of an offence against the Act or this regulation in relation to the activity to which the certificate relates;
- (c) the certificate was issued because of a materially false or misleading representation or declaration (made either orally or in writing);
- (d) the certificate holder has ceased to carry out the activity to which the certificate relates.



**Procedure for cancellation**

**37.(1)** If the chief executive considers a ground exists to cancel a certificate of approval (the “**proposed action**”), the chief executive must give the certificate holder written notice that—

- (a) states the proposed action; and
- (b) states the grounds for the proposed action; and
- (c) outlines the facts and circumstances forming the basis for the grounds; and
- (d) invites the holder, within a stated time of at least 30 days, to make written representations to show why the proposed action should not be taken.

**(2)** If, after considering all written representations made within the stated time, the chief executive still considers a ground to take the proposed action exists, the chief executive may cancel the certificate.

**(3)** The chief executive must inform the certificate holder of the decision by written notice.

**(4)** The notice must be given within 10 days after the chief executive makes a decision.

**(5)** If the chief executive decides to cancel the certificate, the notice must state—

- (a) the reasons for the decision; and
- (b) that the certificate holder may apply for a review of, or appeal against, the decision within 14 days after receipt of the notice.

**(6)** The decision takes effect on the later of—

- (a) the day when the notice is given to the certificate holder; or
- (b) the day of effect stated in the notice.

**(7)** However, if the certificate is cancelled because of the conviction of the holder for an offence—

- (a) the cancellation does not take effect until—
  - (i) the end of the time to appeal against the conviction; and
  - (ii) if the appeal is made against the conviction—the appeal is

finally decided; and

- (b) the cancellation has no effect if the conviction is quashed on appeal.

### **Return of cancelled certificate**

**38.(1)** If the chief executive cancels a person's certificate of approval, the chief executive may give the person written notice requiring the person to return the certificate within a stated period of not less than 14 days.

(2) The person must comply with the notice, unless the person has a reasonable excuse not to comply with it.

Maximum penalty—50 penalty units.

## **PART 3A—NATIONAL POLLUTANT INVENTORY**

### *Division 1—Preliminary*

#### *Subdivision 1—General*

### **Purpose of pt 3A**

**38A.** The purpose of this part is to give effect to, and enforce compliance with, the National Environment Protection (National Pollutant Inventory) Measure made under the *National Environment Protection Council Act 1994* (Cwlth), section 14.

#### *Subdivision 2—Interpretation*

### **Definitions for pt 3A**

**38B.** In this part—

“**emission**”, for a substance, see section 38C.

**“emission data”**, for a substance, means an estimate of the amount of the substance emitted in a reporting period that identifies—

- (a) the medium to which the substance was discharged, including, for example, air, land and water; and
- (b) the estimation technique used.

**“estimation technique”** means a method of estimating the amount of a substance emitted to the environment.

**“facility”** see section 38D.

**“industry handbook”**, for a facility, means an industry handbook published under the NPIM.<sup>2</sup>

**“NPIM”** means the National Environment Protection (National Pollutant Inventory) Measure made under the *National Environment Protection Council Act 1994* (Cwlth), section 14.

**“occupier”**, of a facility, means the person in occupation or control of the facility, whether or not the person owns the facility.

**“offshore facility”** see section 38E.

**“published”** means published by the Commonwealth.

**“reporting facility”** means a facility the occupier of which is required to give information to the chief executive under section 38H.

**“reporting period”**, for a facility, means the facility’s reporting period under section 38J.

**“reporting requirement”**, for an occupier, means the requirement for the occupier to give information to the chief executive under section 38H(3).

**“substance”** see section 38F.

### Meaning of “emission” of a substance

**38C.(1) “Emission”** of a substance is the substance’s emission to the environment—

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<sup>2</sup> Publication of the handbooks is notified in the Commonwealth of Australia Gazette.

(a) whether in pure form or contained in other matter; and

(b) whether as a gas, liquid or solid.

(2) Emission of a substance includes its emission from a landfill, sewage treatment plant or tailings dam.

(3) However, emission of a substance does not include its—

(a) release into a landfill, sewer or tailings dam; or

(b) removal from a facility for destroying, treating, recycling, reprocessing, recovering or purifying the substance.

### **Meaning of “facility”**

**38D.(1)** A “facility” is—

(a) a building or land from which a substance may be emitted; or

(b) an appliance, equipment item, implement, machine, plant item, tool or other item used for an activity carried out at the facility.

(2) A facility includes an offshore facility.

### **Meaning of “offshore facility”**

**38E.(1)** An “offshore facility” is a structure or vessel located in an adjacent area for the State under the *Petroleum (Submerged Lands) Act 1967* (Cwlth) that—

(a) is used or constructed for recovering petroleum, including natural gas; or

(b) carries, contains or includes equipment for drilling, or carrying out another operation for a well, from the structure or vessel.

(2) An offshore facility includes a combination of 2 or more related offshore facilities.

(3) However, an offshore facility does not include a vessel engaged merely in site surveys or investigations to a seabed depth of not more than 100 metres.

**Meaning of “substance”**

**38F.(1)** For the period 1 July 1998 to 30 June 2000, a “**substance**” is a substance mentioned in the NPIM, schedule A, table 1, column 1.

**(2)** From 1 July 2000, a “**substance**” is a substance mentioned in the NPIM, schedule A, table 2, column 1 or, if the column is amended after a review mentioned in the NPIM, section 33, the column as amended.

**General**

**38G.** Unless this regulation provides otherwise, expressions used in it that are defined under the NPIM have the meaning given to them under the NPIM.

*Division 2—Collecting data for the national pollutant inventory***Occupiers of reporting facilities to give information**

**38H.(1)** This section applies to an occupier of a facility that, under section 38I, exceeds the reporting threshold for a substance in the facility’s reporting period.

**(2)** However, this section applies only if an industry handbook for the facility is published at least 3 months before the period ends.

**(3)** Subject to sections 38O and 38Q,<sup>3</sup> the occupier must give the following information to the chief executive within 3 months after the period ends—

- (a) the occupier’s—
  - (i) name or any other relevant identification, including any name changes in the preceding financial year; and
  - (ii) Australian Company Number (ACN), if applicable; and
  - (iii) postal address; and
  - (iv) contact phone number for public enquiries;

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<sup>3</sup> Sections 38O (Exemption on ground of national security) and 38P (Claiming exemption on ground of commercial confidentiality)

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- (b) the facility's—
  - (i) street address; and
  - (ii) main activity;
- (c) for each substance for which the reporting threshold is exceeded in the period—
  - (i) the substance's name and chemical abstract series registered number, if any; and
  - (ii) emission data;
- (d) any further information required to assess the integrity of the emission data and stated in the industry handbook for the facility or reasonably requested, by written notice given to the occupier, by the chief executive.

**(4)** The notice must state—

- (a) why the further information is required; and
- (b) that the applicant may, within 14 days after the notice is given, apply for a review of, or appeal against, the decision to issue the notice.

**(5)** The information must be accompanied by a statement, signed by or for the occupier, that the occupier exercised care in obtaining and giving the information.

**(6)** In this section—

**“facility”** does not include the following—

- (a) a mobile emission source, including, for example, an aircraft in flight or a ship at sea, operating outside the boundaries of a fixed facility;
- (b) a petroleum retailing facility, or part of a petroleum retailing facility, engaged in selling fuel by retail;
- (c) a dry-cleaning facility employing less than 20 persons;
- (d) a scrap metal handling facility trading in metal and not engaged in battery reprocessing or metal smelting;
- (e) a facility, or part of a facility, engaged solely in agricultural production, unless it is engaged in—

- (i) processing agricultural produce; or
- (ii) intensive livestock production, including, for example a cattle feedlot or piggery.

*Examples of 'agricultural production' for paragraph (e)—*

Aquaculture, horticulture, livestock raising and tree growing.

**“table 1 substance”** means a substance mentioned in the NPIM, schedule A, table 1.

**“table 2 substance”** means a substance mentioned in the NPIM, schedule A, table 2.

### **Exceeding reporting threshold**

**38I.(1)** The facility exceeds the reporting threshold for a substance in its reporting period if—

- (a) for a category 1 substance, its activities involve using 10 t or more of the substance in the period; or
- (b) for a category 1a substance—
  - (i) its activities involve using 25 t or more of the substance in the period; and
  - (ii) for a bulk storage facility, its design capacity also exceeds 25 kt; or
- (c) for a category 2a substance, its activities involve burning—
  - (i) 400 t or more of fuel or waste in the period; or
  - (ii) 1 t or more of fuel or waste in any hour in the period; or
- (d) for a category 2b substance—
  - (i) its activities involve—
    - (A) burning 2 000 t or more of fuel or waste in the period; or
    - (B) consuming 60 000 MW hours or more of energy in the period; or
  - (ii) its maximum potential power consumption at any time in the period is rated at 20 MW or more; or

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- (e) for a category 3 substance, its activities involve emitting to water, other than groundwater, the scheduled amount, or more, of the substance in the period.

(2) Subsection (1)(a) or (b) does not apply to using a substance—

- (a) already permanently incorporated in an article in a way not leading to its emission to the environment; or
- (b) if it is an article for sale or use and is handled in a way not leading to its emission to the environment.

*Example for subsection (2)(a)—*

An alloy component of metal in a machine.

(3) In working out the amount of a substance used for subsection (1)(a) or (b), the occupier is not required to include an amount that is in a proprietary mixture or any other material unless—

- (a) for a proprietary mixture—the substance is specified in a material safety data sheet describing the substance’s properties and use, or the manufacturer’s advice; and
- (b) for any other material—the occupier could reasonably be expected to know the substance is in the material.

(4) In this section—

“**article**” means a manufactured item formed to a specific shape or design during manufacture.

“**category 1 substance**” means a substance for which a threshold category of 1 is stated in the NPIM, schedule A, table 1 or 2, column 3.

“**category 1a substance**” means a substance for which a threshold category of 1a is stated in the NPIM, schedule A, table 1 or 2, column 3.

“**category 2a substance**” means a substance for which a threshold category of 2a is stated in the NPIM, schedule A, table 1 or 2, column 3.

“**category 2b substance**” means a substance for which a threshold category of 2b is stated in the NPIM, schedule A, table 1 or 2, column 3.

“**category 3 substance**” means a substance for which a threshold category



of 3 is stated in the NPIM, schedule A, table 1 or 2, column 3.

**“scheduled amount”**, of a substance, means the amount mentioned in the NPIM, schedule A, table 1 or 2, column 4, for the substance.

**“using”**, a substance, means handling, manufacturing, importing or processing it or producing it as a waste or by-product of an activity or process.

### **Reporting period for facility**

**38J.(1)** The reporting period for the facility is—

- (a) a financial year; or
- (b) if the chief executive decides the occupier is required, under section 68 of the Act, to give the chief executive data similar to emission data on the basis of a different annual reporting period, the different annual reporting period.

**(2)** The chief executive may make a decision under subsection (1)(b) on the chief executive’s own initiative or on a written application made to the chief executive by the occupier.

**(3)** Immediately after making the decision, the chief executive must give the occupier written notice of it.

**(4)** If the chief executive refuses the occupier’s application, the notice must state—

- (a) the application is refused and the reasons for the refusal; and
- (b) that the applicant may, within 14 days after the notice is given, apply for a review of, or appeal against, the chief executive’s decision to refuse the application.

**(5)** If the chief executive fails to give the occupier a notice about the chief executive’s decision on an application made by the occupier under subsection (2) within 40 days after the application is made, the failure is taken to be a decision by the chief executive to refuse the application at the end of the 40 days.

**(6)** Despite subsection (1), the first reporting period for a new reporting facility is the period—

- (a) starting on the first day of the third month after the industry

handbook for the facility is published; and

- (b) ending at the end of—
  - (i) the financial year in which the handbook is published; or
  - (ii) if subsection (1)(b) applies to the facility, the annual reporting period mentioned in the subsection.

(7) In this section—

**“new reporting facility”** means a facility for which an industry handbook is published—

- (a) after 1 July 1998; and
- (b) at least 3 months before the end of the facility’s reporting period mentioned in subsection (1).

### **Estimation technique for emission data**

**38K.** The occupier of a facility must use 1 of the following estimation techniques for emission data—

- (a) the estimation technique set out in the industry handbook for the facility;
- (b) another estimation technique approved by the chief executive for the facility.

### **Application for approval of estimation technique**

**38L.(1)** The occupier of a facility may apply to the chief executive for approval of an estimation technique for emission data.

(2) The application must be in writing, setting out the technique for which approval is sought and giving the information necessary to enable the chief executive to decide the application.

(3) The chief executive may, by written notice given to the occupier, ask the occupier to give to the chief executive, in the reasonable period stated in the notice, further relevant information to enable the chief executive to decide the application.

**Approving estimation technique**

**38M.(1)** The chief executive may approve the estimation technique, or approve it subject to a modification decided by the chief executive.

**(2)** In deciding whether to approve the estimation technique, or approve it subject to a modification, the chief executive must have regard to the accuracy of the technique compared with the accuracy of estimation techniques in the handbook.

**(3)** The chief executive may refuse to approve the technique if the chief executive has given the occupier a notice under section 38L(3) asking for further information and the occupier does not comply with the request in the period stated in the notice.

**(4)** Immediately after making a decision under this section, the chief executive must give the occupier written notice of the decision.

**(5)** If the chief executive decides to approve the technique subject to a modification, the notice must state the modification.

**(6)** If the chief executive refuses to approve the technique, or approves it subject to a modification, the notice must state—

- (a) the approval is refused or given subject to a stated modification to the technique and the reasons for the refusal or modification; and
- (b) that the occupier may, within 14 days after the notice is given, apply for a review of, or appeal against, the chief executive's decision to refuse the approval or give it subject to the modification.

**(7)** Subsection (8) applies if the chief executive fails to give the occupier a notice about the chief executive's decision on an application made by the occupier under section 38L—

- (a) within 40 days after the application is made; or
- (b) if the occupier gave the chief executive further information under section 38L(3)—within 40 days after receiving the further information.

**(8)** The chief executive's failure to give the notice is taken to be a decision by the chief executive to refuse to approve the technique at the end of the relevant 40 days.

**Occupier must keep particular data for 3 years**

**38N.(1)** The occupier of a facility must keep the data used in deciding if the reporting threshold for a substance is exceeded in the reporting period for the occupier's facility for 3 years after the reporting period ends.

Maximum penalty—20 penalty units.

**(2)** The occupier must keep the data used in calculating emission data given to the chief executive for 3 years after the emission data is required to be given.

Maximum penalty—20 penalty units.

**Exemption on ground of national security**

**38O.(1)** This section applies if the occupier of a facility gives the chief executive written evidence that—

- (a) the occupier has made a claim to the Commonwealth under the NPIM that information required to be given by the occupier under section 38H(3) should be treated as confidential on the grounds of national security; and
- (b) the claim—
  - (i) has been granted; or
  - (ii) has not been assessed before the occupier is required to give the information to the chief executive.

**(2)** Subject to subsection (3), the occupier is exempted from giving the information to the chief executive.

**(3)** If the exemption is given under subsection (1)(b)(ii) and the Commonwealth refuses the claim after the occupier is required to give the information to the chief executive, the occupier must give the information to the chief executive within 3 months after receiving notice of the Commonwealth's decision to refuse the claim.

**Claiming exemption on ground of commercial confidentiality**

**38P.(1)** The occupier of a facility may, by written notice given to the chief executive, claim information required to be given by the occupier

under section 38H(3) should be treated as confidential on the grounds of commercial confidentiality.

(2) The notice must contain the information necessary to enable the chief executive to decide the claim.

(3) The chief executive may, by written notice given to the occupier, ask the occupier to give the chief executive, in the reasonable period stated in the notice, further relevant information to enable the chief executive to decide the claim.

### **Deciding claim for exemption on ground of commercial confidentiality**

**38Q.(1)** The chief executive may grant the claim only if the chief executive reasonably believes the information would be exempt matter under the *Freedom of Information Act 1992*, section 45.<sup>4</sup>

(2) If the chief executive grants the claim, the occupier is exempted from giving the information to the chief executive.

(3) The chief executive may refuse to grant the claim if the chief executive has given the occupier a notice under section 38O(3) asking for further information and the occupier does not comply with the request in the period stated in the notice.

(4) The chief executive must give the occupier written notice of the chief executive's decision on the claim.

(5) If the chief executive refuses to grant the claim, the notice must state—

- (a) the claim is refused and the reasons for the refusal; and
- (b) that the occupier may, within 14 days after the notice is given, apply for a review of, or appeal against, the chief executive's decision on the claim.

(6) Subsection (7) applies if the chief executive fails to give the occupier a notice about the chief executive's decision on the claim—

- (a) within 60 days after the claim is made; or

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<sup>4</sup> *Freedom of Information Act 1992*, section 45 (Matter relating to trade secrets, business affairs and research)

- (b) if the occupier gave the chief executive further information under section 38P(3)—within 60 days after receiving the further information.

(7) The chief executive's failure to give the notice is taken to be a decision by the chief executive to refuse to grant the claim at the end of the relevant 60 days.

### *Division 3—Giving information to Commonwealth*

#### **Chief executive to give information to Commonwealth**

**38R.(1)** This section applies to information given to the chief executive under section 38H by 30 September in a year.

(2) The chief executive must ensure the information is given to the Commonwealth under the NPIM by 30 November in the year.

### *Division 4—Enforcement provisions*

#### **Noncompliance with reporting requirement**

**38S.(1)** The occupier of a reporting facility must comply with the occupier's reporting requirement, unless the occupier has a reasonable excuse for not complying with it.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply to the occupier's reporting requirement—

- (a) for the period 1 July 1998 to 30 June 2000; and
- (b) for substances mentioned in the NPIM, schedule A, table 2 and not mentioned in that schedule, table 1—for the period 1 July 2000 to 30 June 2001.

#### **Minister may name occupier in report to council**

**38T.(1)** This section applies to the occupier of a facility who the Minister

is satisfied has failed to comply with section 38S.

(2) If the Minister is satisfied it is appropriate in the circumstances, the Minister may, in the Minister's report to the council under the *National Environment Protection Council (Queensland) Act 1994*, section 23, name the occupier as a person who the Minister is satisfied has failed to comply with section 38S.

(3) In deciding whether it is appropriate in the circumstances to name an occupier in the report, the Minister must have regard to the following relevant matters—

- (a) any mitigating or aggravating circumstances;
- (b) whether the occupier has previously failed to comply with the section and any action taken against the occupier for the noncompliance;
- (c) whether naming the occupier would be unreasonably harsh or oppressive.

(4) Before naming the occupier in the report, the Minister must give the occupier a written notice stating the following—

- (a) that the Minister proposes naming the occupier in the report as a person who the Minister is satisfied has failed to comply with section 38S;
- (b) the grounds for the proposed action;
- (c) that the occupier may make, within a stated period (the “**show cause period**”) written representations to show why the proposed action should not be taken.

(5) The show cause period must end not less than 28 days after the notice is given to the occupier.

(6) The Minister must consider the written representations, if any, made by the occupier during the show cause period.

(7) If, after considering the representations, the Minister still believes it is appropriate to name the person in the report, the Minister may do so.

(8) The Minister must give the occupier written notice of the decision stating the following—

- (a) that the Minister has decided to name the occupier in the report as

a person who the Minister is satisfied has failed to comply with section 38S, and the reasons for the decision;

- (b) that the occupier may, within 30 days after receiving the notice, appeal against the Minister's decision to name the occupier in the report.

(9) In this section—

**“council”** means the National Environment Protection Council under the *National Environment Protection Council (Queensland) Act 1994*.

### *Division 5—Miscellaneous*

#### **Industry handbooks**

**38U.** A person may, free of charge, inspect or obtain a copy of an industry handbook at the department's head office<sup>5</sup> when it is open to the public.

## **PART 4—ADMINISTRATION**

### *Division 1—Devolutions*

#### **Devolution of powers—environmentally relevant activities**

**39.(1)** The administration and enforcement of the Act in relation to an environmentally relevant activity mentioned in the following items of schedule 1 are devolved to the local government for the area where the activity is, or is to be, carried out—

- items 4, 11(a), 14, 20(a), 22(a), 23, 24, 25(a) and (b), 26 to 28, 38, 39, 43, 47, 51, 52, 59, 62, 65(a), 68 to 70, 73 and 76(a) and (b).

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<sup>5</sup> The department's head office is at 160 Ann Street, Brisbane.



(2) However, the administration and enforcement of the Act in relation to an activity carried out, or to be carried out, at a place in a local government area is not devolved to the local government for the area if—

- (a) the activity includes carrying out another activity at the same place; and
- (b) the administration and enforcement of the Act for the other activity is not devolved to the local government.

(3) Also, subsection (1) does not apply to the following—

- (a) an activity carried out, or to be carried out, by a local government or the State;
- (b) an itinerant activity carried out, or to be carried out, by a person in more than 1 local government area.

(4) To remove any doubt, it is declared that the administration and enforcement of parts 3 and 3A are not devolved to a local government, regardless of whether an activity dealt with in the parts is an environmentally relevant activity.

### **Devolution of powers—other matters**

**40.** The administration and enforcement of the Act in relation to an activity that—

- (a) would, apart from section 4(2), be an environmentally relevant activity; and
- (b) would have been devolved to local government under section 39;

are devolved to the local government for the area where the activity is carried out.

### **Devolution of Act includes statutory instruments under Act**

**40A.** To remove any doubt, it is declared that the devolution, under section 39(1) or section 40, of the administration and enforcement of the Act to a local government in relation to an activity includes the

administration and enforcement of statutory instruments made under the Act in relation to the activity.<sup>6</sup>

### *Division 2—Integrated environmental management systems*

#### **Application of division**

**41.** This division applies if—

- (a) an application is made to carry out an itinerant activity in more than 1 local government area; or
- (b) a single application is made for an environmental authority for different activities to be carried out by the applicant or activities to be carried out by the applicant at different places.<sup>7</sup>

#### **Integrated environmental management system**

**42.(1)** The application must be accompanied by a submission detailing how the applicant proposes to manage the environmental impacts of the carrying out of the activities (the “**integrated environmental management system**”).

**(2)** The integrated environmental management system must address the following matters about the carrying out of the activities—

- (a) the monitoring of releases of contaminants into the environment and an environmental assessment of the releases;
- (b) staff training and awareness of environmental issues;
- (c) the conduct of environmental and energy audits;
- (d) waste prevention, treatment and disposal;
- (e) a program for continuous improvement;

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<sup>6</sup> Under the *Acts Interpretation Act 1954*, section 7 and the *Statutory Instruments Act 1992*, section 14, the reference to ‘the Act’ includes a reference to a statutory instrument under the Act, including, for example, an environmental protection policy.

<sup>7</sup> See section 61 (Single applications and environmental authorities) of the Act.

- (f) reporting arrangements on the effectiveness of the environmental management of the activities.

### **Standard criteria for environmental authority for activities**

**43.** For the definition “standard criteria”, paragraph (j), in schedule 4 of the Act, the integrated environmental management system is a prescribed matter for the environmental authority for the activities.

## ***Division 3—Fees***

### **Fees—general**

**44.(1)** Fees payable under the Act for or in relation to an environmental authority (other than annual licence fees) or development application are in schedule 6.<sup>8</sup>

(2) However, if the local government to which a fee is payable for a matter mentioned in schedule 6, part 1 has made a resolution or local law prescribing a lower fee for the matter, the fee payable is the prescribed fee.

(3) Also, the application fee for an approval in schedule 6, item 1, is not payable for an application to explore for or mine minerals under a mining claim or prospecting permit granted under the *Mineral Resources Act 1989*.

### **Application fee for environmental authority not payable if prior application for development approval made**

**44A.(1)** This section applies if—

- (a) before a person starts carrying out an environmentally relevant activity, the person applies for a development approval for development for the activity; and
- (b) before approval of the development application, the person applies for an environmental authority to carry out the activity.

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<sup>8</sup> Under section 50, application may be made to the administering authority for it to waive, wholly or partially, application and annual licence fees.

(2) The application fee payable under this regulation for the environmental authority is not payable.

### **Fees for contaminated land**

**44B.** The fees payable for contaminated land are in schedule 6, part 2.

### **Refund of fees**

**45.(1)** If an administering authority refuses an application for a licence, the authority must refund to the applicant the annual licence fee component of the application fee paid by the applicant.

(2) The refund must accompany the administering authority's notice of refusal of the application given to the applicant.

### **Annual licence fees for non-devolved activities**

**46.** The annual licence fee for a non-devolved activity is set out opposite the activity in schedule 1, column 3.

### **Annual licence fees for devolved activities**

**47.** The annual licence fee for a devolved activity is—

- (a) if the local government to which the fee is payable has made a resolution or local law prescribing the annual licence fee for the activity—the prescribed fee; or
- (b) if paragraph (a) does not apply—the fee set out opposite the activity in schedule 1, column 3.

### **Annual licence fees for single licences, Act—s 61**

**48.(1)** If an administering authority issues 1 licence for 2 or more environmentally relevant activities, the annual licence fee is the higher or highest of the fees for the activities under the licence.

(2) To remove any doubt, it is declared that subsection (1) applies to devolved and non-devolved activities.

**Application for waiver of application and annual licence fees**

**49.(1)** A person may apply to the administering authority for it to waive, wholly or partially, payment by the person of the licence application fee or annual licence fee for an environmentally relevant activity.

**(2)** The application may only be made—

- (a) for a waiver of an amount of the licence application fee—when the application for the licence is made; or
- (b) for a waiver of an amount of the annual licence fee—when giving an annual return under section 68 of the Act.

**(3)** If the application is made under subsection (2)(a), the annual licence fee component of the application fee is not required to accompany the application.

**(4)** For section 60G(2) of the Act, an application for the waiver of an application fee is a prescribed circumstance.

**(5)** In addition, for section 68(1)(b) of the Act, an application for the waiver of an annual licence fee is a prescribed circumstance.

**Criteria for deciding application for waiver of fees**

**50.(1)** The administering authority may waive payment of an amount of a fee only if it is satisfied—

- (a) payment of the amount would cause the person financial hardship; or
- (b) the person holds a concurrent authority for the activity; or
- (c) the risk of material or serious environmental harm from the activity is significantly smaller than the risk associated with most other activities of its type; or
- (d) the risk of environmental harm or environmental nuisance from the activity is insignificant.

**(2)** In deciding whether to waive payment under subsection (1)(b), the administering authority must consider the extent to which, compared to the *Environmental Protection Act 1994*—

- (a) the activity's effects on environmental values were considered in

deciding whether to issue the concurrent authority; and

- (b) the activity is controlled under the Act under which the concurrent authority was issued.

(3) In deciding whether to waive payment under subsection (1)(c) or (d), the administering authority must consider the following—

- (a) the matters it must consider if it were deciding whether to grant an application for the licence;<sup>9</sup>
- (b) any relevant approved code of practice;
- (c) any relevant cleaner production techniques;
- (d) any relevant waste minimisation practices;
- (e) whether the activity is, or will be, carried out under an environmental management program;
- (f) any contingency plans to manage abnormal or emergency situations that may arise in carrying out the activity.

(4) Also, the administering authority may waive payment of an amount of a fee only if it is satisfied the activity is being, or will be, carried out in a way that complies with the licence.

(5) In this section—

**“concurrent authority”**, for an activity, means an authority (however described) issued under another Act to carry out the activity after a consideration of the activity’s effects on 1 or more environmental values.

### **Effect of decision on application for waiver of fee**

**51.(1)** If, on an application for waiver of an amount of a fee, the administering authority waives payment of an amount paid by the applicant, it must repay the amount to the applicant.

(2) If, on an application for waiver of an amount of a licence application fee, the administering authority refuses the application for the fee to be waived or waives the payment partially, the applicant must pay the

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<sup>9</sup> See section 44 (Criteria for deciding application) of the Act.

outstanding amount of the fee before the licence is issued.

(3) If, on application for waiver of an annual licence fee, the administering authority refuses the application for the fee to be waived or waives the payment partially, the administering authority must give the licensee a notice stating—

- (a) the due day for payment of the fee, or the outstanding amount of the fee; and
- (b) if the licensee fails to pay the fee, or the outstanding amount of the fee, by the due day—the licence is cancelled under section 68(4) of the Act.

### **Fees for environmental management programs**

**52.(1)** The fee for an administering authority's consideration of a draft environmental management program is the amount that—

- (a) the authority considers to be reasonable; and
- (b) is not more than the reasonable cost of deciding the application for approval of the program.

(2) The holder of an approval of an environmental management program must pay to the administering authority a fee for its assessment of the holder's annual returns and monitoring compliance with the program.

(3) The fee is the amount that—

- (a) the authority considers to be reasonable; and
- (b) is not more than the reasonable cost of the assessment and monitoring.

## ***Division 4—Registers***

### **Register of licences**

**53.** An administering authority must record the industry code for the activity carried out under each licence in its register of licences.<sup>10</sup>

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<sup>10</sup> Under sections 45 and 47 of the Act, licences are inserted in the register.

**Register of approvals**

**54.** An administering authority must record the industry code for the activity carried out under each approval in its register of approvals.<sup>11</sup>

**Register of environmental reports**

**55.** An administering authority must record the following details in its register of environmental reports for each environmental evaluation conducted or commissioned by it—

- (a) recipient's name;
- (b) type of the evaluation;
- (c) date of issue of the notice requiring the evaluation;
- (d) if it is an evaluation of an activity the recipient has carried out, is carrying out or is proposing to carry out—
  - (i) type of activity; and
  - (ii) if the activity is an environmentally relevant activity—the environmental authority number for the activity; and
  - (iii) industry code for the activity; and
  - (iv) address or description of the place where the activity has been carried out, is being carried out or is proposed to be carried out;
- (e) if it is an evaluation of an event—its nature and where it happened;
- (f) name of auditor or investigator;
- (g) date of submission of the report;
- (h) authority's decision on the report;
- (i) action taken by authority after deciding whether or not to accept the report.

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<sup>11</sup> Under section 45 of the Act, approvals are inserted in the register.



**Register of monitoring program results**

**56.** An administering authority must record the following details in its register of results of monitoring programs for each program carried out under the Act—

- (a) name of person carrying out the activity to which the program relates;
- (b) type of the activity;
- (c) if the activity is an environmentally relevant activity—the environmental authority number for the activity;
- (d) requirement for the program;
- (e) monitoring requirements of the program;
- (f) name of person carrying out the program;
- (g) period covered by the program;
- (h) action taken by the authority because of results of the program.

**Register of environmental management programs**

**57.(1)** An administering authority must record the following details in its register of environmental management programs for each program—

- (a) name of person or public authority submitting or required to submit program;
- (b) type of activity the recipient has carried out, is carrying out or is proposing to carry out for which the program is required or submitted;
- (c) if the activity is an environmentally relevant activity—the environmental authority number for the activity;
- (d) industry code for the activity;
- (e) address or description of the place where the activity has been carried out, is being carried out or is proposed to be carried out;
- (f) requirement for the program;
- (g) aim of the program;

- (h) matters to be addressed by the program;
- (i) period over which the program is to be carried out;
- (j) date of submission of the program;
- (k) date of issue of certificate of approval of the program;
- (l) compliance or noncompliance with the program.

(2) Also, if, under the certificate of approval, it is a condition that the certificate holder prepare a public statement about the holder's environmental management of the activity, the administering authority must insert a copy of the statement in the register.

### **Register of environmental protection orders**

**58.** An administering authority must record the following details in its register of environmental protection orders for each order issued by it—

- (a) recipient's name;
- (b) type of activity to which the order relates;
- (c) if the activity is an environmentally relevant activity—the environmental authority number for the activity;
- (d) industry code for the activity;
- (e) address or description of the place where the activity has been carried out, is being carried out or is proposed to be carried out;
- (f) ground for issuing, and requirements under, the order;<sup>12</sup>
- (g) date of issue of the order;
- (h) compliance or noncompliance with order.

### **Register of authorised persons**

**59.** An administering authority must record details of any limitations stated in an authorised person's instrument of appointment in its register of authorised persons.

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<sup>12</sup> Section 109 of the Act states when an environmental protection order may be issued.

**Register of approved codes of practice**

**60.(1)** The administering authority must, for its administration under the Act, keep a register of approved codes of practice.

**(2)** The administering authority must insert in the register—

- (a) a copy of each approved code of practice; and
- (b) a copy of the gazette notice by which the code was approved.

**Environmental management register and contaminated land register**

**60A.** If the administering authority records particulars of land in the environmental management register or contaminated land register, the particulars recorded must include the real property description of the land.

*Division 5—General***Approved training courses and qualified persons**

**61.(1)** The chief executive may, by gazette notice, approve a course provided by a stated entity (an “**approved training course**”) for training people to engage in either of the following activities—

- (a) installing, commissioning, servicing or decommissioning a controlled article;
- (b) handling or using a controlled substance.

**(2)** A person who successfully completes an approved training course for an activity is a “**qualified person**” for the activity.

**(3)** Also, a qualified person who successfully completes an approved training course for training people to engage in an activity involving handling or using a CFC is a qualified person to engage in the activity involving handling or using a HCFC.

**(4)** In addition, a qualified person who successfully completes an approved training course for training people to install, commission, service or decommission a commercial air conditioner using a CFC in its operation is a qualified person to install, commission, service or decommission a domestic air conditioner using a HCFC in its operation.

**Review of decisions and appeal**

**62.(1)** Chapter 6, part 3<sup>13</sup> of the Act applies to the following decisions—

- (a) a decision of the chief executive to—
  - (i) refuse an application for a certificate of approval; or
  - (ii) impose conditions on a certificate of approval; or
  - (iii) cancel a certificate of approval;
- (b) a decision of the administering authority to refuse to waive the payment of a licence application fee or annual licence fee;
- (c) a decision of the chief executive, under part 3A, to—
  - (i) request information for assessing the integrity of emission data given by an occupier of a reporting facility; or
  - (ii) request information to decide an application for approval of an estimation technique; or
  - (iii) refuse to approve an estimation technique, or approve it subject to a modification; or
  - (iv) request information to decide a claim for an exemption on the ground of commercial confidentiality; or
  - (v) refuse to grant a claim for exemption on the ground of commercial confidentiality;
- (d) a decision of the chief executive, under part 3A, about an annual reporting period for a reporting facility.

**(1A)** Chapter 6, part 3, divisions 1 and 3 of the Act apply to a decision of the Minister, under part 3A, to name an occupier of a reporting facility in the Minister's report to the Council as if the Minister's decision were a review decision and the occupier were a dissatisfied person.

**(2)** For subsection (1) or (1A), the dissatisfied person is—

- (a) for a decision mentioned in subsection (1)(a)(i) or (1)(b)—the applicant; or
- (b) for a decision mentioned in subsection (1)(a)(ii) or (iii)—the

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<sup>13</sup> Chapter 6, part 3 of the Act deals with review of, and appeals against, decisions.

holder of the certificate of approval; or

- (c) for a decision mentioned in subsection (1)(c) or (d) or (1A)—the occupier of the facility concerned.

### **Authorised persons—Act, s 128(1)(c)**

**63.** Employees of a local government who are appointed as authorised persons by the local government's chief executive officer are an approved class of persons for section 128 of the Act.

## **PART 4A—MISCELLANEOUS**

### **Development for sch 8, pt 1, s 6 of the Integrated Planning Act**

**63A.** For schedule 8, part 1, section 6 of the Integrated Planning Act, a material change of use of premises for an environmentally relevant activity is prescribed as development for carrying out the activity.

### **Development for ch 3, pt 4B, div 3 of the Act**

**63B.** Carrying out works for construction or alteration of premises, or for the installation or alteration of plant or equipment in premises, for carrying out a level 1 environmentally relevant activity is development for chapter 3, part 4B, division 3 of the Act if the construction, alteration or installation will result in an increase of 10% or more in the release of contaminant into the environment.

**Prescribed organisations in relation to site investigation**

**63C.** The organisations in schedule 8A are prescribed for sections 118O, 118ZC and 118ZR of the Act.<sup>14</sup>

**Postponed commencement of uncommenced provisions—Environmental and Other Legislation Amendment Act**

**63D.(1)** In this section—

“**postponed law**” means the *Environmental and Other Legislation Amendment Act 1997*, section 20.

(2) The period before automatic commencement, under the *Acts Interpretation Act 1954*, section 15DA(2), of the postponed law is extended to the end of 5 December 1999.<sup>15</sup>

**PART 5—REPEAL AND TRANSITIONAL PROVISIONS***Division 1—Repeal***Repeal of Environmental Protection (Interim) Regulation 1995**

**64.** The *Environmental Protection (Interim) Regulation 1995* is repealed.

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<sup>14</sup> Section 118O of the Act provides that a site investigation must be conducted by a person who is a member of an organisation prescribed under a regulation. Section 118ZC of the Act provides that a validation report must be prepared by a person who is a member of an organisation prescribed under a regulation. Section 118ZR of the Act provides that a site management plan must be prepared by a person who is a member of an organisation prescribed under a regulation.

<sup>15</sup> This postponed law now automatically commences on 6 December 1999.

***Division 2—Definitions*****Definitions for pt 5**

**65.** In this part—

**“annual licence fee”**, for an activity, includes the annual licence fee component of the application fee for carrying out the activity.

**“affected person”**, for division 5, means a person who, immediately before the commencement of the division, held—

- (a) a licence to carry out a prescribed activity; or
- (b) a licence to carry out an activity—
  - (i) to which division 4, subdivision 2, applies; and
  - (ii) that is a prescribed activity for division 5.

**“prescribed activity”**, for division 5, means an activity to which the division applies.

**“repealed regulation”** means the *Environmental Protection (Interim) Regulation 1995*.

***Division 3—Transitional provision about unchanged environmentally relevant activities*****Application of div 3**

**66.** This division applies to an environmentally relevant activity prescribed under 1 of the following items of schedule 1 of the repealed regulation—

- item 4, 5, 8, 15 to 18, 20 to 22, 25, 26, 29 to 31, 33 to 38, 41, 42, 44, 46 to 48, 52 to 59, 61, 62, 64, 69 or 82.

**Applications for environmental authorities**

**67.** An application for an environmental authority, or to amend or transfer an environmental authority, to carry out an environmentally relevant activity to which this division applies is taken to be an application for, or to

amend or transfer, an environmental authority to carry out the equivalent activity prescribed under schedule 1 of this regulation.

### **Certain environmental authorities continued in force**

**68.(1)** This section applies if, immediately before the commencement of this section, a person held an environmental authority to carry out an environmentally relevant activity to which this division applies.

**(2)** The person's environmental authority to carry out the activity is taken to have been issued under this regulation.

### ***Division 4—Transitional provisions about changes in environmentally relevant activities from 1 March 1998***

#### ***Subdivision 1—Transitional provisions about applications for, and amendment and transfer of, environmental authorities***

### **Application of sdiv 1**

**69.** This subdivision applies to an activity that, under the repealed regulation was an environmentally relevant activity but is not an environmentally relevant activity under this regulation.

### **Applications for environmental authorities**

**70.(1)** This section applies if—

- (a) under the repealed regulation, a person made application for an environmental authority to carry out the activity; and
- (b) immediately before the commencement of this section, the administering authority—
  - (i) had not decided the application; or
  - (ii) had decided the application but had not issued an environmental authority to the person; or
  - (iii) had decided the application and issued an environmental



authority to the person effective from a date on or after the commencement.

(2) As soon as practicable after the commencement of this section, the administering authority must—

- (a) give written notice to the person stating that, under this regulation, the activity is no longer an environmentally relevant activity; and
- (b) refund to the person—
  - (i) if the application was for a licence—the annual licence fee component of the application fee and, if the application had not been decided, the amount of the remaining part of the application fee the administering authority considers is reasonable in the circumstances having regard to the authority's reasonable costs in its consideration of the application; or
  - (ii) if the application was for an approval and had not been decided—the amount of the application fee the administering authority considers is reasonable in the circumstances having regard to the authority's reasonable costs in its consideration of the application.

(3) A decision about the amount of the refund is a decision to which chapter 6, part 3<sup>16</sup> of the Act applies.

(4) For subsection (3)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state that the person may apply for a review of, or appeal against, the decision within 14 days after receipt of the notice.

### **Undecided applications for amendment or transfer of licences**

**71.(1)** This section applies if—

- (a) under the repealed regulation, a person made application for an

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<sup>16</sup> Chapter 6, part 3 of the Act deals with reviews of, and appeals against, decisions.

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amendment or transfer of the person's licence to carry out the activity; and

- (b) immediately before the commencement, the administering authority had not decided the application.

(2) As soon as practicable after the commencement of this section, the administering authority must—

- (a) give written notice to the person stating that, under this regulation, the activity is no longer an environmentally relevant activity; and
- (b) refund to the person the amount of the application fee the administering authority considers is reasonable in the circumstances having regard to the authority's reasonable costs in its consideration of the application.

(3) A decision about the amount of the refund is a decision to which chapter 6, part 3 of the Act applies.

(4) For subsection (3)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state that the person may apply for a review of, or appeal against, the decision within 14 days after receipt of the notice.

***Subdivision 2—Special transitional provisions for certain environmentally relevant activities***

**Application of sdiv 2**

**72.** This subdivision applies if, immediately before the commencement of this section, a person held an environmental authority to carry out an environmentally relevant activity prescribed under 1 of the following items of schedule 1 of the repealed regulation—

- item 1 to 3, 6, 7, 9 to 14, 19, 23, 24, 28, 32, 39, 40, 43, 45, 49 to 51, 60, 63, 65 to 68, 70 to 81 or 83 to 85.

**Person taken to have authority to carry out activity**

**73.(1)** The person is taken to have an environmental authority to carry out the person's activity subject to the conditions stated in the environmental authority issued under the repealed regulation.

(2) Also, if, under section 74, the administering authority gives the person a notice stating it has decided the environmental authority required by the person to carry out the person's activity is an approval, the approval is taken to continue in force until 28 February 2001.

(3) However, if, under section 74, the administering authority gives the person a notice stating it has decided the person no longer needs an environmental authority to carry out the person's activity, subsection (1) ceases to apply to the person on the giving of the notice.

**Administering authority to decide whether person's activity is environmentally relevant activity**

**74.(1)** As soon as practicable after the commencement of this section, the administering authority must—

- (a) decide whether the person's activity is an environmentally relevant activity under this regulation and, if so, the item of schedule 1 applicable to the person's activity; and
- (b) give written notice to the person stating—
  - (i) the person no longer needs an environmental authority to carry out the person's activity; or
  - (ii) the person needs an approval instead of a licence to carry out the person's activity; or
  - (iii) the person still needs an environmental authority to carry out the person's activity even though the person's activity is no longer the environmentally relevant activity described in the person's environmental authority.

*Examples of paragraph (b)(i)—*

1. Under schedule 1, items 6 and 7, a licence is no longer required to manufacture, process, mix or store some chemicals because of the definition of "chemical" in this regulation.

2. Under schedule 1, item 15, a licence is no longer required to operate a standard

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sewage treatment works having a peak design capacity to treat sewage of less than 21 average persons because of a change to the lower threshold applying to the activity.

3. Under schedule 1, item 81, a licence is no longer required to recycle or reprocess regulated waste if the waste was recycled or reprocessed because of additional exemptions now applying to the activity.

*Examples of paragraph (b)(ii)—*

1. Under schedule 1, item 10, an approval is now required to manufacture waterbased paint in works having a design capacity of more than 10 000 l per year instead of a licence because of the categories of the activity of manufacturing paint.

2. Under schedule 1, item 50, an approval is now required for a rendering operation in works having a design production capacity of more than 10 t but less than 300 t per year instead of a licence because of a change in the thresholds for the activity of rendering operations.

*Examples of paragraph (b)(iii)—*

1. Under schedule 1, item 2, a person carrying out the activity of cattle feedlotting may still need a licence based on new thresholds prescribed for the activity. Also, a person may still need a licence because of the change in the unit of measurement for carrying out the activity.

2. Under schedule 1, item 51, plastic manufacturing is still a level 1 environmentally relevant activity for which a licence is required but categories based on design production capacity now apply to the activity.

**(2)** Also, if the authority decides the person needs an environmental authority to carry out the person's activity, the notice must—

- (a) state the item of schedule 1 applicable to the person's activity; and
- (b) state whether the environmental authority needed is a licence or approval; and
- (c) state the person is, under this subdivision, taken to have an environmental authority to carry out the activity; and
- (d) if the environmental authority needed is a licence—explain the procedures for amending the person's environmental authority under section 50<sup>17</sup> of the Act; and
- (e) if the environmental authority needed is an approval—

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<sup>17</sup> Under section 50 of the Act, the administering authority may amend a licence at any time if the licensee agrees to the amendment or if the authority considers it necessary or desirable in certain circumstances.

- (i) state the approval is taken to continue in force until 28 February 2001; and
- (ii) state that if the person wishes to continue to carry out the activity after 28 February 2001, the person should apply for a new approval to carry out the activity.

**(3)** In addition, if, under section 75, the person is entitled to a refund of an amount of annual licence fee for the activity paid by the person, the notice must state the amount of the refund decided by the administering authority.

**(4)** In making a decision under subsection (1), the authority must have regard to the following matters—

- (a) the person's application for the environmental authority to carry out the person's activity;
- (b) the information given to the authority in support of the application;
- (c) any annual returns given to the authority under section 68 of the Act;
- (d) other relevant information, including, for example, information given under section 134<sup>18</sup> of the Act.

**(5)** A decision under subsection (1) and a decision about the amount of the refund is a decision to which chapter 6, part 3<sup>19</sup> of the Act applies.

**(6)** For subsection (5)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state that the person may apply for a review of, or appeal against, the decision within 14 days after receipt of the notice.

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<sup>18</sup> Under section 134 of the Act, the administering authority may, by written notice, require a person to give the authority information relevant to the administration or enforcement of the Act.

<sup>19</sup> Chapter 6, part 3 of the Act deals with reviews of, and appeals against, decisions.

**Annual licence fee—continuing level 1 environmentally relevant activities**

**75.(1)** This section applies if—

- (a) under the repealed regulation, the person's activity was a level 1 environmentally relevant activity for which the person had paid an amount of the annual licence fee for the activity for a period ending after the commencement of this section; and
- (b) the authority decides the person's activity is a level 1 environmentally relevant activity for which the annual licence fee prescribed under this regulation is less than the fee prescribed for the person's activity under the repealed regulation.

**(2)** As soon as practicable after the commencement of this section, the administering authority must refund to the person the amount of the annual licence fee that is reasonable in the circumstances.

**(3)** In deciding the amount of the refund, the administering authority must have regard to—

- (a) the amount of the fee payable under the repealed regulation; and
- (b) the amount of the fee paid; and
- (c) the amount of the fee (if any) payable under this regulation; and
- (d) the period elapsed since the later of the following—
  - (i) the issue of the licence;
  - (ii) the last anniversary day for the licence under section 68 of the Act; and
- (e) the period before the next anniversary day for the licence under section 68 of the Act.

**(4)** A decision about the amount of the refund is a decision to which chapter 6, part 3<sup>20</sup> of the Act applies.

**(5)** For subsection (4)—

- (a) the person is the dissatisfied person for the decision; and

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<sup>20</sup> Chapter 6, part 3 of the Act deals with reviews of, and appeals against, decisions.

- (b) the administering authority must give the person a notice stating that the person may apply for a review of, or appeal against, the decision within 14 days after receipt of the notice.

### **Annual licence fee—other environmentally relevant activities**

**76.(1)** This section applies if—

- (a) under the repealed regulation, the person's activity was a level 1 environmentally relevant activity for which the person had paid an amount of the annual licence fee for the activity for a period ending after the commencement of this section; and
- (b) the authority decides the person's activity—
- (i) is no longer an environmentally relevant activity; or
- (ii) is a level 2 environmentally relevant activity.

**(2)** As soon as practicable after the commencement of this section, the administering authority must refund to the person the amount worked out using the following formula—

$$\mathbf{AR} = \frac{\mathbf{FP} \times \mathbf{D}}{365}$$

where—

**AR** is the amount of refund

**FP** is the amount of the annual licence fee paid by the person

**D** is the number of days from 1 March 1998 to the next anniversary day for the licence.

### **Administering authority to endorse registers**

**77.(1)** This section applies if, under section 74, the authority—

- (a) decides the person's activity is no longer an environmentally relevant activity; or
- (b) if the person's activity was a level 1 environmentally relevant activity—decides the person's activity is a level 2 environmentally relevant activity.

(2) For giving effect to this subdivision, the administering authority must—

- (a) make an endorsement on the person's environmental authority about the effect of this subdivision; and
- (b) if this section applies to the person under subsection (1)(b)—record details of the person's approval in the register of approvals.<sup>21</sup>

***Division 5—Transitional provisions about changes to environmentally relevant activities from 1 July 1998***

**Application of div 5**

**78.** This division applies in relation to an activity that, under section 4(3), becomes a level 2 environmentally relevant activity on 1 July 1998.

**Affected persons taken to have approval to carry out activity**

**79.(1)** An affected person is taken to have an approval to carry out the person's activity subject to the conditions stated in the person's licence.

(2) The approval is taken to continue in force until 30 June 2001.

(3) For giving effect to subsections (1) and (2), the administering authority must make an endorsement on the person's licence about the effect of the subsections and record details of the person's approval in the register of approvals.<sup>22</sup>

**Administering authority to give affected person notice about change**

**80.(1)** As soon as practicable after the commencement of this section, the

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<sup>21</sup> After issuing an environmental authority, the authority is required under section 45 of the Act to insert the authority in the appropriate register kept by it under section 213 of the Act.

<sup>22</sup> After issuing an environmental authority, the authority is required under section 45 of the Act to insert the authority in the appropriate register kept by it under section 213 of the Act.



administering authority must—

- (a) give written notice to the affected person stating that—
  - (i) from 1 July 1998, the activity is a level 2 environmentally relevant activity and the person is taken to have an approval to carry out the activity, subject to the conditions stated in the licence, until 30 June 2001; and
  - (ii) if the person wishes to continue to carry out the activity after 30 June 2001, the person should apply for a new approval to carry out the prescribed activity; and
- (b) if the person had paid an amount of the annual licence fee for the person's activity for a period ending after the commencement of this section—refund to the person the amount worked out using the following formula—

$$\mathbf{AR} = \mathbf{FP} \times \frac{\mathbf{D}}{365}$$

where—

**AR** is the amount of refund

**FP** is the amount of the annual licence fee paid by the person

**D** is the number of days from 1 July 1998 to the next anniversary day for the licence.

(2) Despite section 44, no application fee is payable by the person for an application made under subsection (1)(a)(ii) for the approval to carry out the prescribed activity.

### **Licences for decided applications issued for prescribed activities effective on or after 1 July 1998**

**81.(1)** This section applies if, before the commencement of this section—

- (a) a person made application for a licence to carry out a prescribed activity; and
- (b) the administering authority had decided the application and issued a licence to the person effective from a date on or after the commencement (the “**effective date**”).

(2) The person is taken to have an approval to carry out the activity subject to the conditions stated in the licence.

(3) The approval takes effect from the effective date and is taken to continue in force until 30 June 2001.

(4) As soon as practicable after the commencement, the administering authority must—

- (a) give written notice to the person stating that—
  - (i) from 1 July 1998, the activity is a level 2 environmentally relevant activity and the person is taken to have an approval to carry out the activity, subject to the conditions stated in the licence, from the effective date until 30 June 2001; and
  - (ii) if the person wishes to continue to carry out the activity after 30 June 2001, the person should apply for a new approval to carry out the activity; and
- (b) if the person paid the authority the annual licence fee component of the application fee—refund the amount to the person.

(5) For giving effect to subsections (2) and (3), the administering authority must make an endorsement on the person's licence about the effect of the subsections and record details of the person's approval in the register of approvals.<sup>23</sup>

### **Undecided applications for amendment or transfer of licences for prescribed activities**

**82.(1)** This section applies if—

- (a) before the commencement of this section, a person made application for an amendment or transfer of the person's licence to carry out a prescribed activity; and
- (b) immediately before the commencement, the administering authority had not decided the application.

(2) As soon as practicable after the commencement of this section, the

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<sup>23</sup> After issuing an environmental authority, the authority is required under section 45 of the Act to insert the authority in the appropriate register kept by it under section 213 of the Act.

administering authority must refund to the person the amount of the application fee the administering authority considers is reasonable in the circumstances having regard to the authority's reasonable costs in its consideration of the application.

(3) A decision about the amount of the refund is a decision to which chapter 6, part 3<sup>24</sup> of the Act applies.

(4) For subsection (3)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state that the person may apply for a review of, or appeal against, the decision within 14 days after receipt of the notice.

### *Division 6—Miscellaneous transitional provisions*

#### *Subdivision 1—Transitional provision about environmentally relevant activities*

#### **Prescribed circumstance for Act, s 50**

83. The application of this division or division 3, 4 or 5 to an environmental authority or activity is prescribed as a circumstance for section 50(1)(b)(viii)<sup>25</sup> of the Act.

#### *Subdivision 2—Other transitional provisions*

#### **Applications, approvals and notices under repealed regulation**

84. An application, decision, representation, certificate of approval or notice made, granted, issued or given under part 3 or 4 of the repealed

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<sup>24</sup> Chapter 6, part 3 of the Act deals with reviews of, and appeals against, decisions.

<sup>25</sup> Under section 50(1)(b)(viii) of the Act, the administering authority may amend a licence at any time if the authority considers it necessary or desirable in circumstances by regulation.

regulation, and in force immediately before the commencement of this section, is taken to have been made, granted, issued or given under this regulation.

**Approved training courses**

**85.** An approved training course under the repealed regulation is taken to be an approved training course under this regulation.

**SCHEDULE 1****LEVELS 1 AND 2 ENVIRONMENTALLY RELEVANT  
ACTIVITIES AND LICENCE FEES**

sections 4, 46 and 47

<b>Environmentally relevant activity</b>	<b>Level</b>	<b>Annual licence fee \$</b>
<b>Aquacultural and agricultural activities</b>		
<b>1. Aquaculture—cultivating or holding marine, estuarine or freshwater organisms (other than molluscs) in ponds or enclosures in waters—</b>		
(a) if the total area of the ponds or enclosures is 5 ha or more and no wastes are released to waters . . . . .	2	—
(b) if the total area of the ponds or enclosures is less than 5 ha and wastes are released to waters . . . . .	1	500.00
(c) if the total area of the ponds or enclosures is 5 ha or more but less than 10 ha and wastes are released to waters . . . . .	1	1 000.00
(d) if the total area of the ponds or enclosures is 10 ha or more but less than 20 ha and wastes are released to waters . . . . .	1	2 000.00
(e) if the total area of the ponds or enclosures is 20 ha or more and wastes are released to waters . . . . .	1	3 300.00
<b>2. Cattle feedlotting—feeding cattle prepared or manufactured stockfeed at levels greater than necessary for survival in a confined area having a capacity of—</b>		
(a) 150 or less standard cattle units . . . . .	2	—

## SCHEDULE 1 (continued)

(b) more than 150, but less than 500, standard cattle units . . . . .	1	500.00
(c) 500 or more, but less than 1 000 standard cattle units . . . . .	1	625.00
(d) 1 000 or more standard cattle units . . . . .	1	2 000.00
<b>3. Pig farming—farming pigs in a piggery having a capacity of—</b>		
(a) less than 5 000 standard pig units . . . . .	2	—
(b) 5 000 standard pig units or more . . . . .	1	500.00
<b>4. Poultry farming—farming poultry, including egg and fertile egg production, the rearing of hatchlings, starter pullets, layers and poultry for meat in facilities having a total holding capacity of—</b>		
(a) more than 1 000 birds but less than 200 000 birds . . . . .	2*	—
(b) 200 000 birds or more . . . . .	1*	400.00
<b>Chemical, coal and petroleum products activities</b>		
<b>5. Alcohol distilling—commercially distilling alcohol in works having a design production capacity of more than 2 500 l per year . . . . .</b>		
	1	5 540.00
<b>6. Chemical manufacturing, processing or mixing—manufacturing or processing an inorganic chemical, organic chemical or chemical product, or mixing inorganic chemicals, organic chemicals or chemical products (other than mixing non-combustible or non-flammable chemicals or chemical products by dilution with water), in a plant or works having a design production capacity of—</b>		
(a) 200 t or more but less than 20 000 t per year	1	4 420.00

## SCHEDULE 1 (continued)

(b) 20 000 t or more but less than 100 000 t per year . . . . .	1	5 200.00
(c) 100 000 or more tonnes per year . . . . .	1	5 820.00
<b>7. Chemical storage—storing chemicals (other than crude oil, natural gas and petroleum products), including ozone depleting substances, gases or dangerous goods under the dangerous goods code in containers having a design storage volume of—</b>		
(a) more than 10 m <sup>3</sup> but less than 1 000 m <sup>3</sup> . . .	2	—
(b) 1 000 m <sup>3</sup> or more . . . . .	1	1 740.00
<b>8. Coke producing—producing, quenching, cutting, crushing or grading coke . . . . .</b>		
	1	4 260.00
<b>9. Gas producing—commercially producing hydrocarbon gas by any method, including the reforming of hydrocarbon gas, but not including collecting hydrocarbon gas in carrying out an activity under item 15 or 75 . . . . .</b>		
	1	4 420.00
<b>10. Paint manufacturing—manufacturing—</b>		
(a) organic solvent based paint in works having a design capacity of—		
(i) 10 000 l or more, but less than 1 000 000 l, per year . . . . .	1	600.00
(ii) 1 000 000 l or more, but less than 100 000 000 l, per year . . . . .	1	1 740.00
(iii) 100 000 000 l or more per year . . . . .	1	5 200.00
(b) water based paint in works having a design capacity of more than 10 000 l per year . . . .	2	—
<b>11. Crude oil or petroleum product storing—storing crude oil or a petroleum product in tanks or containers having a combined total storage capacity of—</b>		

## SCHEDULE 1 (continued)

(a) 10 000 l or more but less than 500 000 l . . . . .	2*	—
(b) 500 000 l or more . . . . .	1	1 740.00
<b>12. Oil refining or processing—refining or processing crude oil or shale oil in works having a design production capacity of—</b>		
(a) less than 500 000 l per year . . . . .	1	2 054.00
(b) 500 000 l or more, but less than 150 000 000 l, per year . . . . .	1	5 200.00
(c) 150 000 000 l or more per year . . . . .	1	20 540.00
<b>13. Fuel gas refining or processing—refining or processing of fuel gas in works having a design production capacity at standard temperature and pressure of—</b>		
(a) less than 200 000 000 cubic metres per year	2	—
(b) 200 000 000 cubic metres or more per year	1	20 540.00
<b>Community infrastructure and services</b>		
<b>14. Crematorium—cremating human, pet or animal remains . . . . .</b>	1*	400.00
<b>15. Sewage treatment—operating—</b>		
(a) a standard sewage treatment works having a peak design capacity to treat sewage of 21 or more equivalent persons but less than 100 equivalent persons . . . . .	1	500.00
(b) a standard sewage treatment works having a peak design capacity to treat sewage of 100 or more equivalent persons but less than 1 500 equivalent persons . . . . .	1	1 500.00
(c) a standard sewage treatment works having a peak design capacity to treat sewage of 1 500 or more equivalent persons but less than 4 000 equivalent persons . . . . .	1	1 980.00



## SCHEDULE 1 (continued)

(d) a standard sewage treatment works having a peak design capacity to treat sewage of 4 000 or more equivalent persons but less than 10 000 equivalent persons . . . . .	1	3 960.00
(e) a standard sewage treatment works having a peak design capacity to treat sewage of 10 000 or more equivalent persons but less than 50 000 equivalent persons . . . . .	1	7 920.00
(f) a standard sewage treatment works having a peak design capacity to treat sewage of 50 000 or more average persons but less than 100 000 equivalent persons . . . . .	1	10 140.00
(g) a standard sewage treatment works having a peak design capacity to treat sewage of 100 000 or more equivalent persons . . . . .	1	15 210.00
(h) a special sewage treatment works having a peak design capacity to treat sewage of 21 or more equivalent persons . . . . .	1	500.00

**Electricity, fuel burning and water supply activities**

<b>16.</b> Municipal water treatment plant—treating water for domestic use (other than treatment that only involves disinfection) . . . . .	2†	—
<b>17.</b> Fuel burning—any process involving the use of fuel burning equipment (including, for example, a standby power generator) that is capable of burning (whether alone or in total) 500 kg or more of fuel per hour . . . . .	1	3 000.00
<b>18.</b> Power station—generating power by consuming fuel at a rated capacity of 10 MW electrical or more—		
(a) if the fuel used is natural gas . . . . .	1	4 420.00
(b) for any other fuel . . . . .	1	14 940.00

## SCHEDULE 1 (continued)

**Extractive activities and mining**

**19.** Dredging material—dredging material from the bed of any waters (other than dredging by a port authority of material for which a royalty or similar charge is not payable) using plant or equipment having a design capacity of—

(a) not more than 5 000 t per year . . . . .	1	700.00
(b) 5 000 t or more, but less than 100 000 t, per year . . . . .	1	3 960.00
(c) 100 000 t or more per year . . . . .	1	4 880.00

**20.** Extracting rock or other material—extracting rock (other than rock mined in block or slab form for building purposes), sand (other than foundry sand), clay (other than clay used for its ceramic properties, kaolin or bentonite), gravel, loam or other material (other than gravel, loam or other material under a mining authority) from a pit or quarry using plant or equipment having a design capacity of—

(a) not more than 5 000 t per year . . . . .	2*	—
(b) 5 000 t or more, but less than 100 000 t, per year . . . . .	1	3 960.00
(c) 100 000 t or more per year . . . . .	1	4 880.00

**21.** Mineral exploration or mining—exploring for or mining minerals under a mining authority . . .

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**22.** Screening etc. materials—screening, washing, crushing, grinding, milling, sizing or separating material extracted from the earth (other than under a mining authority) or by dredging using plant or equipment having a design capacity of—

(a) more than 50 t but less than 5 000 t per year . . . . .	2*	—
(b) 5 000 t or more, but less than 100 000 t, per year . . . . .	1	3 960.00
(c) 100 000 t or more per year . . . . .	1	4 880.00

## SCHEDULE 1 (continued)

**Fabricated metal product activities**

<b>23. Abrasive blasting—commercially cleaning equipment or structures using a stream of abrasives—</b>		
(a) if the activity is carried out at a permanent location . . . . .	1*	400.00
(b) if the activity is an itinerant activity . . . . .	1*	650.00
(c) if the activity is carried out at a permanent location and includes an itinerant activity . . .	1*	650.00
 <b>24. Boiler making or engineering—commercial boiler making, electrical machine manufacturing or building or assembly of agricultural equipment, motor vehicles, trains, trams or heavy machinery</b>	 2*†	 —
 <b>25. Metal surface coating—commercial spray painting (other than spray painting motor vehicles), powder coating, enamelling, electroplating, anodising or galvanising in works having an annual throughput of metal products of—</b>		
(a) less than 2 000 t . . . . .	1*	450.00
(b) 2 000 t or more but less than 10 000 t . . . . .	1*	600.00
(c) 10 000 t or more but less than 30 000 t . . . . .	1	1 200.00
(d) 30 000 t or more . . . . .	1	2 800.00
 <b>26. Metal forming—pressing, forging, extending, extruding or rolling metal, forming metal into plate, wire or rods or fabricating sheet metal . . . .</b>	 2*†	 —
 <b>27. Metal recovery—commercially operating a scrap metal yard or dismantling automotive or mechanical equipment, including debonding brake or clutch components . . . . .</b>	 1*	 500.00
 <b>28. Motor vehicle workshop—operating a workshop or mobile workshop in the course of</b>		

## SCHEDULE 1 (continued)

which motor vehicle mechanical or panel repairs are carried out in the course of a commercial or municipal enterprise (other than on a farm) or on a commercial basis . . . . .	1*	500.00
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**Food processing**

**29.** Beverage production—commercially producing—

(a) any non-alcoholic beverage in works having a production output of—		
(i) 200 000 l or more, but less than 2 000 000 l, per year . . . . .	1	715.00
(ii) 2 000 000 l or more, but less than 14 500 000 l, per year . . . . .	1	1 430.00
(iii) 14 500 000 l or more per year . . . . .	1	2 860.00
(b) any beer or other alcoholic beverage in works having a design production capacity of more than 400 000 l per year . . . . .	1	4 740.00

<b>30.</b> Edible oil processing—commercial vegetable oil or oilseed processing in works having a design production capacity of 1 000 t or more per year .	1	3 740.00
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<b>31.</b> Flour milling—commercial processing of grain crops by crushing, grinding, milling, separating or sizing in works having a design production capacity of 1 000 t or more per year .	2†	—
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**32.** Meat processing—slaughtering animals for commercially producing meat or meat products for human consumption, or processing (other than smoking mentioned in item 35) or packaging of meat or meat products for human consumption—

(a) if an integral part of the activity involves the operation of a rendering plant with a design production capacity of more than 300 t per year—in works (other than a retail

## SCHEDULE 1 (continued)

butcher shop) having a design production capacity of—		
(i) 1 000 t or more but less than 3 000 t per year . . . . .	1	1 000.00
(ii) 3 000 t or more but less than 6 000 t per year . . . . .	1	3 000.00
(iii) 6 000 t or more per year . . . . .	1	6 020.00
(b) if paragraph (a) does not apply—in works (other than a retail butcher shop) having a design production capacity of—		
(i) 1 000 t or more but less than 3 000 t per year . . . . .	1	875.00
(ii) 3 000 t or more but less than 6 000 t per year . . . . .	1	2 600.00
(iii) 6 000 t or more per year . . . . .	1	5 200.00
<b>33.</b> Milk processing—separating, evaporating or processing milk (other than on a farm) or manufacturing evaporated or condensed milk, cheese, butter, ice cream or other dairy product in works having a design production capacity of 200 t or more per year . . . . .		
	1	4 100.00
<b>34.</b> Seafood processing—commercially processing seafood, including removing the scales, gills, intestines or shells, filleting, chilling, freezing or packaging seafood in works having a design production capacity of more than 100 t per year . . . . .		
	1	2 840.00
<b>35.</b> Smoking, drying or curing works—smoking, drying or curing meat, fish or other edible products by applying heat, smoke or other dehydration method in works (other than a retail butcher shop or chicken outlet) having a design production capacity of 200 t or more per year . . .		
	2†	—

## SCHEDULE 1 (continued)

<b>36.</b> Sugar milling or refining—crushing sugar cane or manufacturing sugar or sugar cane products from sugar cane (other than on a farm) .	1	10 160.00
<b>37.</b> Bottling or canning—bottling or canning food (other than a type of activity mentioned in items 29 to 36) in works having a design production capacity of 200 t or more per year . . .	1	4 440.00
<b><i>Land development and construction activities</i></b>		
<b>38.</b> <i>Land development—clearing (other than for agricultural purposes) or reclaiming land having an area of more than 20 000 m<sup>2</sup> <sup>1</sup> . . . . .</i>	2*	—
<b>39.</b> <i>Constructing premises or civil engineering structures—constructing or demolishing—</i>		
(a) <i>residential premises (other than a class 1 or 2 building, containing not more than 2 dwelling units, or a class 10 building, under the Standard Building Law) or commercial or industrial premises . . . . .</i>	2*	—
(b) <i>bridges, roads or other engineering structures (other than roads, bridges or other engineering structures on rural properties used for primary production, railways or road maintenance or repairs) <sup>2</sup></i>	2*	—
<b>Metal products activities</b>		
<b>40.</b> Metal foundry—commercially producing metal castings—		
(a) using ferrous metals in works having an average annual metal tonnage output of—		
(i) less than 20 t . . . . .	2	—
(ii) 20 t or more but less than 100 t . . . . .	1	300.00

<sup>1</sup> This provision had not commenced on or before the reprint date.

<sup>2</sup> This provision had not commenced on or before the reprint date.

## SCHEDULE 1 (continued)

(iii) 100 t or more but less than 300 t . . . . .	1	500.00
(iv) 300 t or more but less than 1 000 t . . . . .	1	1 350.00
(v) 1 000 t or more but less than 5 000 t . . . . .	1	2 600.00
(vi) 5 000 t or more but less than 10 000 t . . . . .	1	3 600.00
(vii) 10 000 t or more . . . . .	1	5 400.00
(b) using non-permanent moulds and non-ferrous metals in works having an average annual metal tonnage output of—		
(i) less than 20 t . . . . .	2	—
(ii) 20 t or more but less than 100 t . . . . .	1	300.00
(iii) 100 t or more but less than 200 t . . . . .	1	500.00
(iv) 200 t or more but less than 1 000 t . . . . .	1	1 200.00
(v) 1 000 t or more but less than 5 000 t . . . . .	1	1 800.00
(vi) 5 000 t or more . . . . .	1	2 400.00
(c) using permanent moulds and non-ferrous metals in works . . . . .	2	—
<b>41. Metal works—commercially smelting or processing ores or ore concentrates to produce metal in works having a design production capacity of—</b>		
(a) more than 10 t but less than 100 t per year . . . . .	1	9 860.00
(b) 100 t or more per year but less than 10 000 t per year . . . . .	1	12 380.00
(c) 10 000 t or more per year . . . . .	1	16 340.00
<b>42. Mineral processing—commercially processing, classification, mixing or concentration of mineral ores to produce mineral concentrates in works having a design production capacity of—</b>		
(a) more than 1 000 t but less than 100 000 t per year . . . . .	1	3 140.00
(b) more than 100 000 t per year . . . . .	1	16 340.00

**Miscellaneous activities**

**43. Animal housing—commercially operating a boarding or breeding kennel, dog pound,**

## SCHEDULE 1 (continued)

greyhound training facility or veterinary clinic in which animals are boarded other than overnight for treatment . . . . .	2*†	—
<b>44.</b> Battery manufacturing—manufacturing batteries of any kind . . . . .	1	1 880.00
<b>45.</b> Crushing, milling or grinding—processing products (other than agricultural products and materials mentioned in item 22), including, for example, uncured rubber and chemicals, by crushing or grinding or milling in works having a design production capacity of 5 000 t or more per year . . . . .	2†	—
<b>46.</b> Mushroom growing substrate manufacturing—commercially manufacturing substrate for mushroom growing . . . . .	1	400.00
<b>47.</b> Pet, stock or aquaculture food manufacturing—commercially manufacturing or processing pet, stock or aquaculture food (other than an abattoir, slaughter house, rendering works or animal glue or gelatine works) . . . . .	1*	500.00
<b>48.</b> Plaster manufacturing—manufacturing or processing plaster in works having a design production capacity of 200 t or more per year . . .	1	3 000.00
<b>49.</b> Pulp or paper manufacturing—manufacturing pulp or paper in works having a design production capacity of more than 100 t per year . . . . .	1	6 180.00
<b>50.</b> Rendering operation—commercially processing or extracting substances, including, for example, fat, tallow, derivatives of fat or tallow or proteinaceous matter, from animal wastes or		



## SCHEDULE 1 (continued)

by-products (other than an operation using wastes solely derived from an activity mentioned in item 32(a) or 47) in works having a design production capacity of—		
(a) more than 10 t but less than 300 t per year . . . . .	2	—
(b) 300 t or more per year . . . . .	1	6 020.00
<b>51. Plastic manufacturing—commercially manufacturing plastic or plastic products in works having a design production capacity of—</b>		
(a) more than 1 t but less than 5 t per year . . . . .	1*	300.00
(b) 5 t or more per year . . . . .	1*	450.00
<b>52. Printing—commercially screen printing or printing (other than photocopying and photographic printing), including advertising material, magazines, newspapers, packaging and stationery . . . . .</b>		
	2*†	—
<b>53. Soil conditioner manufacturing—commercially manufacturing soil conditioners (other than spent mushroom growing substrate by a mushroom grower) by receiving and blending, storing, processing, drying or composting organic material or organic waste, including, for example, animal manures, sewage, septic sludges and domestic waste, in works having a design production capacity of 200 t or more per year . . . . .</b>		
	1	400.00
<b>54. Tanning—commercially operating a tannery or works for curing animal skins or hides, or commercially finishing leather . . . . .</b>		
	1	4 740.00
<b>55. Textile manufacturing—commercial carpet manufacturing, wool scouring or carbonising, cotton milling, or textile bleaching, dyeing or finishing . . . . .</b>		
	1	4 740.00

## SCHEDULE 1 (continued)

<b>56.</b> Tobacco processing—processing tobacco (other than drying tobacco on a tobacco farm) or manufacturing products from tobacco or a tobacco derivative . . . . .	1	3 340.00
<b>57.</b> Tyre manufacturing or retreading—		
(a) tyre manufacturing . . . . .	1	1 800.00
(b) tyre retreading . . . . .	1	500.00
<b>Non-metallic mineral product manufacture</b>		
<b>58.</b> Asbestos products manufacturing—manufacturing an asbestos product . . . . .	1	800.00
<b>59.</b> Asphalt manufacturing—manufacturing asphalt . . . . .	2*†	—
<b>60.</b> Cement manufacturing—manufacturing cement . . . . .	1	7 620.00
<b>61.</b> Clay or ceramic products manufacturing—manufacturing a clay or ceramic product, including bricks, tiles, pipes, pottery goods and refractories, in works having a design production capacity of more than 200 t per year . . . . .	1	4 740.00
<b>62.</b> Concrete batching—producing concrete or a concrete product by mixing cement, sand, rock, aggregate or other similar materials in works (including mobile works) having a design production capacity of more than 100 t per year .	1*	650.00
<b>63.</b> Glass or glass fibre manufacturing—manufacturing glass or glass fibre in works having a design capacity of more than 200 t per year . . . . .	1	4 740.00

## SCHEDULE 1 (continued)

<b>64.</b> Mineral wool or ceramic fibre manufacturing— manufacturing mineral wool or ceramic fibre . . . . .	1	2 680.00
<b>Recreational and sporting activities</b>		
<b>65.</b> Motor racing—		
(a) conducting motor races other than international motor races . . . . .	2*	—
(b) conducting an international motor races . . . . .	2	—
<b>Sawmilling, woodchipping and wooden product manufacturing</b>		
<b>66.</b> Chemically treating timber—commercially treating timber for preservation using chemicals, including, for example, copper, chromium, arsenic, borax and creosote . . . . .	1	2 860.00
<b>67.</b> Sawmilling or woodchipping—sawing, cutting, chipping, compressing, milling or machining logs, drying logs in a kiln or manufacturing secondary wooden products, in a mill or works having a design production capacity of—		
(a) 500 t or more but less than 5 000 t per year .	1	300.00
(b) 5 000 t or more but less than 10 000 t per year . . . . .	1	500.00
(c) 10 000 t or more but less than 20 000 t per year . . . . .	1	700.00
(d) 20 000 t or more per year . . . . .	1	800.00
<b>68.</b> Wooden product manufacturing—commercially manufacturing or fabricating (other than as mentioned in items 66 and 67) a wooden product, including, for example, a product made by a cabinet-maker, joiner or other woodworker, in a facility having a design production capacity of more than 1 t per year . . . . .	2*†	—

## SCHEDULE 1 (continued)

**Transport and maritime services**

<b>69.</b> Boat maintaining or repairing facility—operating a commercial facility for maintaining or repairing any type of boat or inboard or outboard marine engine . . . . .	1*	650.00
<b>70.</b> Heliport—operating a facility for landing helicopters (other than a facility forming part of an aerodrome used for general aviation or for sole use in emergency circumstances) . . . . .	2*	—
<b>71.</b> Port—operating a port (other than an airport) under the <i>Transport Infrastructure Act 1994</i> . . .	2	—
<b>72.</b> Railway facility—operating any railway facility for refuelling and maintaining or repairing rolling stock . . . . .	1	5 040.00
<b>73.</b> Marina or seaplane mooring—operating a commercial marina or facility for mooring seaplanes, including any land-based buildings or works used in association with the marina or mooring—		
(a) for less than 20 berths or moorings . . . . .	2*	—
(b) for 20 or more berths or moorings but less than 100 berths or moorings . . . . .	1*	300.00
(c) for 100 or more berths or moorings . . . . .	1*	500.00
<b>74.</b> Stockpiling, loading or unloading goods in bulk—commercially loading, unloading or stockpiling materials or goods, in association with an activity mentioned in item 71, using a crane, conveyor, pump or other similar way at a rate of more than 100 t per day . . . . .	1	3 000.00

## SCHEDULE 1 (continued)

**Waste management****75. Waste disposal—operating a facility for—**

(a) disposing of only general waste or limited regulated waste, if the facility is designed to receive waste at the rate of—		
(i) more than 50 t but not more than 2 000 t per year . . . . .	1	500.00
(ii) 2 000 t or more, but less than 5 000 t, per year . . . . .	1	750.00
(iii) 5 000 t or more, but less than 10 000 t, per year . . . . .	1	1 000.00
(iv) 10 000 t or more, but less than 20 000 t, per year . . . . .	1	1 500.00
(v) 20 000 t or more, but less than 50 000 t, per year . . . . .	1	2 000.00
(vi) 50 000 t or more, but less than 75 000 t, per year . . . . .	1	2 500.00
(vii) 75 000 t or more, but less than 100 000 t, per year . . . . .	1	5 000.00
(viii) 100 000 t or more, but less than 200 000 t, per year . . . . .	1	7 500.00
(ix) 200 000 t or more per year . . . . .	1	10 000.00
(b) disposing of regulated waste (other than limited regulated waste) whether alone or in combination with any waste mentioned in paragraph (a), if the facility is designed to receive waste at the rate of—		
(i) less than 50 000 t per year . . . . .	1	3 000.00
(ii) 50 000 t or more, but less than 100 000 t, per year . . . . .	1	5 220.00
(iii) 100 000 t or more, but less than 200 000 t, per year . . . . .	1	7 500.00
(iv) 200 000 t or more per year . . . . .	1	10 000.00

**76. Incinerating waste—operating a waste incineration facility for incinerating—**

(a) vegetation . . . . .	2*	—
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## SCHEDULE 1 (continued)

(b) clean paper or cardboard . . . . .	2*	—
(c) general waste (other than vegetation or clean paper or cardboard) whether alone or in combination with vegetation or clean paper or cardboard, designed to incinerate waste at the rate of—		
(i) not more than 5 000 tonnes per year . . .	1	2 280.00
(ii) 5 000 tonnes or more per year . . . . .	1	5 000.00
(d) infectious substances or quarantine waste . .	1	4 750.00
(e) regulated waste (other than waste mentioned in paragraph (d)) . . . . .	1	6 000.00
 <b>77.</b> Battery recycling—operating a facility for receiving and recycling or reprocessing any kind of battery . . . . .	 2†	 —
 <b>78.</b> Chemical or oil recycling—operating a facility for receiving and commercially recycling or reprocessing used chemicals, oils or solvents to produce saleable products . . . . .	 1	 3 820.00
 <b>79.</b> Drum reconditioning—operating a facility for receiving and commercially reconditioning metal or plastic drums . . . . .	 2†	 —
 <b>80.</b> Tyre recycling—operating a facility for receiving and commercially recycling or reprocessing tyres (other than retreading tyres) . .	 2†	 —
 <b>81.</b> Recycling or reprocessing regulated waste—operating a facility for receiving and recycling or reprocessing regulated waste (other than waste recycled or reprocessed under item 32(a), 46, 47, 50, 53 or 77 to 80) to produce saleable products . . . . .	 1	 2 280.00

## SCHEDULE 1 (continued)

<b>82.</b> Waste transfer station—operating a waste transfer station designed to receive waste at the rate of 20 000 t or more of waste per year . . . . .	1	900.00
<b>83.</b> Regulated waste transport—transporting regulated waste commercially or in quantities of more than 250 kg in a load—		
(a) for tyres . . . . .	2	—
(b) for other regulated waste—		
(i) for 1 or more licensed vehicles but not more than 35 licensed vehicles . . . . .	1	400.00 plus 100.00 for each vehicle
(ii) for 36 or more licensed vehicles . . . . .	1	4 000.00
<b>84.</b> Regulated waste storage—operating a facility for receiving and storing—		
(a) more than 500 tyres in whole or equivalent parts (other than tyres stored for recycling or reprocessing under item 80) . . . . .	1	1 400.00
(b) other regulated waste, other than waste stored—		
(i) on a farm for use as a soil conditioner or fertiliser in carrying out an agricultural activity; or		
(ii) for use in manufacturing a saleable product under another item of this schedule; or		
(iii) for incineration under item 76; or		
(iv) recycling, reprocessing or reconditioning under items 77 to 79 or 81) . . . . .	1	2 000.00

SCHEDULE 1 (continued)

<b>85.</b> Regulated waste treatment—operating a facility for receiving and treating regulated waste to render it less or non-hazardous, other than by—		
(a) manufacturing a saleable product under another item of this schedule; or		
(b) incineration under item 76; or		
(c) recycling, reprocessing or reconditioning under items 77 to 79 or 81) . . . . .	1	4 750.00

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\* Indicates administration and enforcement of the Act for the activity is devolved to local government—see s 39 (Devolution of powers—environmentally relevant activities).

† Indicates that, even though the activity mentioned in the item is shown as a level 2 environmentally relevant activity, the activity is, under the transitional provision in section 4(3), a level 1 environmentally relevant activity until 30 June 1998.



**SCHEDULE 2****CONDITIONS APPLYING TO PARTICULAR  
ACTIVITIES INVOLVING CONTROLLED  
SUBSTANCES**

sections 12, 14 and 17

**Sale of controlled substances****1.(1)** A seller of controlled substances must—

- (a) ensure a person employed or engaged by the seller to transfer the substance between vessels—
  - (i) is trained in the procedures contained in the applicable industry code of practice for the handling and storage of the substance; and
  - (ii) transfers the substance in the way required by the industry code of practice; and
- (b) if asked by a buyer of controlled substances, provide a suitable container clearly labelled with—
  - (i) the word ‘reclaimed’; and
  - (ii) the designation number of the substance and its colour code as specified in Australian Standard AS 1942–1987, ‘Refrigerant Gas Cylinder Identification’ or, if no designation number is specified in Australian Standard AS 1942–1987, the common name mentioned in schedule 9; and
  - (iii) the name and address of the seller; and
  - (iv) a statement that the container must be used only for the storage and return of the substance specified; and
- (c) not sell a controlled substance in a container that cannot be recharged or refilled.

**SCHEDULE 2 (continued)**

(2) A seller of controlled substances must accept a controlled substance returned to the seller in a suitable container, if the contents comply with details specified on the label of the container.

(3) Subsections (1)(b) and (2) do not apply if the controlled substance is a halon.

**Buying controlled substances**

2. A buyer of controlled substances must not return to a seller a container marked as required by section 1(1)(b) if it contains a substance other than the substance specified on the container, unless the container is clearly marked to show—

- (a) it contains a mixture of substances; or
- (b) the contents are contaminated, or suspected of being contaminated, with a substance other than refrigerant oil, moisture, acid or non-condensable gases.

**Handling or use of controlled substances**

3. A person engaging in a schedule 3 activity mentioned must—

- (a) reclaim into an appropriate container only the controlled substance specified on the container's label; and
- (b) use a container that—
  - (i) complies with the labelling requirements of section 1(1)(b); and
  - (ii) is suitable to store the reclaimed controlled substance; and
- (c) ensure that a label complying with the requirements of section 8 of this regulation is attached, when the controlled article is installed, commissioned or serviced.

## SCHEDULE 2 (continued)

**Reclaiming of controlled substances**

**4.** A person reclaiming a controlled substance or accepting the return of a controlled substance must—

- (a) return the substance to a person who sells controlled substances;  
or
- (b) re-use, re-process, recycle or securely store the substance; or
- (c) resell the substance; or
- (d) if the person is a seller of controlled substances—destroy the substance in the way directed by the chief executive.

**SCHEDULE 3****ACTIVITIES INVOLVING HANDLING OR USE OF  
CONTROLLED SUBSTANCES**

schedule 9, definition “schedule 3 activity”

1. Manufacturing, installing, operating, servicing, maintaining or decommissioning dry cleaning equipment
2. Manufacturing, installing, servicing, maintaining or decommissioning motor vehicle airconditioning equipment
3. Manufacturing, installing, servicing, maintaining or decommissioning commercial or industrial refrigeration or airconditioning equipment
4. Manufacturing, installing, servicing, maintaining or decommissioning domestic airconditioning equipment
5. Manufacturing, servicing, maintaining or decommissioning domestic refrigerators
6. Manufacturing, installing, servicing, maintaining or decommissioning halon or HCFC fire extinguishing devices

**SCHEDULE 4****ESSENTIAL USE CRITERIA FOR INSTALLING,  
BUYING, KEEPING OR REFILLING OF HALON  
FIRE EXTINGUISHING DEVICES**

sections 25 and 30

1. There is no acceptable alternative type of fire protection.
2. The availability of the device is essential—
  - (a) to protect persons in a situation where human occupancy is essential and timely evacuation is not possible; or
  - (b) to continue the operation of equipment necessary to protect human life; or
  - (c) to protect a facility essential to the community from the substantial loss of property or function that could be caused by a fire in the facility.

**SCHEDULE 5****INDUSTRY CODES OF PRACTICE**

schedule 9, definition “industry code of practice”

1. The Australian Refrigeration and Air Conditioning Code of Good Practice: Reduction of emissions of controlled ozone-depleting refrigerants in commercial and industrial refrigeration and air conditioning applications prepared by AFCAM (SAA HB40.1-1997).
2. The Australian Refrigeration and Air Conditioning Code of Good Practice: Reduction of emissions of fluorocarbons in residential airconditioning applications prepared by AFCAM (SAA HB40.2-1997).
3. The Australian Refrigeration and Air Conditioning Code of Good Practice: Reduction of emissions of fluorocarbons in domestic refrigeration applications prepared by AFCAM (SAA HB40.3-1997).
4. Code of Practice for the Minimisation of Chlorofluorocarbon (CFC) Emissions from Dry Cleaning Plants using CFC113 Solvent, prepared by the Dry Cleaning Institute of Australia Ltd, dated December 1989 and first printed in May 1990.
5. The Australian Automotive Code of Practice for the Reduction of Emissions of Fluorocarbons in Motor Vehicle Air Conditioners, prepared by the Motor Trades Association of Australia and issued in November 1997.
6. Code of Practice for the Minimisation of Chlorofluorocarbon (CFC) Emissions from Degreasing/Cleaning Plants using CFC113 Solvents, prepared by AFCAM and endorsed by ANZECC on 4 May 1990.
7. Code of Practice, Methyl Chloroform (1, 1, 1-Trichloroethane), prepared by AFCAM and endorsed by ANZECC on 20 May 1992.
8. Code of Practice for Manufacture and Use of Ethylene Oxide/CFC-12 Mixtures for Sterilisation Processes, prepared by AFCAM on 15 October 1993.

## SCHEDULE 5 (continued)

9. Halon and Fire Protection Codes of Practice prepared by the Fire Protection Industry Association of Australia and endorsed by ANZECC on 25 October 1990 and issued on 1 November 1990.

**SCHEDULE 6****FEES****PART 1—GENERAL FEES**

	section 44
	\$
<b>1.</b> Application for approval (s 41 of the Act) . . . . .	200.00
<b>2.</b> Application for licence (ss 41 and 60G of the Act) . . . . .	200.00
	plus an amount equal to the annual licence fee for the activity
<b>3.</b> Application for single environmental authority to carry out multiple activities (ss 41, 60G and 61 of the Act) . . . . .	200.00
	plus an amount equal to the higher or highest annual licence fee for the activities
<b>4.</b> Application for assessment of development application under part 4B of the Act (other than an application to which section 60ZE of the Act applies) . . . . .	200.00
	plus an amount equal to the annual



SCHEDULE 6 (continued)

	licence fee for the activity
<b>5.</b> Application for assessment of development application to which section 60ZE of the Act applies . . . . .	200.00 plus an amount equal to the higher or highest annual licence fee for the activity
<b>6.</b> Application for amendment of licence (s 49 of the Act) . . .	150.00
<b>7.</b> Application for transfer of licence (s 55 of the Act) . . . . .	50.00
<b>8.</b> Late payment fee (s 68(3)(b)(ii) of the Act) . . . . .	50.00

**PART 2—FEES IN RELATION TO CONTAMINATED LAND**

section 44B

\$

<b>9.</b> Consideration of a site investigation report in relation to—	
(a) land that—	
(i) is used exclusively for residential purposes; and	
(ii) is not the subject of a development application (per lot) . . . . .	400.00
(b) any other land (per lot) . . . . .	900.00

SCHEDULE 6 (continued)

<b>10.</b> Extract from the environmental management register or contaminated land register (per lot) .....	30.00
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**SCHEDULE 7****REGULATED WASTES**

schedule 9, definition “regulated waste”

Abattoir effluent

Acids and acid solutions

Adhesives (other than solid inert polymeric materials)

Alkalis and alkaline solutions

Antimony

Arsenic

Asbestos (all chemical forms)

Azides

Barium

Batteries

Beryllium

Biocides

Boiler blowdown sludge

Boron

Cadmium

Caustic solutions

Chlorates

Chromium

Copper compounds

Cytotoxic wastes

Detergents

## SCHEDULE 7 (continued)

Distillation residues  
Dyes  
Electroplating effluent and residues  
Filter backwash waters  
Filter cake sludges and residues  
Fish processing waste  
Fly ash  
Food processing waste  
Grease interceptor trap effluent and residues  
Halogen compounds (other than solid inert polymeric materials)  
Heat treatment salts  
Heterocyclic organic compounds containing oxygen, nitrogen or sulphur  
Hydrocarbons (oxygen, nitrogen or sulphur)  
Industrial plant wash down waters  
Infectious substances  
Inks  
Inorganic cyanides and cyanide complexes  
Inorganic sulphur compounds  
Isocyanate compounds (other than solid inert polymeric materials)  
Laboratory chemicals  
Lead  
Lime neutralised sludges  
Lime sludges  
Materials or equipment contaminated with infectious substances  
Mercaptans  
Mercury and anything containing mercury

## SCHEDULE 7 (continued)

Metal finishing effluent and residues  
Methacrylate compounds (other than solid inert polymeric materials)  
Nickel  
Nightsoil  
Oil interceptor sludges  
Oil water emulsions and mixtures  
Oils  
Organic solvents  
Oxidising agents  
Ozone depleting substances  
Paint sludges and residues  
Perchlorates  
Pesticides  
Petroleum tank sludges  
Pharmaceutical substances  
Phenolic compounds (other than solid inert polymeric materials)  
Phosphorus  
Pickling liquors  
Polychlorinated biphenyls and related substances and anything containing polychlorinated biphenyls or related substances  
Polymeric lattices  
Poultry processing wastes  
Quarantine waste  
Reactive chemicals  
Reducing agents  
Resins (other than solid inert polymeric materials)

## SCHEDULE 7 (continued)

Saline effluent and residues

Selenium

Silver compounds

Solvent recovery residues

Surfactants

Tallow

Tannery effluent and residues

Tars and tarry residues

Tellurium

Textile effluent and residues

Thallium

Timber preservative effluent and residues

Treatment tank sludges and residues (including sewage tank sludges and residues)

Tyres

Vanadium

Vegetable oils

Vehicle wash down waters

Wool scouring effluent and residues

Zinc compounds

**SCHEDULE 8****OZONE DEPLETING SUBSTANCES**

schedule 9, definition “ozone depleting substance”

**PART A—CHLOROFLUOROCARBONS (CFC’s)**

<b>Substance</b>	<b>Common name</b>	<b>Chemical formula</b>
Trichlorofluoromethane	CFC-11	$\text{CFCl}_3$
Dichlorodifluoromethane	CFC-12	$\text{CF}_2\text{Cl}_2$
Chlorotrifluoromethane	CFC-13	$\text{CF}_3\text{Cl}$
Pentachlorofluoroethane	CFC-111	$\text{C}_2\text{FCl}_5$
Tetrachlorodifluoroethane	CFC-112	$\text{C}_2\text{F}_2\text{Cl}_4$
Trichlorotrifluoroethane	CFC-113	$\text{C}_2\text{F}_3\text{Cl}_3$
Dichlorotetrafluoroethane	CFC-114	$\text{C}_2\text{F}_4\text{Cl}_2$
Monochloropentafluoroethane	CFC-115	$\text{C}_2\text{F}_5\text{Cl}$
Heptachlorofluoropropane	CFC-211	$\text{C}_3\text{FCl}_7$
Hexachlorodifluoropropane	CFC-212	$\text{C}_3\text{F}_2\text{Cl}_6$
Pentachlorotrifluoropropane	CFC-213	$\text{C}_3\text{F}_3\text{Cl}_5$
Tetrachlorotetrafluoropropane	CFC-214	$\text{C}_3\text{F}_4\text{Cl}_4$
Trichloropentafluoropropane	CFC-215	$\text{C}_3\text{F}_5\text{Cl}_3$
Dichlorohexafluoropropane	CFC-216	$\text{C}_3\text{F}_6\text{Cl}_2$
Monochloroheptafluoropropane	CFC-217	$\text{C}_3\text{F}_7\text{Cl}$

## SCHEDULE 8 (continued)

**PART B—HALONS**

<b>Substance</b>	<b>Common name</b>	<b>Chemical formula</b>
Bromochlorodifluoromethane	Halon 1211	CF <sub>2</sub> BrCl
Bromotrifluoromethane	Halon 1301	CF <sub>3</sub> Br
Dibromotetrafluoroethane	Halon 2402	C <sub>2</sub> F <sub>4</sub> Br <sub>2</sub>

**PART C—HYDROCHLOROFLUOROCARBONS  
(HCFC's)**

<b>Substance</b>	<b>Common name</b>	<b>Chemical formula</b>
Dichlorofluoromethane	HCFC-21	CHFCl <sub>2</sub>
Monochlorodifluoromethane	HCFC-22	CHF <sub>2</sub> Cl
Monochlorofluoromethane	HCFC-31	CH <sub>2</sub> FCl
Tetrachlorofluoroethane	HCFC-121	C <sub>2</sub> HFCl <sub>4</sub>
Trichlorodifluoroethane	HCFC-122	C <sub>2</sub> HF <sub>2</sub> Cl <sub>3</sub>
Dichlorotrifluoroethane	HCFC-123	C <sub>2</sub> HF <sub>3</sub> Cl <sub>2</sub>
Monochlorotetrafluoroethane	HCFC-124	C <sub>2</sub> HF <sub>4</sub> Cl
Trichlorofluoroethane	HCFC-131	C <sub>2</sub> H <sub>2</sub> FCl <sub>3</sub>
Dichlorodifluoroethane	HCFC-132	C <sub>2</sub> H <sub>2</sub> F <sub>2</sub> Cl <sub>2</sub>
Monochlorotrifluoroethane	HCFC-133	C <sub>2</sub> H <sub>2</sub> F <sub>3</sub> Cl
Dichlorofluoroethane	HCFC-141	C <sub>2</sub> H <sub>3</sub> FCl <sub>2</sub>



## SCHEDULE 8 (continued)

Monochlorodifluoroethane	HCFC-142	C <sub>2</sub> H <sub>3</sub> F <sub>2</sub> Cl
Chlorofluoroethane	HCFC-151	C <sub>2</sub> H <sub>4</sub> FCI
Hexachlorofluoropropane	HCFC-221	C <sub>2</sub> HFCl <sub>6</sub>
Pentachlorodifluoropropane	HCFC-222	C <sub>3</sub> HF <sub>2</sub> Cl <sub>5</sub>
Tetrachlorotrifluoropropane	HCFC-223	C <sub>3</sub> HF <sub>3</sub> Cl <sub>4</sub>
Trichlorotetrafluoropropane	HCFC-224	C <sub>3</sub> HF <sub>4</sub> Cl <sub>3</sub>
Dichloropentafluoropropane	HCFC-225	C <sub>3</sub> HF <sub>5</sub> Cl <sub>2</sub>
Monochlorohexafluoropropane	HCFC-226	C <sub>3</sub> HF <sub>6</sub> Cl
Pentachlorofluoropropane	HCFC-231	C <sub>3</sub> H <sub>2</sub> FCI <sub>5</sub>
Tetrachlorodifluoropropane	HCFC-232	C <sub>3</sub> H <sub>2</sub> F <sub>2</sub> Cl <sub>4</sub>
Trichlorotrifluoropropane	HCFC-233	C <sub>3</sub> H <sub>2</sub> F <sub>3</sub> Cl <sub>3</sub>
Dichlorotetrafluoropropane	HCFC-234	C <sub>3</sub> H <sub>2</sub> F <sub>4</sub> Cl <sub>2</sub>
Monochloropentafluoropropane	HCFC-235	C <sub>3</sub> H <sub>2</sub> F <sub>5</sub> Cl
Tetrachlorofluoropropane	HCFC-241	C <sub>3</sub> H <sub>3</sub> FCI <sub>4</sub>
Trichlorodifluoropropane	HCFC-242	C <sub>3</sub> H <sub>3</sub> F <sub>2</sub> Cl <sub>3</sub>
Dichlorotrifluoropropane	HCFC-243	C <sub>3</sub> H <sub>3</sub> F <sub>3</sub> Cl <sub>2</sub>
Monochlorotetrafluoropropane	HCFC-244	C <sub>3</sub> H <sub>3</sub> F <sub>4</sub> Cl
Trichlorofluoropropane	HCFC-251	C <sub>3</sub> H <sub>4</sub> FCI <sub>3</sub>
Dichlorodifluoropropane	HCFC-252	C <sub>3</sub> H <sub>4</sub> F <sub>2</sub> Cl <sub>2</sub>
Monochlorotrifluoropropane	HCFC-253	C <sub>3</sub> H <sub>4</sub> F <sub>3</sub> Cl
Dichlorofluoropropane	HCFC-261	C <sub>3</sub> H <sub>5</sub> FCI <sub>2</sub>
Monochlorodifluoropropane	HCFC-262	C <sub>3</sub> H <sub>5</sub> F <sub>2</sub> Cl
Monochlorofluoropropane	HCFC-271	C <sub>3</sub> H <sub>6</sub> FCI

## SCHEDULE 8 (continued)

**PART D—MISCELLANEOUS CONTROLLED  
SUBSTANCES**

<b>Substance</b>	<b>Common name</b>	<b>Chemical formula</b>
Tetrachloromethane	Carbon tetrachloride	$\text{CCl}_4$
1, 1, 1 – Trichloroethane	Methyl Chloroform	$\text{C}_2\text{H}_3\text{Cl}_3$

**SCHEDULE 8A****PRESCRIBED ORGANISATIONS FOR  
CONTAMINATED LAND MATTERS**

section 63C

1. Australasian Radiation Protection Society
2. Australian Institute of Agricultural Science and Technology
3. Australian Institute of Environmental Health
4. Australian Institute of Geoscientists
5. Australian Society of Soil Science
6. Environment Institute of Australia
7. Institute of Explosives Engineers
8. Institution of Chemical Engineers Australia
9. Institution of Engineering and Mining Surveyors Australia
10. Royal Australian Planning Institute
11. South Pacific Environmental Radioactivity Association
12. The Australasian Institute of Mining and Metallurgy
13. The Institution of Engineers Australia
14. The Institution of Surveyors Australia
15. The Royal Australian Chemical Institute

**SCHEDULE 9****DICTIONARY**

section 3

**“aerosol product”** means a container that holds a substance packed under pressure either—

- (a) as the propellant for the expulsion of the contents of the container; or
- (b) as the contents to be expelled.

**“AFCAM”** means the Association of Fluorocarbon Consumers and Manufacturers.

**“ANZECC”** means the Australian and New Zealand Environment and Conservation Council.

**“approved training course”** see section 61.

**“aquaculture”**, for schedule 1, item 1, does not include cultivating or holding organisms in an aquaria.

**“buy”** includes—

- (a) acquire by exchange; and
- (b) accept under an agreement; and
- (c) agree, offer or attempt to buy.

**“certificate of approval”** means a certificate of approval issued under section 25 or 33.<sup>26</sup>

**“CFC”** means a chlorofluorocarbon mentioned in schedule 8, part A, and includes all isomers of a chlorofluorocarbon.

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<sup>26</sup> Section 25 (Restriction on installing, keeping and refilling fixed halon system) or 30 (Approval to buy or refill a portable halon fire extinguisher)

## SCHEDULE 9 (continued)

**“chemical”** means—

- (a) an agricultural chemical product or veterinary chemical product within the meaning of the *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth); or
- (b) a dangerous good under the dangerous goods code; or
- (c) a lead hazardous substance within the meaning of the *Workplace Health and Safety Regulation 1997*; or
- (d) a drug or poison in the Standard for the Uniform Scheduling of Drugs and Poisons prepared by the Australian Health Ministers’ Advisory Council and published by the Commonwealth; or
- (e) any substance used as, or intended for use as—
  - (i) a pesticide, insecticide, fungicide, herbicide, rodenticide, nematocide, miticide, fumigant or related product; or
  - (ii) a surface active agent, including, for example, soap and detergent; or
  - (iii) a paint solvent, pigment, dye, printing ink, industrial polish, adhesive, sealant, food additive, bleach, sanitiser, disinfectant, or biocide; or
  - (iv) a fertiliser for agricultural, horticultural or garden use (other than mushroom growing substrate or compost mentioned in item 46 or 53); or
- (f) a substance used for, or intended for use for—
  - (i) mineral processing or treatment of metal, pulp and paper, textile, timber, water or wastewater; or
  - (ii) manufacture of plastic or synthetic rubber.

**“chemical storage”**, for schedule 1, item 7, does not include in-transit storage of a chemical.

**“commercial”**, for an activity mentioned in schedule 1,<sup>27</sup> means carried out for a fee or reward.

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<sup>27</sup> Schedule 1 (Levels 1 and 2 environmentally relevant activities and licence fees)

## SCHEDULE 9 (continued)

**“commercial or industrial airconditioning equipment”** means airconditioning equipment that—

- (a) has a cooling or heating capacity more than 18 kW; or
- (b) has a cooling or heating capacity less than 18 kW and is used other than for domestic purposes.

**“commercial or industrial refrigeration equipment”** means refrigeration equipment that—

- (a) is designed to operate with a charge of 1 kg or more of a controlled substance; or
- (b) is designed to operate with a charge of less than 1 kg of a controlled substance and is used other than for domestic purposes.

**“commission”**, for a controlled article, means to bring the article into operation in a way that involves the handling and use of a controlled substance.

**“controlled article”** means an article, or the part of an article, that contains or uses a controlled substance as a working fluid in the operation or structure of the article, but does not include foam manufacturing equipment.

**“controlled substance”** means an ozone depleting substance (whether existing alone or mixed with another substance), and includes the refrigerants R500 and R502, but does not include a substance containing less than 1% of an ozone depleting substance.

**“dangerous goods code”** means the sixth edition of the Australian Code for the Transport of Dangerous Goods by Road and Rail.<sup>28</sup>

**“decommission”** a controlled article means to dismantle the article before its relocation, disposal or use for another purpose.

**“devolved activity”** means an environmentally relevant activity in relation to which the administration and enforcement of the Act is devolved to

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<sup>28</sup> A copy of the code may be purchased from the Australian Government Information Service, City Plaza, Adelaide and George Streets, Brisbane.

## SCHEDULE 9 (continued)

local government.<sup>29</sup>

**“domestic airconditioning equipment”** means airconditioning equipment other than commercial or industrial airconditioning equipment.

**“domestic refrigeration equipment”** means refrigeration equipment other than commercial or industrial refrigeration equipment.

**“equivalent person”**, for schedule 1, item 15, means an equivalent person under volume 1, section 2 of the Guidelines for Planning and Design of Sewerage Schemes, October 1991, published by the Water Resources Commission, Department of Primary Industries, Fisheries and Forestry.

**“extracting”**, for schedule 1, item 20, does not include—

- (a) extracting material from land if—
  - (i) the primary purpose of the extraction is not to gain the material; and
  - (ii) less than 1 500 m<sup>3</sup> of materials is extracted or the surface area of the land is less than 5 200 m<sup>2</sup>; or
- (b) extracting material in the course of cutting and filling land for constructing a road or railway.

**“facility”**, for an environmentally relevant activity, means a building or structure or complex of buildings or structures specifically used for the activity, and includes—

- (a) for schedule 1, item 75—a naturally occurring or constructed hollow or pit, including, for example, a gully, mining shaft or quarry (other than a hollow or pit on a farm used for receiving and disposing of general waste produced on the farm); and
- (b) for schedule 1, item 76(a)—a fixed or mobile apparatus for blowing air into a hole in the ground to facilitate the incineration of vegetation.

**“fixed halon system”** means a fire extinguisher that uses a halon in its operation (other than a portable fire extinguisher).

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<sup>29</sup> See section 40 (Devolution of powers—other matters).

## SCHEDULE 9 (continued)

**“fixed HCFC system”** means a fire protection system (other than a portable fire extinguisher) that—

- (a) is installed in premises or a vehicle; and
- (b) uses a HCFC in its operation.

**“general waste”** means waste other than regulated waste.

**“halon”** means an ozone depleting substance mentioned in schedule 8, part B.

**“HCFC”** means a hydrochlorofluorocarbon mentioned in schedule 8, part C, and includes all isomers of a hydrochlorofluorocarbon.

**“industry code”**, for an activity, means the industry code assigned to the activity under Australian and New Zealand Standard Industrial Classification, 1993.<sup>30</sup>

**“industry code of practice”** means a code of practice in schedule 5.

**“infectious waste”** means waste that is capable of transmitting, or has the potential to transmit, disease that is generated in—

- (a) diagnosing, treating, immunising or caring for people or animals; or
- (b) producing or testing of biologicals other than domestic waste.

**“install”**, for a controlled article, means install the article in a way that involves the handling and use of a controlled substance.

**“integrated environmental management system”** see section 42.

**“licensed vehicle”**, for a licence to transport regulated waste, means a vehicle authorised to be used under the licence.

**“limited regulated waste”**, for schedule 1, item 75(a), means any of the following regulated wastes, asbestos, infectious substances or quarantine waste that has been rendered non-infectious, fish processing waste, food processing waste, poultry processing waste, tyres or treatment tank sludge or residue produced in the carrying out of an activity mentioned in item 15 or 16.

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<sup>30</sup> The document is published by the Australian Bureau of Statistics.



## SCHEDULE 9 (continued)

**“material change of use”**, of premises, has the meaning given by section 1.3.5 of the Integrated Planning Act<sup>31</sup>.

**“mechanical component”**, of a motor vehicle, includes brakes, clutch, differential, gearbox, transmission and other drive-train equipment, combustion engine and hydraulic equipment of the vehicle, but does not include an auto electrical, exhaust or suspension component of the vehicle, wheels or tyres of the vehicle or another component necessary for maintaining the vehicle’s wheel alignment.

**“miscellaneous controlled substance”** means a substance mentioned in schedule 8, part D, and includes all isomers of a miscellaneous controlled substance.

**“motor race”** means a race involving vehicles propelled by a motor, or a practice or time trial for a race involving vehicles propelled by a motor, conducted on a racing track or circuit.

**“motor vehicle”** means—

- (a) a vehicle, that is propelled by a motor that forms part of the vehicle and moves on wheels, other than a train or tram; or
- (b) a hovercraft.

**“motor vehicle airconditioning equipment”** means airconditioning equipment that—

- (a) is fitted to a motor vehicle; and
- (b) relies on the vehicle’s motive power to drive the equipment’s compressor.

**“motor vehicle mechanical or panel repairs”** means maintaining, servicing, tuning, reconditioning or repairing—

- (a) mechanical components of motor vehicles; or
- (b) motor vehicle engine cooling radiators; or

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<sup>31</sup> The Integrated Planning Act, section 1.3.5—

‘**“material change of use”**, of premises, means—

- (a) the start of a new use of the premises; or
- (b) the re-establishment on the premises of a use that has been abandoned; or
- (c) a material change in the intensity or scale of the use of the premises.’.

## SCHEDULE 9 (continued)

- (c) motor vehicle body panels (other than windscreens, window glasses, upholstery and interior trimmings), including, for example, panel beating, rust proofing and spray painting other than minor scratch, chip and dent repairs carried out using a brush, air brush or paintless method; or
- (d) motor vehicles by way of car detailing or washing other than if all washdown water arising from the carrying out of the activity is lawfully discharged to a sewer.

**“non-devolved activity”** means an environmentally relevant activity in relation to which the administration and enforcement of the Act is not devolved to local government.

**“non-domestic waste”** means industrial or commercial waste.

**“ozone depleting substance”** means a substance mentioned in schedule 8.

**“plastic”** includes blown plastic foam and fibre reinforced plastic.

**“portable halon fire extinguisher”** means a portable fire extinguisher that uses a halon in its operation.

**“portable HCFC fire extinguisher”** means a portable fire extinguisher that uses an HCFC in its operation.

**“port authority”** see the *Transport Infrastructure Act 1994*, schedule 3.

**“qualified person”** see section 61.

**“quarantine waste”** means quarantine waste material under the Draft Guidelines for the storage, collection, disposal and monitoring of quarantine waste, 1993, published by the Australian Quarantine and Inspection Service.

**“reclaim”**, for a controlled substance, means to collect and contain the substance.

**“regulated waste”** means non-domestic waste mentioned in schedule 7 (whether or not it has been treated or immobilised), and includes—

- (a) for an element—any chemical compound containing the element; and
- (b) anything that has contained the waste.

## SCHEDULE 9 (continued)

“**schedule 3 activity**” means an activity specified in schedule 3.

“**secondary wooden product**” includes plywood, chipboard, veneer and laminated timber.

“**sell**” includes—

- (a) exchange or supply; and
- (b) agree, offer or attempt to sell.

“**service**”, of a controlled article, means any repair, maintenance or adjustment of the article involving the handling or use of a controlled substance.

“**sewage treatment works**” includes pump stations and other ancillary works.

“**special sewage treatment works**” means sewage treatment works that do not release solid or liquid contaminants to ground water or outside the boundary of the works regardless of its peak design capacity.

“**standard cattle unit**”, for schedule 1, item 2, has the meaning given by the National Guidelines for Beef Cattle Feedlots in Australia, 2nd edition, prepared by the Standing Committee on Agriculture and Resource Management.

“**standard pig unit**”, for schedule 1, item 3, means the equivalent of a grower pig of 40 kg.

“**standard sewage treatment works**” means sewage treatment works other than special sewage treatment works.

“**sterilisation equipment**” means equipment used for gas sterilisation of medical equipment.

“**waste incineration facility**” means a facility for incinerating waste.

“**works**”, for an environmentally relevant activity, includes a vehicle on which the activity is carried out.

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## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 24 September 1999. Future amendments of the Environmental Protection Regulation 1998 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to SL No. 179 of 1998	6 July 1998
1A	to SL No. 316 of 1998	30 November 1998
1B	to SL No. 358 of 1998	4 January 1999

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	1

## 6 List of legislation

### **Environmental Protection Regulation 1998 SL No. 29**

made by the Governor in Council on 26 February 1998  
 notfd gaz 27 February 1998 pp 884–6  
 ss 1–2 commenced on date of notification  
 pt 5 div 5 commenced 1 July 1998 (see s 2(1))  
 sch 1 items 38–39 commence 1 January 2000 (see s 2(2))  
 remaining provisions commenced 1 March 1998 (see s 2(3))  
exp 1 September 2008 (see SIA s 54)

as amended by—

### **Environmental Protection Amendment Regulation (No. 1) 1998 SL No. 179**

notfd gaz 29 May 1998 pp 656–7  
 ss 4, 9, 10 (so far as it relates to the ins of new s 44A), 12, 14, 18 (so far as it relates to the om of sch 6 and the ins of new sch 6, pt 1) and 21(2) (so far as it relates to the ins of the def "material change of use") commenced 1 July 1998 (see s 2(1))  
 ss 10 (so far as it relates to the ins of new s 44B), 13, 15, 18 (so far as it relates to the ins of new sch 6, pt 2) and 19 commenced 6 July 1998 (see s 2(2))  
 remaining provisions commenced on date of notification

### **Environmental Protection Amendment Regulation (No. 2) 1998 SL No. 316**

notfd gaz 27 November 1998 pp 1180–81  
 commenced on date of notification

**Environmental Protection Amendment Regulation (No. 3) 1998 SL No. 358**

notfd gaz 18 December 1998 pp 1551–7  
 commenced on date of notification

**Environmental Protection Amendment Regulation (No. 1) 1999 SL No. 208**

notfd gaz 10 September 1999 pp 180–3  
 commenced on date of notification

**7 List of annotations****Commencement**

s 2 amd 1998 SL No. 358 s 3

**Approval required to carry out level 2 environmentally relevant activity**

s 5 amd 1998 SL No. 179 s 4

**Environmentally relevant activity—waste disposal**

s 6A ins 1998 SL No. 179 s 5

**Release of controlled substance**

s 11 amd 1998 SL No. 316 s 3

**PART 3A—NATIONAL POLLUTANT INVENTORY**

pt 3A (ss 38A–38U) ins 1999 SL No. 208 s 3

**Devolution of powers—environmentally relevant activities**

s 39 amd 1998 SL No. 179 s 6; 1999 SL No. 208 s 4

**Devolution of Act includes statutory instruments under Act**

s 40A ins 1998 SL No. 179 s 7

**Standard criteria for environmental authority for activities**

s 43 amd 1998 SL No. 179 s 8

**Fees—general**

s 44 amd 1998 SL No. 179 s 9

**Application fee for environmental authority not payable if prior application for development approval made**

s 44A ins 1998 SL No. 179 s 10

**Fees for contaminated land**

s 44B ins 1998 SL No. 179 s 10

**Application for waiver of application and annual licence fees**

s 49 amd 1998 SL No. 179 s 11

**Effect of decision on application for waiver of fee**

s 51 amd 1998 SL No. 179 s 12

**Environmental management register and contaminated land register**

s 60A ins 1998 SL No. 179 s 13

**Review of decisions and appeal**

s 62 amd 1999 SL No. 208 s 5

**PART 4A—MISCELLANEOUS****pt hdg** ins 1998 SL No. 316 s 4**Development for sch 8, pt 1, s 6 of the Integrated Planning Act****s 63A** ins 1998 SL No. 179 s 14**Development for ch 3, pt 4B, div 3 of the Act****prov hdg** sub 1998 SL No. 316 s 5(1)**s 63B** ins 1998 SL No. 179 s 14

amd 1998 SL No. 316 s 5(2)

**Prescribed organisations in relation to site investigation****s 63C** ins 1998 SL No. 179 s 15**Postponed commencement of uncommenced provisions—Environmental and Other Legislation Amendment Act****s 63D** ins 1998 SL No. 316 s 6**Administering authority to give affected person notice about change****s 80** amd 1998 SL No. 179 s 16**SCHEDULE 1—LEVELS 1 AND 2 ENVIRONMENTALLY RELEVANT ACTIVITIES AND LICENCE FEES**

amd 1998 SL No. 179 s 17

**SCHEDULE 6—FEES**

sub 1998 SL No. 179 s 18

**SCHEDULE 7—REGULATED WASTES**

amd 1998 SL No. 179 s 20

**SCHEDULE 8A—PRESCRIBED ORGANISATIONS FOR CONTAMINATED LAND MATTERS**

ins 1998 SL No. 179 s 19

**SCHEDULE 9—DICTIONARY**def “**chemical**” amd 1998 SL No. 316 s 7(1)def “**dangerous goods code**” sub 1998 SL No. 316 s 7(2)def “**facility**” sub 1998 SL No. 179 s 21(1)–(2)def “**limited regulated waste**” amd 1998 SL No. 179 s 21(3)def “**material change of use**” ins 1998 SL No. 179 s 21(2)def “**mining authority**” om 1998 SL No. 179 s 21(1)def “**regulated waste**” amd 1998 SL No. 179 s 21(4)–(5)