

Queensland



Environmental Protection Act 1994

ENVIRONMENTAL PROTECTION REGULATION 1998

**Reprinted as in force on 6 December 2002
(includes amendments up to SL No. 324 of 2002)**

Warning—see last endnote for uncommenced amendments

Reprint No. 3E revised edition

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This regulation is reprinted as at 6 December 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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 reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

Replacement reprint date If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.

Revised edition indicates further material has affected existing material. For example—

- a correction
- a retrospective provision
- other relevant information.

Queensland



ENVIRONMENTAL PROTECTION REGULATION 1998

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	15
2	Commencement	15
3	Definitions—dictionary	15
PART 1A—ENVIRONMENTAL IMPACT STATEMENTS		
<i>Division 1—Preliminary</i>		
3A	Types of project requiring Commonwealth or State authority approval	15
<i>Division 2—EIS process</i>		
3B	Application of div 2	16
3C	Prescribed matters for draft terms of reference—Act, s 41(2)(c)	16
3D	Prescribed matters for TOR notice and EIS notice—Act, ss 42(2)(f) and 52(1)(g)	16
3E	Prescribed way for publishing TOR notice and EIS notice	17
3F	EIS assessment report—Act, s 59(e)	17
PART 2—ENVIRONMENTALLY RELEVANT ACTIVITIES		
4	Levels 1 and 2 prescribed environmentally relevant activities	18
6	Prescribed criteria for standard mining activities—Act, s 151	19
6A	Environmentally relevant activity—waste disposal	19
PART 2A—ENVIRONMENTAL NUISANCE		
<i>Division 1—Preliminary</i>		
<i>Subdivision 1—Object of part and its achievement</i>		
6B	Object of pt 2A	20
6C	How object is achieved	20

<i>Subdivision 2—Standard definitions</i>	
6D	Definitions for pt 2A 20
<i>Subdivision 3—Meaning of audible noise</i>	
6E	Meaning of “audible noise”. 23
<i>Subdivision 4—Meaning of unlawful environmental nuisance</i>	
6F	General definition 24
6G	Animal noise exclusion 24
6H	Audible traffic signal noise exclusion 24
6I	Blasting noise exclusion 25
6J	Outdoor shooting range noise exclusion 25
6K	Cooking odour exclusion. 26
<i>Division 2—Investigation of unlawful environmental nuisance</i>	
<i>Subdivision 1—Nuisance complaints</i>	
6L	How nuisance complaint may be made. 26
6M	Frivolous, vexatious or mistaken complaints 27
<i>Subdivision 2—Investigations</i>	
6N	No investigation without relevant nuisance complaint 27
6O	Duty to investigate nuisance complaint. 27
6P	Discharge of duty to investigate 28
<i>Division 3—Nuisance abatement notices</i>	
<i>Subdivision 1—When nuisance abatement notice may be given</i>	
6Q	Conditions for giving nuisance abatement notice 28
6R	Restrictions 29
<i>Subdivision 2—Emission criteria</i>	
6S	General emission criteria. 29
6T	Noise emission criteria 30
<i>Subdivision 3—Requirements for nuisance abatement notices</i>	
6U	Requirements. 30
<i>Subdivision 4—Compliance with nuisance abatement notices</i>	
6V	Failure to comply with nuisance abatement notice 31

Environmental Protection Regulation 1998

Division 4—Noise offences

Subdivision 1—Offences

6W	Building work	31
6X	Regulated devices	31
6Y	Spa blowers and pool pumps	33
6Z	Airconditioning equipment	34
6ZA	Refrigeration equipment	34
6ZB	Indoor venues	35
6ZC	Open-air events	35
6ZD	Amplifier devices, other than at indoor venue or open-air event	36
6ZE	Power boat sports in waterway	36
6ZF	Operating power boat engine at premises	37

Subdivision 2—Exemptions

6ZG	Operation of sdiv 2	38
6ZH	Compliance with general environmental duty	38
6ZI	Lawful environmental nuisance	39
6ZJ	Certain environmentally relevant activities	39
6ZK	Compliance with certain instruments under Act or a local law	39

Subdivision 3—Proceedings for noise offences

6ZL	Relevant nuisance complaint required for certain prosecuting parties	40
6ZM	Special evidentiary provisions for audible noise	40

Division 5—Measurement of noise

Subdivision 1—Preliminary

6ZN	Operation of div 5	41
6ZO	No requirement to measure audible noise	42

Subdivision 2—Where to measure noise

6ZP	Source noise	42
6ZQ	Background noise level	42

Subdivision 3—How to measure noise

6ZR	Measurement procedures	43
6ZS	Measurement of noises of same type from same premises	44

Division 6—Miscellaneous

6ZT	General evidentiary provision for emissions	44
6ZU	Dispute resolution by agreement not affected	44

PART 3—OZONE DEPLETING SUBSTANCES***Division 1—Controlled articles***

7	Responsibilities of owner or person in possession of controlled article	45
8	Labelling by manufacturers and importers	45
9	Labelling on charging of motor vehicle airconditioning equipment with refrigerant	46
10	Labelling on charging of certain airconditioning or refrigeration equipment with refrigerant	46

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

11	Release of controlled substance	47
12	Restriction on sale or buying of controlled substances	47
13	Restriction on handling or use of controlled substances	47
14	Duty to recover and reclaim controlled substances	48
15	Disposal of a controlled substance	48

Subdivision 2—Equipment using controlled substances

16	Procedure for operation and maintenance of equipment	49
17	Solvent cleaning or degreasing	49
18	Dry cleaning equipment	49
19	Sterilisation equipment	50

Subdivision 3—Products containing controlled substances

20	Aerosols containing controlled substances	50
----	-----------------------------------------------------	----

Division 3—Refrigeration and airconditioning

21	Refrigeration and airconditioning	50
22	Installation of refrigeration or airconditioning equipment	51

Division 4—Foams

23	Manufacture of plastic foams	51
----	----------------------------------------	----

Division 5—Fixed halon and HCFC systems***Subdivision 1—Fixed halon systems***

24	Manufacture etc. of fixed halon system	51
----	--------------------------------------------------	----

Environmental Protection Regulation 1998

25	Restriction on installing, keeping and refilling of fixed halon system	52
26	Testing fixed halon systems	52
27	Release of controlled substances	52
	<i>Subdivision 2—Fixed HCFC systems</i>	
28	Testing of fixed HCFC systems	53
	<i>Division 6—Portable halon fire extinguishers</i>	
29	Restriction on sale or refilling of portable halon fire extinguishers	53
30	Approval to buy or refill a portable halon fire extinguisher	53
31	Possession of portable halon fire extinguishers	54
	<i>Division 7—General</i>	
	<i>Subdivision 1—Fire extinguishers and refrigerant cylinders</i>	
32	Discharge of HCFC fire extinguishers	54
33	Discharge of halon fire extinguishers	54
34	Aerosol or non-refillable fire extinguishers	55
35	Non-refillable refrigerant cylinders	55
	<i>Subdivision 2—Cancellation of certificates of approval</i>	
36	Cancellation of certificate of approval	55
37	Procedure for cancellation	55
38	Return of cancelled certificate	56
	PART 3A—NATIONAL POLLUTANT INVENTORY	
	<i>Division 1—Preliminary</i>	
	<i>Subdivision 1—General</i>	
38A	Purpose of pt 3A	57
	<i>Subdivision 2—Interpretation</i>	
38B	Definitions for pt 3A	57
38C	Meaning of “emission” of a substance	58
38D	Meaning of “facility”	59
38E	Meaning of “offshore facility”	59
38F	Meaning of “substance”	59
38G	General	59
	<i>Division 2—Collecting data for the national pollutant inventory</i>	
38H	Occupiers of reporting facilities to give information	60

38I	Exceeding reporting threshold.	61
38J	Reporting period for facility	63
38K	Estimation technique for emission data.	64
38L	Application for approval of estimation technique	64
38M	Approving estimation technique	65
38N	Occupier must keep particular data for 3 years.	66
38O	Exemption on ground of national security	66
38P	Claiming exemption on ground of commercial confidentiality.	66
38Q	Deciding claim for exemption on ground of commercial confidentiality	67
	<i>Division 3—Giving information to Commonwealth</i>	
38R	Chief executive to give information to Commonwealth	68
	<i>Division 4—Enforcement provisions</i>	
38S	Noncompliance with reporting requirement	68
38T	Minister may name occupier in report to council	68
	<i>Division 5—Miscellaneous</i>	
38U	Industry handbooks	70
38V	Information not to be used as evidence.	70
	PART 3B—USED PACKAGING MATERIALS	
	<i>Division 1—Preliminary</i>	
	<i>Subdivision 1—General</i>	
38W	Purpose of pt 3B	70
	<i>Subdivision 2—Interpretation</i>	
38X	Definitions for pt 3B	71
38Y	General	72
	<i>Division 2—Responsibilities of brand owners</i>	
	<i>Subdivision 1—Application</i>	
38Z	Application of div 2.	72
	<i>Subdivision 2—Action plans and record keeping</i>	
38ZA	Action plans.	73
38ZB	Brand owner to keep information	74
38ZC	Claiming exemption on ground of commercial confidentiality.	75
38ZD	Deciding claim for exemption on ground of commercial confidentiality	76

<i>Subdivision 3—Compliance notices</i>	
38ZE	Authorised person may give notice to comply 76
<i>Division 3—Operators of kerbside recycling collection services to give information to chief executive</i>	
38ZF	Local governments 77
38ZG	Other operators 78
<i>Division 4—Expiry</i>	
38ZH	Expiry of pt 3B 78
PART 3C—QUALITY STANDARDS FOR PETROL AND DIESEL	
<i>Division 1—Preliminary</i>	
<i>Subdivision 1—General</i>	
38ZI	Purpose of pt 3C 79
<i>Subdivision 2—Definitions</i>	
38ZJ	Definitions for pt 3C 79
<i>Division 2—Permitted concentrations of particular chemicals</i>	
38ZK	Permitted concentration of ethers and benzene 80
38ZL	Permitted concentration of sulfur 80
38ZM	Permitted concentration of lead 81
<i>Division 3—Reid vapour pressure of petrol</i>	
38ZO	Permitted Reid vapour pressure—after 15 November 2002 81
<i>Division 4—Exemptions</i>	
38ZP	Applications 82
38ZQ	Additional information for applications 82
38ZR	Deciding applications 82
38ZS	Giving exemptions 83
38ZT	Refusing applications 83
<i>Division 5—Record keeping</i>	
38ZU	Record keeping requirements 83
PART 4—ADMINISTRATION	
<i>Division 1—Devolutions</i>	
39	Devolution of powers—environmentally relevant activities 84
40	Devolution of powers—other activities 85
40A	Devolution of Act includes statutory instruments under Act 85

40B	Devolution of powers—residential land	85
<i>Division 3—Fees</i>		
44	Fees—general	86
44A	Application fee for environmental authority not payable if prior application for development approval made	86
44B	Fees for contaminated land	87
45	Refund of annual fee if environmental authority refused	87
45A	Refund of annual fee if replacement environmental authority issued	87
46	Annual fees for prescribed environmentally relevant activities	88
47	Annual fees for devolved activities	88
48	Annual fees for environmental authorities	88
49	Application for waiver of fee.	88
50	Criteria for deciding waiver application	89
51	Effect of decision on waiver application	90
51A	Fee for late payment of annual fee	90
52	Fees for environmental management programs	91
<i>Division 4—Registers</i>		
53	Register of licences	92
54	Register of approvals	92
55	Register of environmental reports	92
56	Register of monitoring program results.	93
57	Register of environmental management programs	93
58	Register of environmental protection orders	94
59	Register of authorised persons	94
<i>Division 5—General</i>		
61	Approved training courses and qualified persons	95
62	Review of decisions and appeal.	95
63	Authorised persons—Act, s 445(1)(c).	97
PART 4A—MISCELLANEOUS		
63A	Codes of environmental compliance	97
63B	Prescribed periods under Act—sch 8C	98
63C	Prescribed organisations in relation to site investigation	98
63D	Prescribed regulated waste—Act, sch 2, item 37	98

PART 5—REPEAL AND TRANSITIONAL PROVISIONS*Division 1—Repeal*

64	Repeal of Environmental Protection (Interim) Regulation 1995.	98
----	-----------------------------------------------------------------------	----

Division 2—Definitions

65	Definitions for pt 5	99
----	--------------------------------	----

Division 3—Transitional provision about unchanged environmentally relevant activities

66	Application of div 3.	99
----	-------------------------------	----

67	Applications for environmental authorities	99
----	------------------------------------------------------	----

68	Certain environmental authorities continued in force	100
----	----------------------------------------------------------------	-----

*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*

69	Application of sdiv 1	100
----	---------------------------------	-----

70	Applications for environmental authorities	100
----	------------------------------------------------------	-----

71	Undecided applications for amendment or transfer of licences	101
----	------------------------------------------------------------------------	-----

Subdivision 2—Special transitional provisions for certain environmentally relevant activities

72	Application of sdiv 2	102
----	---------------------------------	-----

73	Person taken to have authority to carry out activity	102
----	----------------------------------------------------------------	-----

74	Administering authority to decide whether person's activity is environmentally relevant activity	103
----	------------------------------------------------------------------------------------------------------------	-----

75	Annual licence fee—continuing level 1 environmentally relevant activities	105
----	---------------------------------------------------------------------------	-----

76	Annual licence fee—other environmentally relevant activities.	106
----	-----------------------------------------------------------------------	-----

77	Administering authority to endorse registers	107
----	--------------------------------------------------------	-----

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

78	Application of div 5.	107
----	-------------------------------	-----

79	Affected persons taken to have approval to carry out activity.	107
----	------------------------------------------------------------------------	-----

80	Administering authority to give affected person notice about change	108
----	-------------------------------------------------------------------------------	-----

81	Licences for decided applications issued for prescribed activities effective on or after 1 July 1998	108
----	----------------------------------------------------------------------------------------------------------------	-----

82	Undecided applications for amendment or transfer of licences for prescribed activities	109
----	--------------------------------------------------------------------------------------------------	-----

Environmental Protection Regulation 1998

<i>Division 6—Transitional provision for part 2A and Environmental Protection (Noise) Amendment Policy (No. 1) 1999</i>	
82A	Noise policy applies to existing noise complaints. 110
<i>Division 6A—Transitional provision for sch 1, item 75</i>	
82B	Transitional provision for waste facilities in scheduled areas. 110
<i>Division 7—Miscellaneous transitional provisions</i>	
<i>Subdivision 1—Transitional provision about environmentally relevant activities</i>	
83	Prescribed circumstance for Act, s 130. 111
<i>Subdivision 2—Other transitional provisions</i>	
84	Applications, approvals and notices under repealed regulation 111
85	Approved training courses. 111
SCHEDULE 1 112	
PRESCRIBED ENVIRONMENTALLY RELEVANT ACTIVITIES AND ANNUAL FEES	
SCHEDULE 1AA 136	
MATTERS TO BE ADDRESSED BY ASSESSMENT	
1	General information 136
2	Description 136
3	Relevant impacts 137
4	Proposed safeguards and mitigation measures 138
5	Other approvals and conditions. 138
6	Proponent’s environmental record. 139
7	Information sources. 139
SCHEDULE 1A 140	
CRITERIA FOR STANDARD MINING ACTIVITIES	
PART 1—PRELIMINARY	
1	What is a “category A environmentally sensitive area” 140
2	What is a “category B environmentally sensitive area” 140
3	Limits of “riverine area” 142
4	What is “significantly disturbed” land. 142
5	What is a “watercourse” 143

PART 2—CRITERIA		
6	Criteria for environmental authority (mining lease)	143
7	Criteria for other environmental authority (mining activities)	145
	SCHEDULE 2	146
CONDITIONS APPLYING TO PARTICULAR ACTIVITIES INVOLVING CONTROLLED SUBSTANCES		
1	Sale of controlled substances	146
2	Buying controlled substances	147
3	Handling or use of controlled substances	147
4	Reclaiming of controlled substances	147
	SCHEDULE 3	149
ACTIVITIES INVOLVING HANDLING OR USE OF CONTROLLED SUBSTANCES		
	SCHEDULE 4	150
ESSENTIAL USE CRITERIA FOR INSTALLING, BUYING, KEEPING OR REFILLING OF HALON FIRE EXTINGUISHING DEVICES		
	SCHEDULE 5	151
INDUSTRY CODES OF PRACTICE		
	SCHEDULE 6	152
FEEES		
	SCHEDULE 7	157
REGULATED WASTES		
	SCHEDULE 8	161
OZONE DEPLETING SUBSTANCES		
	SCHEDULE 8A	164
PRESCRIBED ORGANISATIONS FOR CONTAMINATED LAND MATTERS		
	SCHEDULE 8B	165
AREAS OF LOCAL GOVERNMENTS FORMING SCHEDULED AREAS		
	SCHEDULE 8C	166
PRESCRIBED PERIODS UNDER ACT		
PART 1—PRESCRIBED PERIODS FOR CHAPTER 3		
1	Advice to chief executive about draft terms of reference—Act, s 45	166

2	Finalising terms of reference—Act, s 46.	166
3	Decision on whether to allow EIS to proceed—Act, s 49.	166

PART 2—PRESCRIBED PERIODS FOR CHAPTER 5

Division 1—Assessment level decision and EIS requirement

4	Assessment level decision—Act, s 162.	167
5	Decision about EIS requirement—Act, s 164.	167

Division 2—Environmental authority (prospecting) applications

6	Decision period—Act, s 168.	167
7	Failure to decide—Act, s 169.	167

Division 3—Environmental authority (mining claim) applications

8	Decision to refuse or allow to proceed—Act, s 173.	168
9	Giving draft environmental authority—Act, s 175.	168

Division 4—Environmental authority (exploration) and environmental authority (mineral development) applications

10	Decision period—Act, s 181.	168
11	Assessment period for EM plan assessment report—Act, s 191.	168
12	Decision period—Act, s 193.	169
13	Assessment period for EMOS assessment report—Act, s 205.	169
14	Decision to refuse or allow to proceed—Act, s 207.	169

Division 6—Amendment applications

15	Decision to refuse or allow to proceed—Act, s 242.	170
16	Assessment level decision—Act, s 246.	170
17	Deciding application—Act, s 257.	170

Division 7—Surrender applications

18	When surrender required—Act, s 270.	171
19	FRR assessment report period—Act, s 276.	171
20	Deciding application—Act, s 277.	171

	SCHEDULE 9	172
--	-----------------------------	-----

DICTIONARY

ENDNOTES

1	Index to endnotes.	183
2	Date to which amendments incorporated.	183

3	Key	184
4	Table of reprints	184
5	Tables in earlier reprints	184
6	List of legislation	184
7	List of annotations	186
8	Provisions that have not commenced and are not incorporated into reprint	201

ENVIRONMENTAL PROTECTION REGULATION 1998

[as amended by all amendments that commenced on or before 6 December 2002]

PART 1—PRELIMINARY

1 Short title

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

2 Commencement

Schedule 1, item 38 commences on 1 July 2003.

3 Definitions—dictionary

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

PART 1A—ENVIRONMENTAL IMPACT STATEMENTS

Division 1—Preliminary

3A Types of project requiring Commonwealth or State authority approval

A project is prescribed for section 37(1)(d)¹ of the Act if—

¹ Section 37 (When EIS process applies) of the Act

- (a) the Commonwealth Minister has, under the Commonwealth Environment Act²—
 - (i) decided the approach for assessing the relevant impacts of the project is assessment by an accredited assessment process; and
 - (ii) given notice of the decision; or
- (b) the relevant impacts of the project are to be assessed under a bilateral agreement.

Division 2—EIS process

3B Application of div 2

(1) This division applies to a project mentioned in section 3A.

(2) Any steps or actions taken in the EIS process before the action mentioned in section 3A(1)(a) happens are taken to have complied with this division.

3C Prescribed matters for draft terms of reference—Act, s 41(2)(c)

The draft terms of reference for an EIS must include the matters necessary for ensuring the assessment under the EIS—

- (a) assesses the project's relevant impacts; and
- (b) gives enough information about the project and its relevant impacts to allow the Commonwealth Minister to make an informed decision whether to approve the project under the Commonwealth Environment Act; and
- (c) addresses the matters mentioned in schedule 1AA.

3D Prescribed matters for TOR notice and EIS notice—Act, ss 42(2)(f) and 52(1)(g)

(1) A TOR notice and an EIS notice must state the following—

2 See the Commonwealth Environment Act, chapter 4, part 8, division 3 (Decision on assessment approach)

- (a) the project's title and location;
- (b) the proponent's name;
- (c) if the proponent and designated proponent for the project are not the same entity—the name of the designated proponent;
- (d) the protected matters for the project.

(2) In this section—

“protected matter” means a matter mentioned in the Commonwealth Act, section 34³ and protected by a controlling provision for the project.

3E Prescribed way for publishing TOR notice and EIS notice

A TOR notice and an EIS notice must be published—

- (a) in a newspaper circulating throughout Australia; or
- (b) in each State or Territory in a newspaper circulating generally in the State or Territory.

3F EIS assessment report—Act, s 59(e)

(1) An EIS assessment report must contain the following matters—

- (a) a description of the following—
 - (i) the project;
 - (ii) the places affected by the project;
 - (iii) any matters of national environmental significance likely to be affected by the project;
- (b) a summary of the project's relevant impacts;
- (c) a description of feasible mitigation measures, changes to the project or procedures to prevent or minimise the project's relevant impacts, proposed by the proponent or suggested in relevant submissions;
- (d) to the extent practicable, a description of feasible alternatives to the project identified in the assessment process, and the likely

3 Commonwealth Act, section 34 (What is matter protected by a provision of Part 3?)

impact of the alternatives on matters of national environmental significance;

- (e) a statement of conditions of approval for the project that may be imposed to address impacts, identified in the assessment process, on matters of national environmental significance;
- (f) a statement of requirements for, and conditions of, approval applying, or proposed to apply, to the project when the report is prepared, including a description of the monitoring, enforcement and review procedures applying, or proposed to apply, to the project.

(2) After completing the report, the chief executive must give a copy of it to the Commonwealth Minister.

(3) In this section—

“matters of national environmental significance” means matters of national environmental significance mentioned in the Commonwealth Environment Act, chapter 2, part 3, division 1.⁴

“relevant submissions” means—

- (a) properly made submissions under section 55(2) of the Act; and
- (b) submissions accepted by the chief executive under section 55(3) of the Act for chapter 3⁵ of the Act.

PART 2—ENVIRONMENTALLY RELEVANT ACTIVITIES

4 Levels 1 and 2 prescribed environmentally relevant activities

(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.

4 Commonwealth Environment Act, chapter 2, part 3, division 1 (Requirements relating to matters of national environmental significance)

5 Chapter 3 (Environmental impact statements) of the Act

(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.

6 Prescribed criteria for standard mining activities—Act, s 151

For section 151(2)(c)(ii) of the Act, the prescribed criteria, are stated in schedule 1A.

6A Environmentally relevant activity—waste disposal

(1) 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.

(2) A person who carries out the environmentally relevant activity of operating a facility mentioned in schedule 1, item 75(c) must supervise the burial of untreated clinical waste received at the facility.

Maximum penalty—20 penalty units.

(3) Also, a person must not deliver untreated clinical waste to a facility mentioned in schedule 1, item 75(c) unless the waste was generated in a scheduled area.

Maximum penalty—20 penalty units.

PART 2A—ENVIRONMENTAL NUISANCE

Division 1—Preliminary

Subdivision 1—Object of part and its achievement

6B Object of pt 2A

The object of this part is to help to protect Queensland’s environment from environmental nuisance.

6C How object is achieved

To achieve the object, this part—

- (a) provides for nuisance abatement notices to control emissions that cause unlawful environmental nuisance; and
- (b) creates offences for specific types of noise of a minor nature.⁶

Subdivision 2—Standard definitions

6D Definitions for pt 2A

In this part—

“**affected building**”, for noise, means any building, or any part of a building, including, for example, the building from which the noise is made, at which the noise can be heard.

“**AS 1055**” means AS 1055—1997 Acoustics—Description and measurement of environmental noise.⁷

“**at**”, a place or premises, includes in or on the place or premises.

“**audible noise**” see section 6E.

6 For the achievement of the object, see also the noise policy, part 2 (Application and object).

7 A copy of AS 1055 may be inspected, free of charge, at the department’s office at 160 Ann Street, Brisbane.

“background noise level” means the background A-weighted sound pressure level under AS 1055.⁸

“builder” means a person who, under the *Queensland Building Services Authority Act 1991*, holds, or who is required to hold, a licence or an owner builder permit.

“building” includes a structure of any type and part of a building or structure.

“building contractor” means a person who is employed or engaged—

- (a) by a builder to carry out building work; or
- (b) by someone else to carry out building work for a builder.

“building site” means a place where building work is being, or is about to be, carried out at which a sign must, under the *Queensland Building Services Authority Act 1991*, section 52, be exhibited.

“building work” means—

- (a) an activity (a **“building activity”**) as follows—
 - (i) building, repairing, altering, underpinning (whether by vertical or lateral support), moving or demolishing a building;
 - (ii) providing airconditioning, drainage, heating, lighting, sewerage, ventilation or water supply for a building; or
- (b) excavating or filling—
 - (i) for, or incidental to, a building activity; or
 - (ii) that may adversely affect the stability of a building, whether on the land on which the building is situated or on adjoining land; or
- (c) supporting (whether vertically or laterally) land for a building activity.

“complainant” means a person who has made a nuisance complaint, for which a rejection notice has not been given.

8 See AS 1055.1, paragraph 3.7, definition “Background A-weighted sound pressure level”.

“educational institution” means—

- (a) a State educational institution within the meaning of the *Education (General Provisions) Act 1989*, section 2(1); or
- (ab) a school that is provisionally accredited, or accredited, under the *Education (Accreditation of Non-State Schools) Act 2001*; or
- (b) a TAFE institute under the *Training and Employment Act 2000*; or
- (c) a university.

“emission” means an emission of ash, dust, fumes, light, noise, odour or smoke.

“general emission criteria” means the general emission criteria under section 6S.

“indoor venue” means a building, other than a licensed premises, used for musical, sporting or other entertainment or for cultural or religious activities.

Examples of ‘use’ of a building for definition “indoor venue”—

- 10 pin bowling
- concerts
- indoor cricket
- religious worship
- squash.

“licensed premises” means licensed premises under the *Liquor Act 1992*.

“noise emission criteria” means the noise emission criteria under section 6T.

“noise offence” means an offence against division 4.

“noise offence exemption” see section 6ZG(1).

“nuisance abatement notice” means a nuisance abatement notice given under division 3.

“nuisance complaint” means a complaint made under section 6L for which a rejection notice has not been given.

“open-air event” means an open-air activity, competition, concert, display or race.

“power boat” means a power driven watercraft, including, for example, a jet ski or other power driven personal watercraft.

“railway” means a private or public railway or railway facility.

Examples of a ‘railway facility’—

- a railway bridge
- a railway communications system
- a railway marshalling station and yard
- a railway track
- works built for a railway.

“rejection notice” see section 6M(3).

“relevant nuisance complaint”, for an emission, means a nuisance complaint made about—

- (a) the emission; or
- (b) another emission of the same type if the same person—
 - (i) is, or may have been, a responsible person for both emissions; or
 - (ii) allowed, or may have allowed, both emissions to happen.

“responsible person”, for an emission, means—

- (a) a person who makes the emission, causes it to be made or is in control of its cause; or
- (b) if the emission is animal noise—
 - (i) the animal’s owner; or
 - (ii) a person who has care or control of the animal.

“source noise” see section 6ZN.

“unlawful environmental nuisance” see section 6F.

Subdivision 3—Meaning of audible noise

6E Meaning of “audible noise”

(1) **“Audible noise”** means noise that can be heard by any individual who is an occupier of an affected building.

(2) For subsection (1), the occupier can hear the noise if the occupier can hear it from the part of the building most exposed to the noise.

Example of ‘audible noise’—

A occupies unit 1 in a block of units. A makes noise or causes noise to be made from unit 1. B occupies unit 10 in the same block. The most exposed part of unit 10 to the noise is its balcony. B can not hear the noise from unit 10’s bathroom, but can hear it from the balcony. The noise is audible noise.

Subdivision 4—Meaning of unlawful environmental nuisance

6F General definition

Subject to sections 6G to 6K, “**unlawful environmental nuisance**” means environmental nuisance not authorised to be done or omitted to be done under any of the following—

- (a) an environmental protection policy;
- (b) an environmental management program;
- (c) an environmental protection order;
- (d) an environmental authority;
- (e) a condition of a development approval;
- (f) an emergency direction.⁹

6G Animal noise exclusion

Animal noise can only be unlawful environmental nuisance if the animal that made the noise is a domestic animal.

6H Audible traffic signal noise exclusion

Noise from an audible traffic signal at pedestrian lights under the Queensland Road Rules is not unlawful environmental nuisance if the signal complies with AS 1742.10—1990 Pedestrian control and protection.¹⁰

⁹ See however section 436(2) (Unlawful environmental harm) of the Act.

¹⁰ A copy of AS 1742.10 may be inspected, free of charge, at the department’s office at 160 Ann Street, Brisbane.

6I Blasting noise exclusion

Noise from blasting is not unlawful environmental nuisance for an affected building if—

- (a) the airblast overpressure is no more than 115 dB (Lin) Peak for 4 out of any 5 consecutive blasts; and
- (b) the ground vibration is—
 - (i) for vibrations of more than 35 Hz—no more than 25 mm a second ground vibration, peak particle velocity; or
 - (ii) for vibrations of no more than 35 Hz—no more than 10 mm a second ground vibration, peak particle velocity.

6J Outdoor shooting range noise exclusion

(1) Noise from an outdoor shooting range is not unlawful environmental nuisance for an affected building if the noise is no more than—

- (a) from 6 a.m. to 6 p.m. on any day—
 - (i) for a range that is normally used at least 5 days a week—95 dB (Lin) Peak Hold; or
 - (ii) for a range that is normally used 4 days a week—100 dB (Lin) Peak Hold; or
 - (iii) for a range that is normally used no more than 3 days a week—105 dB (Lin) Peak Hold; or
- (b) from 6 p.m. to 10 p.m. on any day—
 - (i) for a range that is normally used at least 5 evenings a week—85 dB (Lin) Peak Hold; or
 - (ii) for a range that is normally used 4 evenings a week—90 dB (Lin) Peak Hold; or
 - (iii) for a range that is normally used no more than 3 evenings a week—95 dB (Lin) Peak Hold.

(2) For subsection (1), noise from an outdoor shooting range is measured by working out the arithmetic average of the noise levels of whichever of the following happens first during the measurement period—

- (a) at least 40 individual gunshots;
- (b) at least 20 individual gunshots in any 30 minute period.

(3) In this section—

“used” means used for an activity that includes shooting.

Examples of a range being ‘used’—

1. A shooting match conducted at the range.
2. A defence personnel or police officer training session, that includes shooting, conducted at the range.

6K Cooking odour exclusion

A cooking odour is not unlawful environmental nuisance if the cooking that made the odour happens on land on which a class 1, 2, 3 or 10 building under the Building Code of Australia is constructed.¹¹

Division 2—Investigation of unlawful environmental nuisance

Subdivision 1—Nuisance complaints

6L How nuisance complaint may be made

(1) If a person believes an emission from a person, place or thing has or is causing unlawful environmental nuisance, the person may complain to the administering authority about the emission.

(2) The complaint may be written or oral.

(3) The complaint must include—

- (a) the complainant’s name and residential address; and
- (b) a telephone number at which the complainant can be contacted; and
- (c) enough details of the emission to allow the authority to investigate whether the emission is causing unlawful environmental nuisance.

¹¹ For classes of building under the ‘Building Code of Australia’, see appendix C (Classification of Buildings and Structures), paragraph C3 (Classifications).

6M Frivolous, vexatious or mistaken complaints

(1) This section applies if, at any time after a nuisance complaint has been made, the administering authority believes, on reasonable grounds, the complaint is frivolous, vexatious or based on a mistaken belief.

(2) The authority may reject the complaint.

(3) If the authority rejects the complaint, it must give the person who made the complaint written notice (a “**rejection notice**”) stating the following—

- (a) that the authority has rejected the complaint;
- (b) the reasons for the rejection;
- (c) the review or appeal details.

Subdivision 2—Investigations**6N No investigation without relevant nuisance complaint**

The administering authority must not investigate an emission unless a relevant nuisance complaint has been made for the emission.

6O Duty to investigate nuisance complaint

(1) The administering authority must investigate a nuisance complaint as soon as practicable after—

- (a) the complaint has been made; and
- (b) the authority has had a reasonable opportunity to consider whether the complaint is frivolous, vexatious or based on a mistaken belief.

(2) However, subsection (1) ceases to apply if—

- (a) a rejection notice has been given for the complaint; or
- (b) the authority considers the complaint would be more appropriately dealt with under another law.

Examples for subsection (2)(b)—

1. A nuisance complaint is made about noise from licensed premises. The administering authority may consider the complaint would be more appropriately dealt with under the *Liquor Act 1992*.

Environmental Protection Regulation 1998

2. A nuisance complaint is made about domestic animal noise. The administering authority may consider it more appropriate to deal with the complaint under a local law about abating domestic animal noise.

(3) If, under subsection (2)(b), the authority does not, or ceases to, investigate the complaint the authority must advise the complainant of the law under which it considers the complaint would be more appropriately dealt with.

6P Discharge of duty to investigate

(1) This section applies only if the administering authority must investigate a nuisance complaint.

(2) If the emission the subject of the complaint is noise, the authority must investigate and consider whether a noise offence may have been committed.¹²

(3) If the emission is not noise or if the authority does not consider a noise offence has been committed, the authority must investigate and consider whether—

- (a) a nuisance abatement notice should be given; or
- (b) any other action is appropriate.

*Division 3—Nuisance abatement notices**Subdivision 1—When nuisance abatement notice may be given***6Q Conditions for giving nuisance abatement notice**

The administering authority may give a nuisance abatement notice to a responsible person for an emission only if—

- (a) a relevant nuisance complaint has been made for the emission; and

¹² See section 6Q(c) (Conditions for giving nuisance abatement notice) and the *State Penalties Enforcement Regulation 2000*, section 10 (Authorised person for infringement notice for offence against nominated law) and schedule 2 (Environmental legislation).

- (b) the authority reasonably believes the emission is, or has been, causing unlawful environmental nuisance, after considering—
 - (i) the general emission criteria; and
 - (ii) if the emission is noise—the noise emission criteria; and
- (c) a restriction under section 6R does not apply.

6R Restrictions

A nuisance abatement notice must not be given to a person for an emission if—

- (a) the emission, or a matter relating to it is, or may be, a noise offence; or
- (b) the emission was caused by an environmentally relevant activity and the activity was carried out under a development approval or environmental authority.

Subdivision 2—Emission criteria

6S General emission criteria

The general emission criteria are as follows—

- (a) the emission’s characteristics or qualities;
- (b) the emission’s amount and rate;
- (c) the duration and time of the emission;
- (d) whether the emission is continuous or fluctuating;
- (e) the characteristics and qualities of the environment into which the emission is made (the “**receiving environment**”);
- (f) the emission’s impact on the receiving environment;
- (g) the views of each complainant for the emission;
- (h) if another person affected by the emission has given the administering authority a view about the emission—that view;
- (i) the order of occupancy between the responsible person and each complainant.

6T Noise emission criteria

(1) For noise other than animal noise, the noise emission criteria are as follows—

- (a) the acoustic quality objective under the noise policy, section 11;
- (b) if a sound pressure level has been measured by the administering authority—the sound pressure level;
- (c) the audibility of the noise;
- (d) whether the noise is continuous at a steady level or whether it has a fluctuating, intermittent, tonal or impulsive nature;
- (e) whether the noise has vibration components.

(2) For animal noise, the noise emission criteria is whether the noise is excessive in all the circumstances.

(3) For subsection (2), the administering authority may consider the noise to be excessive in all the circumstances if—

- (a) the noise is made for more than a total of 6 minutes in any hour from 7 a.m. to 10 p.m. on any day; or
- (b) the noise is made for more than a total of 3 minutes in any 30 minute period on any day after 10 p.m. or before 7 a.m.

Subdivision 3—Requirements for nuisance abatement notices**6U Requirements**

(1) A nuisance abatement notice must—

- (a) be signed by the administering authority; and
- (b) identify the responsible person to whom it is to be given; and
- (c) describe the emission the subject of the notice; and
- (d) state the following—
 - (i) that the person must stop the emission or control, prevent or reduce it so that it is no longer unlawful environmental nuisance;
 - (ii) a time (the “**compliance time**”) on or before which the person must comply with subparagraph (i);

- (iii) the review or appeal details;
 - (iv) the maximum penalty for failing to comply with the notice.
- (2) The compliance time must be reasonable having regard to—
- (a) the general emission criteria; and
 - (b) if the emission is noise—the noise emission criteria.

Subdivision 4—Compliance with nuisance abatement notices

6V Failure to comply with nuisance abatement notice

A person to whom a nuisance abatement notice has been given must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—

- (a) for an individual—40 penalty units; or
- (b) for a corporation—80 penalty units.

Division 4—Noise offences

Subdivision 1—Offences

6W Building work

A builder or building contractor must not carry out building work on a building site in a way that makes or causes audible noise to be made from the building work—

- (a) on a Sunday or public holiday, at any time; or
- (b) on a Saturday or business day, before 6.30 a.m. or after 6.30 p.m.

Maximum penalty—20 penalty units.

6X Regulated devices

(1) This section does not apply to a builder or building contractor who is carrying out building work on a building site.

(2) A person must not operate a regulated device in a way that makes audible noise or causes audible noise to be made—

- (a) on a Sunday or public holiday, before 8 a.m. or after 7 p.m.; or
- (b) on a Saturday or business day, before 7 a.m. or after 7 p.m.

Maximum penalty—20 penalty units.

(3) However, subsection (2) does not apply if—

- (a) the regulated device is a grass-cutter or leaf-blower; and
- (b) the person operates the device at a place as follows and is authorised by an occupier of the place to operate the device—
 - (i) a road or route, or part of a road or route, declared under the *Transport Infrastructure Act 1994*, section 23,¹³ to be a State-controlled road;
 - (ii) a railway.

(4) Also, subsection (2)(b) does not apply to audible noise made or caused to be made by the operation of a regulated device by anyone at a manual arts facility at an educational institution from 7 p.m. to 10 p.m.

(5) In this section—

“grass-cutter” means an electrical or mechanical device a function of which is to cut grass.

Examples of a ‘grass-cutter’—

- a brush cutter
- an edge cutter
- a lawn-mower
- a ride-on mower
- a string trimmer.

“leaf-blower” means an electrical or mechanical device a function of which is to blow leaves.

“regulated device” means any of the following—

- (a) a compressor;
- (b) a ducted vacuuming system;

¹³ *Transport Infrastructure Act 1994*, section 23 (Declaration of State-controlled roads)

- (c) a generator;
- (d) a grass-cutter;
- (e) an impacting tool;
- (f) a leaf-blower;
- (g) a mulcher;
- (h) an oxyacetylene burner;
- (i) an electrical, mechanical or pneumatic power tool.

Examples of a 'power tool'—

- a chainsaw
- a drill
- an electric grinder or sander
- an electric welder
- a nail-gun.

6Y Spa blowers and pool pumps

(1) An occupier of premises at or for which there is a spa blower or a pump for a swimming pool or spa pool must not use or allow the use of the spa blower or the pump—

- (a) before 7 a.m. or after 10 p.m. on any day if it makes audible noise or causes audible noise to be made; or
- (b) from 7 a.m. to 7 p.m. on any day if it makes noise or causes noise to be made of more than 50 dB(A); or
- (c) from 7 p.m. to 10 p.m. on any day if it makes noise or causes noise to be made of more than 5 dB(A) above the background noise level.

Maximum penalty—20 penalty units.

(2) However, subsection (1)(a) does not apply if—

- (a) the audible noise is made or caused to be made at an educational institution; and
- (b) the noise is no more than 5 dB(A) above the background noise level.

6Z Airconditioning equipment

An occupier of premises at or for which there is airconditioning equipment must not use or allow the use of the equipment—

- (a) from 7 a.m. to 10 p.m. on any day if it makes noise or causes noise to be made of more than 50 dB(A); or
- (b) before 7 a.m. or after 10 p.m. on any day if it makes noise or causes noise to be made of more than the higher of the following—
 - (i) 40 dB(A);
 - (ii) 5 dB(A) above the background noise level.

Maximum penalty—20 penalty units.

6ZA Refrigeration equipment

(1) This section applies to a person who is—

- (a) an occupier of premises at or for which there is plant or equipment for refrigeration (“**refrigeration equipment**”); or
- (b) an owner of refrigeration equipment that is on or in a vehicle, other than a vehicle used or to be used on a railway.

(2) The person must not use or allow the use of the refrigeration equipment—

- (a) before 7 a.m. or after 10 p.m. on any day if it makes noise or causes noise to be made of more than the higher of the following—
 - (i) 40 dB(A);
 - (ii) 5 dB(A) above the background noise level; or
- (b) from 7 a.m. to 10 p.m. on any day if it makes noise or causes noise to be made of more than 50 dB(A).

Maximum penalty—20 penalty units.

(3) In this section—

“**vehicle**” includes a trailer.

6ZB Indoor venues

(1) An occupier of a building must not use or allow the use of the building as an indoor venue—

- (a) before 7 a.m. on any day if the use causes audible noise; or
- (b) from 7 a.m. to 10 p.m. on any day if the use causes noise of more than 50 dB(A); or
- (c) after 10 p.m. on any day if the use causes noise of more than the lesser of the following—
 - (i) 45 dB(A);
 - (ii) 10 dB(A) above the background noise level.

Maximum penalty—20 penalty units.

(2) However, subsection (1)(b) does not apply if—

- (a) the building is, or is part of, an educational institution; and
- (b) the use of the building as an indoor venue is organised by or for the educational institution for its purposes.

6ZC Open-air events

(1) An occupier of premises must not use or allow the use of the premises for an open-air event—

- (a) before 7 a.m. on any day if the use causes audible noise; or
- (b) from 7 a.m. to 10 p.m. on any day if the use causes noise of more than 70 dB(A); or
- (c) after 10 p.m. on any day if the use causes noise of more than the lesser of the following—
 - (i) 50 dB(A);
 - (ii) 10 dB(A) above the background noise level.

Maximum penalty—20 penalty units.

(2) However, subsection (1)(b) does not apply if—

- (a) the premises is, or is part of, an educational institution; and
- (b) the use of the premises for an open-air event is organised by or for the educational institution for its purposes.

6ZD Amplifier devices, other than at indoor venue or open-air event

(1) This section applies to a person who operates an amplifier device, other than at an indoor venue or open-air event.

(2) The person must not operate the device in a way that makes audible noise or causes audible noise to be made—

- (a) on a Saturday, Sunday or public holiday, before 8 a.m. or after 6 p.m; or
- (b) on a business day, before 7 a.m. or after 10 p.m.

Maximum penalty—20 penalty units.

(3) The person must not operate the device in a way that makes noise or causes noise to be made of more than 10 dB(A) above the background noise level—

- (a) on a Saturday, Sunday or public holiday, from 8 a.m. to 6 p.m; or
- (b) on a business day, from 7 a.m. to 10 p.m.

Maximum penalty—20 penalty units.

(4) However, subsection (3) does not apply if the noise is made or caused to be made by an amplifier device operated by anyone at an educational institution.

(5) In this section—

“amplifier device” means any of the following—

- (a) a loudhailer;
- (b) a megaphone;
- (c) a public address system, other than for a railway;
- (d) a remote telephone bell;
- (e) a telephone repeater bell.

6ZE Power boat sports in waterway

(1) This section applies to a person in control of a power boat on any of the following (the **“waterway”**)—

- (a) a creek, river, stream or watercourse;
- (b) an inlet of the sea into which a creek, river, stream or watercourse flows;

(c) a dam or weir.

(2) The person must not use the power boat for a power boat sport if the use makes audible noise for the same affected building for more than a continuous period of 2 minutes—

- (a) on a Sunday or public holiday, before 8 a.m. or after 6.30 p.m; or
- (b) on a Saturday or business day, before 7 a.m. or after 7 p.m.

Maximum penalty—20 penalty units.

(3) Also, the person must not use the power boat for a power boat sport on any day at any time if—

- (a) the use makes audible noise for the same affected building for more than a continuous period of 2 minutes; and
- (b) during the period the noise is also continuously more than 75 dB(A), measured at the shore of the waterway from at least 30 m from where the power boat is being used.

Maximum penalty—20 penalty units.

(4) In this section—

“person in control”, of a power boat, includes—

- (a) the driver of the boat; and
- (b) the person in command of the boat; and
- (c) the person who appears to be in control or command of the boat.

“power boat sport” means—

- (a) a sport in which a person is towed by a line attached to a power boat, including, for example, a person water skiing or riding on a toboggan or tube; or
- (b) operating a jet ski or other power driven personal watercraft, other than for fishing.

6ZF Operating power boat engine at premises

(1) A person must not at a premises operate a power boat engine in a way that makes audible noise or causes audible noise to be made—

- (a) on a Sunday or public holiday, before 8 a.m. or after 6.30 p.m; or

(b) on a Saturday or business day, before 7 a.m. or after 7 p.m.

Maximum penalty—20 penalty units.

(2) An occupier of premises must not allow a power boat engine to be operated at the premises in a way that makes audible noise or causes audible noise to be made during a period mentioned in subsection (1).

Maximum penalty—20 penalty units.

(3) In this section—

“operate”, a power boat engine, includes flushing the engine.

Subdivision 2—Exemptions

6ZG Operation of sdiv 2

(1) Each section in this subdivision provides an exemption (a “**noise offence exemption**”) to the offences created under subdivision 1.

(2) A noise offence exemption applies for—

- (a) a responsible person for a noise; and
- (b) a person who allows a noise to happen.

(3) If a noise offence exemption applies, the person does not commit an offence against subdivision 1 in relation to the noise.

(4) The *Justices Act 1886*, section 76,¹⁴ applies to a noise offence exemption.

6ZH Compliance with general environmental duty

(1) It is a noise offence exemption if—

- (a) the noise happened while a lawful activity was being carried out; and
- (b) the general environmental duty was complied with by the person and everyone else who was in control of the cause of the noise when it happened.

14 *Justices Act 1886*, section 76 (Proof of negative etc.)

(2) For subsection (1)(b), the duty may be complied with in the way stated in section 319¹⁵ of the Act or by complying with any relevant code of practice.

6ZI Lawful environmental nuisance

It is a noise offence exemption if the noise was not unlawful environmental nuisance.

6ZJ Certain environmentally relevant activities

It is a noise offence exemption if—

- (a) the noise was caused by an environmentally relevant activity; and
- (b) the activity was carried out under a development approval or environmental authority.

6ZK Compliance with certain instruments under Act or a local law

(1) It is a noise offence exemption if an instrument mentioned in section 6F or a local law provides or allows for—

- (a) the noise to be made or caused to be made; or
- (b) the carrying out of an activity in a way that makes the noise or causes it to be made.

Examples of an ‘activity’—

- building work
- use of premises for an indoor venue or open-air event.

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

- (a) the offence for which the exemption is sought relates to making the noise or causing it to be made during a period; and
- (b) the instrument or local law does not provide or allow for the noise to be made or caused to be made, or for the activity to be carried out, during the period.

15 Section 319 (General environmental duty) of the Act

*Subdivision 3—Proceedings for noise offences***6ZL Relevant nuisance complaint required for certain prosecuting parties**

(1) This section applies to a person as follows (the “**prosecutor**”) if the prosecutor proposes to start a proceeding for a noise offence—

- (a) the administering authority;
- (b) the administering executive;
- (c) an authorised person.

(2) The prosecutor must not start the proceeding unless a relevant nuisance complaint has been made for the noise the subject of the proceeding.

(3) A statement in either of the following that a relevant nuisance complaint has been made is evidence that a relevant nuisance complaint has been made—

- (a) the complaint starting the proceeding;
- (b) a certificate purporting to be signed by the prosecutor or another person mentioned in subsection (1).

(4) Subsection (3) does not require the statement or certificate to state any matter for the relevant nuisance complaint mentioned in section 6L(3).¹⁶

6ZM Special evidentiary provisions for audible noise

(1) This section applies if in a proceeding for a noise offence it is claimed audible noise was made or caused to be made from a person, place or thing (the “**alleged source**”) to an affected building.¹⁷

(2) An individual (the “**occupier**”) who was, when the noise was made or caused to be made (the “**relevant time**”), an occupier of the building, may give evidence that—

- (a) the occupier could, at the relevant time, hear the noise at the building; and

¹⁶ Section 6L (How nuisance complaint may be made)

¹⁷ See also section 6ZT (General evidentiary provision for emissions).

Environmental Protection Regulation 1998

- (b) the occupier formed the opinion, based on the occupier's own senses, that the noise was made or caused to be made from the alleged source and travelled to the building.

(3) An authorised person may give evidence of the following if the person was, at the relevant time, present at the building with the occupier and the person could hear the noise at the building—

- (a) that the occupier was, at the relevant time, an occupier of the building;
- (b) that the occupier could, at the relevant time, hear the noise at the building;
- (c) that the person formed the opinion, based on the person's own senses, that the noise was made or caused to be made from the alleged source and travelled to the building.

(4) Evidence may be given under subsection (3)—

- (a) without any need to call the occupier; and
- (b) whether or not other audible noise was made or caused to be made to the building from a person, place or thing other than the alleged source.

(5) Opinion evidence may be given under this section without any need to call further opinion evidence.

*Division 5—Measurement of noise**Subdivision 1—Preliminary***6ZN Operation of div 5**

This division provides for where and how noise from a person, place or thing (“**source noise**”) or the background noise level is to be measured to decide whether—

- (a) a noise emission is unlawful environmental nuisance; or
- (b) source noise is a noise offence or may relate to a noise offence.

6ZO No requirement to measure audible noise

(1) This section applies if in a proceeding for a noise offence it is claimed audible noise was made, caused to be made or allowed to happen.

(2) Evidence mentioned in section 6ZM or 6ZT may be given about the noise without any requirement for the noise to have been measured.¹⁸

(3) If the noise is established as audible noise, the rate of its audibility is not required to be established.

Subdivision 2—Where to measure noise**6ZP Source noise**

(1) This section applies for measuring source noise, other than for section 6ZE(3)(b).¹⁹

(2) Source noise may be measured only from an affected building for the noise.

(3) Any part of the building may be used for the measurement.

6ZQ Background noise level

(1) Subject to subsections (3) and (4), the background noise level may be measured only from an affected building for the source noise for which the level is to be measured (the “**relevant noise**”).

(2) Any part of the building may be used for the measurement.

(3) Subsection (4) applies if it is impracticable to measure the level from any affected building for the relevant noise.

Examples for subsection (3)—

1. The source of the relevant noise is a continuously running swimming pool pump. The background noise level can not be measured at all without stopping the pump. No occupier of the premises at which the pump is situated can be found after making reasonable efforts or inquiries.
2. The source of the relevant noise is a continuously running refrigerator at a retail food outlet. The background noise level can not be measured at all without

18 Sections 6ZM (Special evidentiary provisions for audible noise) and 6ZT (General evidentiary provision for emissions)

19 Section 6ZE (Power boat sports in waterway)

Environmental Protection Regulation 1998

stopping the refrigerator. Stopping the refrigerator may damage perishable goods inside it or unreasonably interrupt the running of the outlet.

(4) If this subsection applies, the level may be measured at the nearest point to the source of the relevant noise that could reasonably be expected to have a similar background noise level to any affected building for the relevant noise.

*Subdivision 3—How to measure noise***6ZR Measurement procedures**

(1) Source noise or the background noise level may be measured only by applying—

- (a) the procedure under—
 - (i) AS 1055;²⁰ or
 - (ii) the ‘Noise Measurement Manual’, published by the department (the “**manual**”);²¹ or
- (b) another appropriate scientific method or procedure for noise measurement.

(2) A copy of AS 1055 or of the manual is admissible in evidence in a proceeding under the Act.

(3) The chief executive must keep a copy of the manual open for inspection by members of the public during office hours on business days at—

- (a) the department’s head office;²² and
- (b) the other places the chief executive considers appropriate.

20 See AS 1055.1, paragraph 4 (Investigation of specific environmental noise situations).

21 For other relevant provisions about measuring noise, see section 490 (Evidentiary provisions) of the Act and section 29 (Prescribed instruments—Act, s 180(8)) of the noise policy.

22 The department’s head office is at 160 Ann Street, Brisbane.

6ZS Measurement of noises of same type from same premises

If 2 or more noises of the same type happen simultaneously at the same premises, they must be measured as if they are 1 noise of that type happening at the premises.

Examples—

1. A number of concerts happen simultaneously at different places at the same premises. A building is affected by noise from more than 1 of the concerts. The noises must be measured as if they were from 1 concert.
2. A premises is used as a stopover depot for trucks with refrigerators. A building is affected by noise from the use of more than 1 of the refrigerators. The noises must be measured as if they were from 1 refrigerator.

Division 6—Miscellaneous**6ZT General evidentiary provision for emissions**

(1) This section applies to a proceeding for an offence against this part in which it is claimed an emission was made or caused to be made from a person, place or thing (the “**alleged source**”).²³

(2) An authorised person may give evidence that the person formed the opinion, based on the person’s own senses, that—

- (a) the emission was emitted from the alleged source and travelled to another place; and
- (b) the level, nature or extent of the emission within the other place was an unreasonable interference with someone’s enjoyment of the other place or with another environmental value.

(3) Evidence may be given under subsection (2) whether or not another emission was made or caused to be made to the other place from a person, place or thing other than the alleged source.

(4) The evidence may be given without any need to call further opinion evidence.

6ZU Dispute resolution by agreement not affected

This part does not—

²³ See also section 6ZM (Special evidentiary provisions for audible noise).

- (a) limit the capacity of persons to negotiate, under the *Dispute Resolution Centres Act 1990* or otherwise, a settlement of the subject matter of a nuisance complaint; or
- (b) prevent the administering authority making guidelines to help persons negotiate a settlement of a nuisance complaint.

PART 3—OZONE DEPLETING SUBSTANCES

Division 1—Controlled articles

7 Responsibilities of owner or person in possession of controlled article

- (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.

8 Labelling by manufacturers and importers

(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.

9 Labelling on charging of motor vehicle airconditioning equipment with refrigerant

(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.

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

(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

11 Release of controlled substance

(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.

12 Restriction on sale or buying of controlled substances

(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.

13 Restriction on handling or use of controlled substances

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.

14 Duty to recover and reclaim controlled substances

(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.

15 Disposal of a controlled substance

(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**16 Procedure for operation and maintenance of equipment**

(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.

17 Solvent cleaning or degreasing

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.

18 Dry cleaning equipment

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.

19 Sterilisation equipment

(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

20 Aerosols containing controlled substances

(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

21 Refrigeration and airconditioning

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.

22 Installation of refrigeration or airconditioning equipment

(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

23 Manufacture of plastic foams

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

24 Manufacture etc. of fixed halon system

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.

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

- (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 decides to refuse the application or to impose conditions on the approval, the chief executive must promptly—

- (a) give the applicant an information notice about the decision; and
- (b) for a decision to impose conditions—endorse the conditions on the certificate of approval.

26 Testing fixed halon systems

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.

27 Release of controlled substances

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

28 Testing of fixed HCFC systems

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

29 Restriction on sale or refilling of portable halon fire extinguishers

(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.

30 Approval to buy or refill a portable halon fire extinguisher

(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 decides to refuse the application or to impose conditions on the approval, the chief executive must promptly—

- (a) give the applicant an information notice about the decision; and
- (b) for a decision to impose conditions—endorse the conditions on the certificate of approval.

31 Possession of portable halon fire extinguishers

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

32 Discharge of HCFC fire extinguishers

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.

33 Discharge of halon fire extinguishers

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.

34 Aerosol or non-refillable fire extinguishers

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.

35 Non-refillable refrigerant cylinders

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**36 Cancellation of certificate of approval**

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.

37 Procedure for cancellation

(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, within 10 days after deciding to cancel the certificate, give the certificate holder an information notice about the decision.

(4) 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.

(5) 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.

(6) If the chief executive at any time decides not to take the proposed action, the chief executive must, within 10 days after making the decision, give the certificate holder written notice of the decision.

38 Return of cancelled certificate

(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

38A Purpose of pt 3A

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 14.²⁴

Subdivision 2—Interpretation

38B Definitions for pt 3A

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.

²⁴ *National Environment Protection Council Act 1994* (Cwlth), section 14 (Council may make national environment protection measures)

“**facility**” see section 38D.

“**industry handbook**”, for a facility, means an industry handbook published under the NPIM.²⁵

“**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.

38C Meaning of “emission” of a substance

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

- (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.

²⁵ Publication of the handbooks is notified in the Commonwealth of Australia Gazette.

38D Meaning of “facility”

(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.

38E Meaning of “offshore facility”

(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.

38F Meaning of “substance”

(1) A “**substance**” is a substance mentioned in the NPIM, schedule A, table 1 or 2, column 1.

(2) However, for a reporting period, a substance mentioned in the NPIM, schedule A, table 1 or 2, column 1, is a “**substance**” only if it is a substance under the NPIM for the reporting period.

38G General

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**38H Occupiers of reporting facilities to give information**

(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,²⁶ 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;
- (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—

²⁶ Sections 38O (Exemption on ground of national security) and 38Q (Deciding claim for exemption on ground of commercial confidentiality)

- (a) why the further information is required; and
- (b) the review or appeal details for 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.

38I Exceeding reporting threshold

(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

Environmental Protection Regulation 1998

- (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
 - (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.

38J Reporting period for facility

(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 316²⁷ 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 be an information notice about the 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

27 Section 316 (Annual fee and return) of the Act

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).

38K Estimation technique for emission data

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.

38L Application for approval of estimation technique

(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.

(4) The notice must be accompanied by, or include, an information notice about the chief executive's decision to make the request.

38M Approving estimation technique

(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 be an information notice about the 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.

38N Occupier must keep particular data for 3 years

(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.

38O Exemption on ground of national security

(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.

38P Claiming exemption on ground of commercial confidentiality

(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.

(4) A notice under subsection (3) must be accompanied by, or include, an information notice about the chief executive's decision to make the request.

38Q Deciding claim for exemption on ground of commercial confidentiality

(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 45.²⁸

(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 be an information notice about the decision to refuse the grant.

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

²⁸ *Freedom of Information Act 1992*, section 45 (Matter relating to trade secrets, business affairs and research)

(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

38R Chief executive to give information to Commonwealth

(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

38S Noncompliance with reporting requirement

(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 first financial year in which an occupier must give the chief executive information about the substances under section 38H(3).

38T Minister may name occupier in report to council

(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.²⁹

(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) the review or appeal details for the decision.

²⁹ *National Environment Protection Council (Queensland) Act 1994*, section 23 (Report by Minister on implementation and effectiveness of measures)

Division 5—Miscellaneous**38U Industry handbooks**

A person may, free of charge, inspect or obtain a copy of an industry handbook at the department's head office³⁰ when it is open to the public.

38V Information not to be used as evidence

Information given by the occupier of a reporting facility under this part is not admissible in evidence in proceedings against the occupier, other than for an offence against section 480 or 481³¹ of the Act.

PART 3B—USED PACKAGING MATERIALS***Division 1—Preliminary******Subdivision 1—General*****38W Purpose of pt 3B**

The purpose of this part is to give effect to, and enforce compliance with, the National Environment Protection (Used Packaging Materials) Measure made under the *National Environment Protection Council Act 1994* (Cwlth), section 14.³²

30 The department's head office is at 160 Ann Street, Brisbane.

31 Section 480 (False, misleading or incomplete documents) or 481 (False or misleading information) of the Act

32 *National Environment Protection Council Act 1994* (Cwlth), section 14 (Council may make national environment protection measures)

Subdivision 2—Interpretation**38X Definitions for pt 3B**

In this part—

“brand owner” means a person who—

- (a) for a product other than an imported product—owns, or is the licensee of, a trade mark under which the product is sold whether or not the trade mark is registered; or
- (b) for an imported product—imports the product; or
- (c) for in-store packaging—sells the packaging for use as primary packaging.

“consumer packaging” means packages made of any material, or combination of materials, for the containment, protection, marketing, or handling of retail consumer products.

“consumer packaging material” see section 38ZB.

“covenant” means the agreement of 2 July 1999 called The National Packaging Covenant and mentioned in the UPM-NEPM.

“in-store packaging” means a container, of any material, supplied to a consumer at the point of sale of a product for the containment, protection, handling or carriage of the product.

Examples of ‘in-store packaging’—

1. Plastic or paper carry bags.
2. Take-away food containers.

“kerbside recycling collection service” means a domestic waste collection service by which domestic solid waste is collected from the roadside for recycling.

“landfill” means land used as a waste disposal site for lawfully putting solid waste on the land.

“owner’s packaging” see section 38ZA(2)(a).

“recycle”, for consumer packaging or consumer packaging material, means to recover the packaging or material and use it as a raw material to produce other consumer packaging or consumer packaging material.

“registered”, for a trade mark, means registered under the *Trade Marks Act 1995* (Cwlth) as a trade mark.

“UPM-NEPM” means the National Environment Protection (Used Packaging Materials) Measure made under the *National Environment Protection Council Act 1994* (Cwlth), section 14.

38Y General

Unless this regulation provides otherwise, expressions used in it that are defined under the UPM-NEPM have the meaning given to them under the UPM-NEPM.

Division 2—Responsibilities of brand owners

Subdivision 1—Application

38Z Application of div 2

(1) This division applies to a brand owner other than a brand owner who—

- (a) is a signatory to the covenant and complies with the covenant; or
- (b) is not a signatory to the covenant but the chief executive is satisfied—
 - (i) the brand owner uses consumer packaging in which the brand owner’s products are sold in a way that achieves environmental outcomes at least equivalent to the environmental outcomes for the packaging under the covenant; or
 - (ii) the brand owner carries on business in relation to the brand owner’s products only in the State and the value of annual sales of the products is no more than 1% of the notional market share.

(2) In this section—

“**notional market share**” means the estimated value of the State’s share of annual sales, in Australia, of products similar in nature to the brand owner’s products worked out using the formula—

$$\text{NM} = \text{A} \times \frac{\text{PQ}}{\text{PA}}$$

where—

“**A**” means the value of annual sales, in Australia, of products similar in nature to the brand owner’s products.

“**NM**” means the notional market share.

“**PA**” means the population of Australia.

“**PQ**” means the population of the State.

Example of how to work out the value of a brand owner’s annual sales of the brand owner’s products as a percentage of the notional market share—

If the population of the State is 3 million and the population of Australia is 18 million, and, for a particular brand owner, the value of annual sales of the brand owner’s products is \$500 000 and the value, in Australia, of annual sales of products similar in nature to the brand owner’s products is \$120m, then—

$$\begin{aligned} \text{NM} &= \$120\text{m} \times \frac{3}{18} \\ &= \$20\text{m} \end{aligned}$$

Because the value of annual sales of the brand owner’s products is \$500 000, the value of the annual sales is 2.5% of the notional market share.

Subdivision 2—Action plans and record keeping

38ZA Action plans

(1) A brand owner must—

- (a) prepare, maintain and implement an action plan; and
- (b) comply with the plan.

Maximum penalty—20 penalty units.

(2) The action plan must contain the following information—

- (a) how the brand owner intends to ensure consumer packaging in which the brand owner’s products are sold (the “**owner’s**”

packaging”), or used consumer packaging that is substantially similar to the owner’s packaging, is—

- (i) recovered; and
 - (ii) re-used, recycled or used for energy recovery;
- (b) the quantity of each type of consumer packaging proposed to be—
- (i) recovered; and
 - (ii) re-used, recycled or used for energy recovery;
- (c) how the brand owner intends to inform the public of the way in which the consumer packaging may be recovered.

Maximum penalty—20 penalty units.

(3) The quantity mentioned in subsection (2)(b) must be at least equivalent to the levels of recovery, and re-use, recycling or use for energy recovery, achieved by signatories to the covenant.

38ZB Brand owner to keep information

(1) A brand owner must, for each financial year, keep the following information for each material used by the brand owner as consumer packaging (“**consumer packaging material**”) in the year—

- (a) the number of consumer packaging items made from the material;
- (b) the weight of the material;
- (c) the weight of the material recovered;
- (d) the weight of the material re-used or recycled in Australia;
- (e) the weight of the material recovered and exported for re-use or recycling;
- (f) the weight of the material used for energy recovery;
- (g) the weight of the material disposed of at a landfill;
- (h) the recovery rate for the material.

Maximum penalty—20 penalty units.

(2) The brand owner must, if asked by the chief executive, give the information mentioned in subsection (1) to the chief executive within 28 days after the day the chief executive asks for it.

Maximum penalty—20 penalty units.

(3) In this section—

“**recovery rate**” means the rate at which the brand owner’s consumer packaging material is recovered using the formula—

$$R = \frac{WR}{WS} \times 100\%$$

where—

“**R**” means the recovery rate.

“**WR**” means the weight of the brand owner’s consumer packaging material recovered.

“**WS**” means the weight of the brand owner’s consumer packaging material sold in Australia.

38ZC Claiming exemption on ground of commercial confidentiality

(1) The brand owner may, by written notice given to the chief executive, claim information required to be given by the brand owner under section 38ZB(2) 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 brand owner, ask the brand owner 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.

(4) A notice under subsection (3) must be accompanied by, or include, an information notice about the chief executive’s decision to make the request.

38ZD Deciding claim for exemption on ground of commercial confidentiality

(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 45.³³

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

(3) The chief executive must give the brand owner written notice of the chief executive's decision on the claim.

(4) If the chief executive refuses to grant the claim, the notice must be an information notice about the decision to refuse the grant.

(5) Subsection (6) applies if the chief executive does not give the brand owner a notice about the chief executive's decision on the claim—

- (a) within 60 days after the claim is made; or
- (b) if the brand owner gave the chief executive further information under section 38ZC(3)—within 60 days after receiving the further information.

(6) 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.

Subdivision 3—Compliance notices**38ZE Authorised person may give notice to comply**

(1) If an authorised person believes on reasonable grounds that a brand owner has contravened section 38ZA or 38ZB, the authorised person may give the brand owner a written notice under this section.

(2) The notice must state—

- (a) the act or omission comprising the contravention; and

33 *Freedom of Information Act 1992*, section 45 (Matter relating to trade secrets, business affairs and research)

(b) the action the brand owner may take to rectify the alleged contravention; and

(c) the day by which the brand owner must take the action.

(3) The stated day must be at least 3 months after the notice is given.

(4) A brand owner must comply with the notice unless the brand owner has a reasonable excuse for not complying with it.

Maximum penalty—20 penalty units.

(5) A brand owner can not be prosecuted for an alleged contravention of section 38ZA or 38ZB unless the brand owner—

(a) is given a notice under subsection (1); and

(b) does not comply with the notice.

Division 3—Operators of kerbside recycling collection services to give information to chief executive

38ZF Local governments

(1) This section applies to a local government if it operates a kerbside recycling collection service within its local government area.

(2) The local government must, within 3 months after the end of each financial year in which the service operates, give to the chief executive the following information for the year—

(a) the number of residential and non-residential premises in the area;

(b) the number of residential and non-residential premises serviced by the kerbside recycling collection service;

(c) the participation rate for the service;

(d) the fee charged to each household for the service;

(e) the weight of each recyclable material collected;

(f) the weight of each recyclable material disposed of at a landfill.

(3) In this section—

“**household**”, for a kerbside recycling collection service, includes residential premises and non-residential premises supplied with a

container for the collection of recyclable material by the operator of the service.

“participation rate”, for a kerbside recycling collection service, means the number of households participating in the service expressed as a percentage of the number of households to whom the service is provided.

“recyclable material” means material reasonably able to be recovered, reprocessed and used as raw material.

38ZG Other operators

(1) This section applies to a person, other than a local government, if the person operates a kerbside recycling collection service in a local government area.

(2) The person must, within 2 months after the end of each financial year in which the service operates, give the local government for the area the information mentioned in section 38ZF(2)(b) and (d) to (f).

Maximum penalty—20 penalty units.

(3) The local government must give the information to the chief executive within 28 days after receiving it.

Division 4—Expiry

38ZH Expiry of pt 3B

This part expires on 1 July 2004.

PART 3C—QUALITY STANDARDS FOR PETROL AND DIESEL

Division 1—Preliminary

Subdivision 1—General

38ZI Purpose of pt 3C

The purpose of this part is to provide for quality standards for petrol and diesel to reduce emission of contaminants into Queensland's air environment.

Subdivision 2—Definitions

38ZJ Definitions for pt 3C

In this part—

“**ASTM**” means an American Society for Testing and Materials standard.

“**distribute**” means sell in the State.

“**ETBE**” means ethyl tertiary-butyl ether.

“**import**” means bring into the State for distribution.

“**low volatility zone**” means the area consisting of—

- (a) the Beaudesert, Boonah, Caboolture, Caloundra, Esk, Gatton, Gold Coast, Ipswich, Kilcoy, Laidley, Logan, Maroochy, Pine Rivers, Redcliffe, Redland and Toowoomba local government areas; and
- (b) the area of the City of Brisbane.

“**manufacture**”, for petrol or diesel, includes blend, treat and add additives to the petrol or diesel.

“**MTBE**” means methyl tertiary-butyl ether.

“**Reid vapour pressure**”, of petrol, means the petrol's volatility at 37.8°C measured using—

- (a) the testing method under ASTM D323-99a;³⁴ or
- (b) another method that measures volatility at least as accurately as the method mentioned in paragraph (a).

“**summer period**” means the period starting on 15 November in a year and ending on 15 March in the following year.

“**TAME**” means tertiary-amyl methyl ether.

Division 2—Permitted concentrations of particular chemicals

38ZK Permitted concentration of ethers and benzene

(1) A person who manufactures or imports petrol must not distribute the petrol if it has an ETBE, MTBE or TAME content of more than 1% by volume.

Maximum penalty—165 penalty units.

- (2) The person must also ensure—
- (a) the volumetric average benzene content of the petrol distributed by the person in any 6 months is no more than 3.5% by volume; or
 - (b) the volumetric average benzene content of any 6 consecutive batches of the petrol distributed by the person is no more than 3.5% by volume.

Maximum penalty—165 penalty units.

38ZL Permitted concentration of sulfur

(1) A person who manufactures or imports diesel must not distribute the diesel if it has a sulfur content of more than 500 mg/kg.

Maximum penalty—165 penalty units.

(2) This section does not apply to the distribution of diesel for use in a boat used at sea.

34 ASTM D323-99a Standard test method for vapor pressure of petroleum products (Reid method)

38ZM Permitted concentration of lead

(1) A person who manufactures or imports petrol must not distribute the petrol if it has a lead content of more than 0.013 g/L.

Maximum penalty—165 penalty units.

(2) This section does not apply to the distribution of petrol for use in—

- (a) an aircraft; or
- (b) a motor vehicle used solely for motor racing on a racing circuit or track under an environmental authority.

Division 3—Reid vapour pressure of petrol**38ZO Permitted Reid vapour pressure—after 15 November 2002**

(1) This section applies to a person who manufactures or imports petrol in a summer period starting on or after 15 November 2002.

(2) The person must not distribute the petrol in the low volatility zone in the summer period if the Reid vapour pressure of the petrol is more than—

- (a) for petrol with an ethanol content of more than 9 but not more than 10% by volume—76 kPa; or
- (b) for other petrol—69 kPa.

Maximum penalty—165 penalty units.

(3) The person must ensure the volumetric monthly average Reid vapour pressure of the petrol distributed by the person in the low volatility zone in the summer period is no more than—

- (a) for petrol with an ethanol content of more than 9 but not more than 10% by volume—74 kPa; or
- (b) for other petrol—67 kPa.

Maximum penalty—165 penalty units.

(4) For working out the volumetric monthly average Reid vapour pressure of petrol mentioned in subsection (3)—

- (a) for petrol with an ethanol content of more than 9 but not more than 10% by volume—petrol with a Reid vapour pressure of less than 72 kPa is taken to have a Reid vapour pressure of 72 kPa; or

- (b) for other petrol—petrol with a Reid vapour pressure of less than 65 kPa is taken to have a Reid vapour pressure of 65 kPa.

Division 4—Exemptions

38ZP Applications

(1) A person may apply to the chief executive to exempt the person from complying with a provision of division 2 or 3.

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

38ZQ Additional information for applications

(1) The chief executive may, by written notice, ask the applicant to give the chief executive further reasonable information or documents about the application by the reasonable date stated in the notice.

(2) The notice must be accompanied by, or include, an information notice about the chief executive's decision to make the request.

(3) The chief executive may refuse the application if the applicant does not give the chief executive the further information or documents by the stated day, without reasonable excuse.

38ZR Deciding applications

(1) The chief executive must consider the application and either give the exemption, with or without conditions, or refuse the application.

(2) The chief executive may give an exemption only if satisfied—

- (a) the exemption is necessary—
- (i) to prevent a significant disruption to the supply of petrol or diesel in the State or a part of the State; or
 - (ii) to allow the applicant to distribute petrol or diesel in the State or a part of the State; and
- (b) the applicant has no reasonable way of complying with the provision; and
- (c) the exemption is in the public interest.

(3) Without limiting subsection (1), a condition may be about how the applicant must prevent or minimise environmental harm that may be caused if the exemption is given.

38ZS Giving exemptions

(1) If the chief executive decides to give the exemption, the chief executive must give the applicant a written notice stating—

- (a) the person to whom the exemption is given; and
- (b) the provision from which the person is exempted; and
- (c) the term for which the exemption is given.

(2) If the chief executive decides to impose conditions on the exemption, the notice must be accompanied by, or include, an information notice about the decision to impose the conditions.

(3) An exemption given with conditions operates only if the conditions are complied with.

38ZT Refusing applications

If the chief executive decides to refuse the application the chief executive must, within 7 days after making the decision, give the applicant an information notice about the decision.

Division 5—Record keeping

38ZU Record keeping requirements

(1) A person who manufactures or imports petrol and distributes it must keep the following information—

- (a) the volume of petrol distributed;
- (b) the ethanol, ETBE, MTBE, TAME, benzene and lead content of petrol distributed;
- (c) the Reid vapour pressure, and the volumetric monthly average Reid vapour pressure, of both of the following—

- (i) petrol with an ethanol content of more than 9 but not more than 10% by volume distributed in the low volatility zone in each summer period;
- (ii) other petrol distributed in the low volatility zone in each summer period.

Maximum penalty—50 penalty units.

(2) A person who manufactures or imports diesel and distributes it must keep information about the sulfur content of the diesel distributed.

Maximum penalty—50 penalty units.

(3) A person mentioned in subsection (1) or (2) must, unless the person has a reasonable excuse, keep the information for at least 3 years after the day the petrol or diesel is distributed.

Maximum penalty—50 penalty units.

PART 4—ADMINISTRATION

Division 1—Devolutions

39 Devolution of powers—environmentally relevant activities

(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).

(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, 3A and 3B are not devolved to a local government, regardless of whether an activity dealt with in the parts is an environmentally relevant activity.

40 Devolution of powers—other activities

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.

40A Devolution of Act includes statutory instruments under Act

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.

40B Devolution of powers—residential land

(1) The administration and enforcement of part 2A in relation to any emission from residential land is devolved to the relevant local government.

(2) In this section—

“relevant building” means—

- (a) a class 1, 3 or 10 building under the Building Code of Australia; or
- (b) a class 2 building under the code if the building has less than 10 storeys.³⁵

“residential land” means—

- (a) the part of a lot of land on which a relevant building is constructed and any other part of the lot that—
 - (i) is adjacent to the building; and
 - (ii) has an area of no more than 1 000 m²; or
- (b) vacant land not used for agriculture on which a relevant building may lawfully be constructed.

Division 3—Fees

44 Fees—general

(1) Fees payable under the Act in relation to an environmental authority, other than annual fees for a prescribed environmentally relevant activity, or a development application are in schedule 6.³⁶

(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.

44A Application fee for environmental authority not payable if prior application for development approval made

(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.

35 For classes of building under the Building Code of Australia, see appendix C (Classification of Buildings and Structures), paragraph C3 (Classifications).

36 See however, section 49 (Application for waiver of fee).

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

44B Fees for contaminated land

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

45 Refund of annual fee if environmental authority refused

If an administering authority refuses an environmental authority application, it must refund to the applicant the annual fee component of the application fee paid by the applicant.

45A Refund of annual fee if replacement environmental authority issued

(1) This section applies if—

- (a) a person holds an environmental authority (the “**replaced authority**”); and
- (b) the person has paid an annual or application fee for the replaced authority; and
- (c) the administering authority issues a replacement environmental authority (the “**replacement authority**”) for the replaced authority; and
- (d) the replacement authority is issued before the day that, other than for the replacement, would have been the next anniversary day for the replaced authority after the payment.

(2) The administering authority must refund the amount worked out by using the following formula—

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

where—

“**AR**” is the amount of the refund.

“**FP**” is the amount of the annual fee, or annual fee component of the application fee, paid by the person.

“D” is the number of days from the day the replacement authority is issued to the next anniversary day for the replaced authority.

46 Annual fees for prescribed environmentally relevant activities

The annual fee for a prescribed environmentally relevant activity is stated opposite the activity in schedule 1, column 3.³⁷

47 Annual fees for devolved activities

The annual 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 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.

48 Annual fees for environmental authorities

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

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

49 Application for waiver of fee

(1) A person may apply to the administering authority (a “**waiver application**”) for it to waive, wholly or partly, payment by the person of—

- (a) an application fee for an environmental authority; or
- (b) an annual fee for an environmentally relevant activity.

(2) However, a waiver application may be made only at the following time—

³⁷ See however, section 49 (Application for waiver of fee).

- (a) for an application fee—when the environmental authority application is made;
- (b) for an annual fee—when giving an annual return under section 316 of the Act.

(3) If a waiver application is made for an environmental authority application, the annual licence fee component of the application fee is not required to accompany the environmental authority application.

(4) The grant of a waiver application for an annual fee is a prescribed circumstance for sections 316(2)(a) and 601(2)(a)³⁸ of the Act.

50 Criteria for deciding waiver application

(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;

38 Sections 316 (Annual fee and return) and 601 (Annual fee and return for first year of transitional period) of the Act

- (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.

51 Effect of decision on waiver application

(1) If the decision on a waiver application is to waive payment of an amount paid by the applicant, the administering authority must repay the amount to the applicant.

(2) If the decision on a waiver application is to refuse the waiver applied for, or to only partly waive the relevant payment, the administering authority must—

- (a) fix a due day for payment of the fee; and
- (b) give the applicant an information notice about the decision.

(3) The information notice must state—

- (a) the due day; or
- (b) the outstanding amount of the fee.

(4) The due day must be at least 14 days after the giving of the notice.

51A Fee for late payment of annual fee

(1) This section applies if—

Environmental Protection Regulation 1998

- (a) an environmental authority holder has not, on or before the later of the following, paid an annual fee, or part of an annual fee, for an environmentally relevant activity to which the environmental authority relates—
 - (i) the anniversary day for the environmental authority;
 - (ii) if a waiver application for the annual fee has, under section 51, been refused or only partly waived—the due day fixed under that section for payment of the fee, or outstanding part of the fee; and
 - (b) a waiver application has not been granted for the annual fee or part of the fee.
- (2) The administering authority must give the holder a reminder notice that—
- (a) informs the holder that the holder has not paid the annual fee or part of the fee; and
 - (b) states a day (the “**due day**”) by which the holder must pay—
 - (i) the annual fee or part of the fee; and
 - (ii) a late payment fee of \$50.00.
- (3) The due day must be at least 14 days after the giving of the notice.

52 Fees for environmental management programs

- (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**53 Register of licences**

An administering authority must record the industry code for the activity carried out under each licence in its register of licences.

54 Register of approvals

An administering authority must record the industry code for the activity carried out under each approval in its register of approvals.

55 Register of environmental reports

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.

56 Register of monitoring program results

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.

57 Register of environmental management programs

(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.

58 Register of environmental protection orders

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;³⁹
- (g) date of issue of the order;
- (h) compliance or noncompliance with order.

59 Register of authorised persons

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

³⁹ See section 358 (When order may be issued) of the Act.

Division 5—General

61 Approved training courses and qualified persons

(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.

62 Review of decisions and appeal

(1) Chapter 11, part 3 of the Act applies to a decision as follows as if the decision were a decision mentioned in schedule 1, part 2⁴⁰ of the Act—

- (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 a waiver application; to waive the payment of a licence application fee or annual licence fee;

40 Chapter 11, part 3 (Review of decisions and appeals) and schedule 1, part 2 (Original decisions for Court appeals) of the Act

- (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;
- (e) a decision of the administering authority to reject a nuisance complaint;
- (f) a decision of the administering authority to give a nuisance abatement notice;
- (g) a decision of the chief executive under part 3B to—
 - (i) request information to decide a claim for an exemption on the ground of commercial confidentiality; or
 - (ii) refuse to grant a claim for exemption on the ground of commercial confidentiality;
- (h) a decision of the chief executive, under part 3C, to—
 - (i) ask for information or documents to enable the chief executive to decide an application for exemption; or
 - (ii) refuse to give an exemption, or impose a condition on an exemption.

(1A) Chapter 11, part 3, division 1 and division 3, subdivision 2 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), 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 holder of the certificate of approval; or
- (c) for a decision mentioned in subsection (1)(c) or (d)—the occupier of the facility concerned; or
- (d) for a decision mentioned in subsection (1)(e)—each person who made the complaint; or
- (e) for a decision mentioned in subsection (1)(f)—each person to whom the nuisance abatement notice is given; or
- (f) for a decision mentioned in subsection (1)(g)(i)—the person to whom the request is given; or
- (g) for a decision mentioned in subsection (1)(g)(ii)—the person whose claim is refused; or
- (h) for a decision mentioned in subsection (1)(h)(i)—the person to whom the request is given; or
- (i) for a decision mentioned in subsection (1)(h)(ii)—the applicant for the exemption.

63 Authorised persons—Act, s 445(1)(c)

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 445 of the Act.

PART 4A—MISCELLANEOUS

63A Codes of environmental compliance

The following documents published by the department, are approved as codes of environmental compliance—

- (a) the 'Code of Environmental Compliance for Mining Claims and Prospecting Permits';

- (b) the ‘Code of Environmental Compliance for Exploration and Mineral Development Projects’;
- (c) the ‘Code of Environmental Compliance for Mining Lease Projects’.⁴¹

63B Prescribed periods under Act—sch 8C

(1) Schedule 8C prescribes periods under the provisions of chapters 3 and 5 of the Act that the schedule mentions.

(2) A reference in schedule 8C to a numbered provision is a reference to the provision in the Act with that number.

63C Prescribed organisations in relation to site investigation

The organisations in schedule 8A are prescribed for sections 381, 395 and 410⁴² of the Act.

63D Prescribed regulated waste—Act, sch 2, item 37

Regulated waste under this regulation is prescribed as regulated waste for schedule 2, item 37, of the Act.

PART 5—REPEAL AND TRANSITIONAL PROVISIONS

Division 1—Repeal

64 Repeal of Environmental Protection (Interim) Regulation 1995

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

41 The codes are available for inspection during office hours on business days at the head office of the Environmental Protection Agency at 160 Ann Street Brisbane and at each regional office of the agency.

42 Sections 381 (Who must conduct site investigation), 395 (Who must prepare validation report) and 410 (Who must prepare draft site management plan) of the Act

Division 2—Definitions

65 Definitions for pt 5

In this part—

“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.

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

“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

66 Application of div 3

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.

67 Applications for environmental authorities

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.

68 Certain environmental authorities continued in force

(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*****69 Application of sdiv 1**

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.

70 Applications for environmental authorities

(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) Chapter 11, part 3 of the Act applies to a decision about the amount of the refund as if the decision were a decision mentioned in schedule 1, part 2⁴³ of the Act.

(4) For subsection (3)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state the review or appeal details for the decision.

71 Undecided applications for amendment or transfer of licences

(1) This section applies if—

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

43 Chapter 11, part 3 (Review of decisions and appeals) and schedule 1, part 2 (Original decisions for Court appeals) of the Act

- (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) Chapter 11, part 3 of the Act applies to a decision about the amount of the refund as if the decision were a decision mentioned in schedule 1, part 2 of the Act.

(4) For subsection (3)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state the review or appeal details for the decision.

Subdivision 2—Special transitional provisions for certain environmentally relevant activities

72 Application of sdiv 2

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.

73 Person taken to have authority to carry out activity

(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.

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

(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 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.

Environmental Protection Regulation 1998

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 chapter 4, part 7⁴⁴ of the Act; and
- (e) if the environmental authority needed is an approval—
 - (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;

44 Chapter 4 (Development approvals and environmental authorities other than for mining activities), part 7 (Amendment, cancellation or suspension of environmental authorities by administering authority) of the Act

- (b) the information given to the authority in support of the application;
- (c) any annual returns given to the authority under section 316⁴⁵ of the Act;
- (d) other relevant information, including, for example, information given under section 451⁴⁶ of the Act.

(5) Chapter 11, part 3 of the Act applies to a decision under subsection (1) and a decision about the amount of the refund as if the decision were a decision mentioned in schedule 1, part 2 of the Act.

(6) For subsection (5)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state the review or appeal details for the decision.

75 Annual licence fee—continuing level 1 environmentally relevant activities

(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

45 Section 316 (Annual fee and return) of the Act

46 Section 451 (Administering authority may require relevant information) of the Act

- (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 316⁴⁷ of the Act; and
- (e) the period before the next anniversary day for the licence under section 316 of the Act.

(4) Chapter 11, part 3 of the Act applies to a decision about the amount of the refund as if the decision were a decision mentioned in schedule 1, part 2 of the Act.

(5) For subsection (4)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state the review or appeal details for the decision.

76 Annual licence fee—other environmentally relevant activities

(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—

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

where—

AR is the amount of refund.

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

47 Section 316 (Annual fee and return) of the Act

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

77 Administering authority to endorse registers

(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.

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

78 Application of div 5

This division applies in relation to an activity mentioned in schedule 1, items 16, 24, 26, 31, 35, 43, 45, 52, 59, 68, 77, 79 and 80 that, under repealed section 4(3), became a level 2 environmentally relevant activity on 1 July 1998.

79 Affected persons taken to have approval to carry out activity

(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.

80 Administering authority to give affected person notice about change

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

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

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.

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

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

Environmental Protection Regulation 1998

- (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.

82 Undecided applications for amendment or transfer of licences for prescribed activities

(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 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) Chapter 11, part 3 of the Act applies to a decision about the amount of the refund as if the decision were a decision mentioned in schedule 1, part 2 of the Act.

(4) For subsection (3)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state the review or appeal details for the decision.

Division 6—Transitional provision for part 2A and Environmental Protection (Noise) Amendment Policy (No. 1) 1999

82A Noise policy applies to existing noise complaints

(1) This section applies if, immediately before this section commenced, a complaint was made under the noise policy, section 20.

(2) The noise policy, part 4 and schedule 4, continue to apply to the noise the subject of the complaint.

(3) However, subsection (2) does not prevent the person who made the complaint from making a nuisance complaint about noise made on or from the commencement.

Division 6A—Transitional provision for sch 1, item 75

82B Transitional provision for waste facilities in scheduled areas

(1) This section applies to a person who, immediately before the commencement of this section, held a licence or development approval to operate a facility mentioned in schedule 1, item 75(a), in a scheduled area.

(2) After the commencement, the person's licence is taken to be a licence to operate a facility mentioned in schedule 1, item 75(c).

Division 7—Miscellaneous transitional provisions***Subdivision 1—Transitional provision about environmentally relevant activities*****83 Prescribed circumstance for Act, s 130**

The application of this division or division 3, 4 or 5 to an environmental authority or activity is prescribed as a circumstance for section 130(2)(h) of the Act.

Subdivision 2—Other transitional provisions**84 Applications, approvals and notices under repealed regulation**

An application, decision, representation, certificate of approval or notice made, granted, issued or given under part 3 or 4 of the repealed regulation, and in force immediately before the commencement of this section, is taken to have been made, granted, issued or given under this regulation.

85 Approved training courses

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

SCHEDULE 1

PRESCRIBED ENVIRONMENTALLY RELEVANT ACTIVITIES AND ANNUAL FEES

sections 4, 46 and 47

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

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
(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
3. Pig farming—farming pigs in a piggery having a capacity of—		
(a) less than 5 000 standard pig units. . . .	2	—
(b) 5 000 standard pig units or more. . . .	1	500.00
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—		
(a) more than 1 000 birds but less than 200 000 birds.	2 ^a	—
(b) 200 000 birds or more.	1 ^a	400.00
Chemical, coal and petroleum products activities		
5. Alcohol distilling—commercially distilling alcohol in works having a design production capacity of more than 2 500 L a year	1	5 540.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
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—		
(a) 200 t or more, but less than 20 000 t, a year	1	4 420.00
(b) 20 000 t or more, but less than 100 000 t, a year	1	5 200.00
(c) 100 000 or more tonnes a year	1	5 820.00
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—		
(a) more than 10 m ³ but less than 1 000 m ³	2	—
(b) 1 000 m ³ or more	1	1 740.00
8. Coke producing—producing, quenching, cutting, crushing or grading coke	1	4 260.00
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.	1	4 420.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
10. Paint manufacturing—manufacturing—		
(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, a year	1	600.00
(ii) 1 000 000 L or more, but less than 100 000 000 L, a year	1	1 740.00
(iii) 100 000 000 L or more a year	1	5 200.00
(b) water based paint in works having a design capacity of more than 10 000 L a year	2	—
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—		
(a) 10 000 L or more but less than 500 000 L	2 ^a	—
(b) 500 000 L or more	1	1 740.00
12. Oil refining or processing—refining or processing crude oil or shale oil in works having a design production capacity of—		
(a) less than 500 000 L a year	1	2 054.00
(b) 500 000 L or more, but less than 150 000 000 L, a year	1	5 200.00
(c) 150 000 000 L or more a year	1	20 540.00
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—		

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
(a) less than 200 000 000 m ³ a year	2	—
(b) 200 000 000 m ³ or more a year	1	20 540.00
Community infrastructure and services		
14. Crematorium—cremating human, pet or animal remains	1 ^a	400.00
15. Sewage treatment—operating—		
(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
(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

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
(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		
16. Municipal water treatment plant—treating water for domestic use (other than treatment that only involves disinfection).	2 ^b	—
17. 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 an hour . .	1	3 000.00
18. 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)

Environmentally relevant activity	Level	Annual fee
Extractive activities		
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 a year	1	700.00
(b) 5 000 t or more, but less than 100 000 t, a year	1	3 960.00
(c) 100 000 t or more a 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 tenement or an authority, lease, licence or permit mentioned in item 21C or 21D) from a pit or quarry using plant or equipment having a design capacity of—		
(a) not more than 5 000 t a year	2 ^a	—
(b) 5 000 t or more, but less than 100 000 t, a year	1	3 960.00
(c) 100 000 t or more a year	1	4 880.00
21C. Exploring for or mining minerals under a prospecting petroleum permit, authority to prospect, petroleum lease or pipeline licence granted under the <i>Petroleum Act 1923</i>	2	—

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
21D. Exploring for or mining minerals under a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the <i>Petroleum (Submerged Lands) Act 1982</i> . . .	2	—
22. Screening etc. materials—screening, washing, crushing, grinding, milling, sizing or separating material extracted from the earth (other than under a mining tenement or an authority, lease, licence or permit mentioned in item 21C or 21D) or by dredging using plant or equipment having a design capacity of—		
(a) more than 50 t, but less than 5 000 t, a year	2 ^a	—
(b) 5 000 t or more, but less than 100 000 t, a year	1	3 960.00
(c) 100 000 t or more a year	1	4 880.00
Fabricated metal product activities		
23. Abrasive blasting—commercially cleaning equipment or structures using a stream of abrasives—		
(a) if the activity is carried out at a permanent location	1 ^a	400.00
(b) if the activity is an itinerant activity	1 ^a	650.00
(c) if the activity is carried out at a permanent location and includes an itinerant activity	1 ^a	650.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
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	2 ^{ab}	—
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—		
(a) less than 2 000 t.	1 ^a	450.00
(b) 2 000 t or more but less than 10 000 t.	1 ^a	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
26. Metal forming—pressing, forging, extending, extruding or rolling metal, forming metal into plate, wire or rods or fabricating sheet metal	2 ^{ab}	—
27. Metal recovery—commercially operating a scrap metal yard or dismantling automotive or mechanical equipment, including debonding brake or clutch components . . .	1 ^a	500.00
28. Motor vehicle workshop—operating a workshop or mobile workshop in the course of 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 under a mining tenement) or on a commercial basis.	1 ^a	500.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
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, a year	1	715.00
(ii) 2 000 000 L or more, but less than 14 500 000 L, a year	1	1 430.00
(iii) 14 500 000 L or more a 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 a year	1	4 740.00
30. Edible oil processing—commercial vegetable oil or oilseed processing in works having a design production capacity of 1 000 t or more a year	1	3 740.00
31. 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 a year	2 ^b	—
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—		

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
(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 a year—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, a year	1	1 000.00
(ii) 3 000 t or more, but less than 6 000 t, a year	1	3 000.00
(iii) 6 000 t or more a 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, a year	1	875.00
(ii) 3 000 t or more, but less than 6 000 t, a year	1	2 600.00
(iii) 6 000 t or more a year	1	5 200.00
33. 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 a year	1	4 100.00
34. 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 a year	1	2 840.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
35. 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 a year	2 ^b	—
36. 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
37. 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 a year		4 440.00
Land development activities		
38. Land development—clearing (other than for agricultural purposes) or reclaiming land having an area of more than 20 000 m ² ^c	2 ^a	—
Metal products activities		
40. 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
(iii) 100 t or more but less than 300 t	1	500.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
(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 nonferrous 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 nonferrous metals in works	2	—
41. Metal works—commercially smelting or processing ores or ore concentrates to produce metal in works having a design production capacity of—		
(a) more than 10 t, but less than 100 t, a year	1	9 860.00
(b) 100 t or more, but less than 10 000 t, a year	1	12 380.00
(c) 10 000 t or more a year	1	16 340.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
42. Mineral processing—commercially processing, classification, mixing or concentration of mineral ores to produce mineral concentrates in works having a design production capacity of—		
(a) more than 1 000 t, but less than 100 000 t, a year	1	3 140.00
(b) more than 100 000 t a year	1	16 340.00
Miscellaneous activities		
43. Animal housing—commercially operating a boarding or breeding kennel, dog pound, greyhound training facility or veterinary clinic in which animals are boarded other than overnight for treatment	2 ^{ab}	—
44. Battery manufacturing—manufacturing batteries of any kind	1	1 880.00
45. 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 a year	2 ^b	—
46. Mushroom growing substrate manufacturing—commercially manufacturing substrate for mushroom growing	1	400.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
47. 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 ^a	500.00
48. Plaster manufacturing—manufacturing or processing plaster in works having a design production capacity of 200 t or more a year	1	3 000.00
49. Pulp or paper manufacturing—manufacturing pulp or paper in works having a design production capacity of more than 100 t a year.	1	6 180.00
50. Rendering operation—commercially processing or extracting substances, including, for example, fat, tallow, derivatives of fat or tallow or proteinaceous matter, from animal wastes or 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, a year	2	—
(b) 300 t or more a year	1	6 020.00
51. Plastic manufacturing—commercially manufacturing plastic or plastic products in works having a design production capacity of—		
(a) more than 1 t, but less than 5 t, a year.	1 ^a	300.00
(b) 5 t or more a year	1 ^a	450.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
52. Printing—commercially screen printing or printing (other than photocopying and photographic printing), including advertising material, magazines, newspapers, packaging and stationery . . .	2 ^{ab}	—
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 a year	1	400.00
54. Tanning—commercially operating a tannery or works for curing animal skins or hides, or commercially finishing leather. . .	1	4 740.00
55. Textile manufacturing—commercial carpet manufacturing, wool scouring or carbonising, cotton milling, or textile bleaching, dyeing or finishing.	1	4 740.00
56. 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

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
57. Tyre manufacturing or retreading—		
(a) tyre manufacturing	1	1 800.00
(b) tyre retreading	1	500.00
Non-metallic mineral product manufacture		
58. Asbestos products manufacturing— manufacturing an asbestos product.	1	800.00
59. Asphalt manufacturing—manufacturing asphalt	2 ^{ab}	—
60. Cement manufacturing—manufacturing cement	1	7 620.00
61. 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 a year	1	4 740.00
62. 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 a year	1 ^a	650.00
63. Glass or glass fibre manufacturing— manufacturing glass or glass fibre in works having a design capacity of more than 200 t a year	1	4 740.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
64. Mineral wool or ceramic fibre manufacturing—manufacturing mineral wool or ceramic fibre	1	2 680.00
Recreational and sporting activities		
65. Motor racing—		
(a) conducting a motor race other than an international motor race	2 ^a	—
(b) conducting an international motor race	2	—
Sawmilling, woodchipping and wooden product manufacturing		
66. Chemically treating timber—commercially treating timber for preservation using chemicals, including, for example, copper, chromium, arsenic, borax and creosote. . . .	1	2 860.00
67. 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, a year	1	300.00
(b) 5 000 t or more, but less than 10 000 t, a year.	1	500.00
(c) 10 000 t or more, but less than 20 000 t, a year	1	700.00
(d) 20 000 t or more a year	1	800.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
68. 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 a year	2 ^{ab}	—
Transport and maritime services		
69. Boat maintaining or repairing facility—operating a commercial facility for maintaining or repairing any type of boat or inboard or outboard marine engine.	1 ^a	650.00
70. 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 ^a	—
71. Port—operating a port (other than an airport) under the <i>Transport Infrastructure Act 1994</i>	2	—
72. Railway facility—operating any railway facility for refuelling and maintaining or repairing rolling stock.	1	5 040.00
73. 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 ^a	—

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
(b) for 20 or more, but less than 100, berths or moorings	1 ^a	300.00
(c) for 100 or more berths or moorings . .	1 ^a	500.00
74. 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 a day.	1	3 000.00
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, a year	1	500.00
(ii) 2 000 t or more, but less than 5 000 t, a year	1	750.00
(iii) 5 000 t or more, but less than 10 000 t, a year	1	1 000.00
(iv) 10 000 t or more, but less than 20 000 t, a year	1	1 500.00
(v) 20 000 t or more, but less than 50 000 t, a year	1	2 000.00
(vi) 50 000 t or more, but less than 75 000 t, a year	1	2 500.00
(vii) 75 000 t or more, but less than 100 000 t, a year	1	5 000.00
(viii) 100 000 t or more, but less than 200 000 t, a year	1	7 500.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
(ix) 200 000 t or more a 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 a year	1	3 000.00
(ii) 50 000 t or more, but less than 100 000 t, a year	1	5 220.00
(iii) 100 000 t or more, but less than 200 000 t, a year	1	7 500.00
(iv) 200 000 t or more a year	1	10 000.00
(c) disposing of not more than 5 t untreated clinical waste per year, whether alone or in combination with any waste mentioned in paragraph (a), if the facility is in a scheduled area and designed to receive waste at the rate of—		
(i) more than 50 t, but not more than 2 000 t, a year	1	500.00
(ii) 2 000 t or more, but less than 5 000 t, a year	1	750.00
(iii) 5 000 t or more, but less than 10 000 t, a year	1	1 000.00
(iv) 10 000 t or more, but less than 20 000 t, a year	1	1 500.00
(v) 20 000 t or more, but less than 50 000 t, a year	1	2 000.00
(vi) 50 000 t or more, but less than 75 000 t, a year	1	2 500.00
(vii) 75 000 t or more, but less than 100 000 t, a year	1	5 000.00

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
(viii) 100 000 t or more, but less than 200 000 t, a year	1	7 500.00
(ix) 200 000 t or more a year	1	10 000.00
76. Incinerating waste—operating a waste incineration facility for incinerating—		
(a) vegetation	2 ^a	—
(b) clean paper or cardboard.	2 ^a	—
(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 t a year	1	2 280.00
(ii) 5 000 t or more a year	1	5 000.00
(d) clinical waste or quarantine waste	1	4 750.00
(e) regulated waste (other than waste mentioned in paragraph (d))	1	6 000.00
77. Battery recycling—operating a facility for receiving and recycling or reprocessing any kind of battery.	2 ^b	—
78. 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
79. Drum reconditioning—operating a facility for receiving and commercially reconditioning metal or plastic drums.	2 ^b	—

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
80. Tyre recycling—operating a facility for receiving and commercially recycling or reprocessing tyres (other than retreading tyres)	2 ^b	—
81. 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
82. Waste transfer station—operating a waste transfer station designed to receive waste at the rate of 20 000 t or more of waste a year	1	900.00
83. 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, but less than 36, licensed vehicles	1	400.00
		plus 100.00 for each vehicle
(ii) for 36 or more licensed vehicles .	1	4 000.00
84. 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—		

SCHEDULE 1 (continued)

Environmentally relevant activity	Level	Annual fee
(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
85. 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

-
- a Indicates administration and enforcement of the Act for the activity is devolved to local government—see s 39 (Devolution of powers—environmentally relevant activities).
- b 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.
- c This provision had not commenced on or before the reprint date.

SCHEDULE 1AA

MATTERS TO BE ADDRESSED BY ASSESSMENT

section 3C(c)

1 General information

The background of the project including, for example, the following—

- (a) the project's title;
- (b) the designated proponent's full name and postal address;
- (c) a clear outline of the project's objective;
- (d) the project's location;
- (e) the background to the project's development;
- (f) how the project relates to any other actions, of which the proponent should reasonably be aware, that have been, or are being, taken or that have been approved in the area affected by the project;
- (g) the project's current status;
- (h) the consequences of not proceeding with the project.

2 Description

A description of the project, including the following—

- (a) the project's components;
- (b) the precise location of works to be undertaken, structures to be built or components of the project that may have relevant impacts;
- (c) how the works are to be undertaken and design parameters for aspects of the structures or components of the project that may have relevant impacts;
- (d) the project's relevant impacts;

SCHEDULE 1AA (continued)

- (e) proposed safeguards and mitigation measures for dealing with the project's relevant impacts;
- (f) any other requirements for, or conditions of, approval applying, or that the proponent reasonably believes are likely to apply, to the proposed project;
- (g) to the extent reasonably practicable, any feasible alternatives to the project, including, for example, the following—
 - (i) if relevant, the alternative of taking no action;
 - (ii) a comparative description of the impacts of each alternative on the matters protected by the controlling provisions for the project;
 - (iii) sufficient detail to clarify why any alternative is preferred to another;
- (h) any consultation about the project, including, for example, the following—
 - (i) consultation taken and any documented response to, or result of, the consultation;
 - (ii) proposed consultation about the project's relevant impacts;
- (i) identification of affected persons and interested persons, including a statement mentioning any communities that may be affected and describing the communities' views.

3 Relevant impacts

Information given under section 2(d) must include the following—

- (a) a description of the project's relevant impacts;
- (b) a detailed assessment of the nature and extent of the likely short term and long term relevant impacts;
- (c) a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
- (d) an analysis of the significance of the relevant impacts;
- (e) any technical data and other information used or needed to make a detailed assessment of the relevant impacts.

SCHEDULE 1AA (continued)

4 Proposed safeguards and mitigation measures

Information given under section 2(e) must include the following—

- (a) a description, and an assessment of the expected or predicted effectiveness, of the mitigation measures for dealing with the project's relevant impacts;
- (b) any statutory or policy basis for the mitigation measures;
- (c) the cost of the mitigation measures;
- (d) an outline of an environmental management plan setting out the framework for continuing management, mitigation and monitoring programs for the project's relevant impacts, including any provision for independent environmental auditing;
- (e) the name of the entity responsible for endorsing or approving each mitigation measure or monitoring program;
- (f) a consolidated list of mitigation measures proposed to be undertaken to prevent, minimise or compensate for the project's relevant impacts, including mitigation measures proposed to be taken by the State, a local government or the proponent.

5 Other approvals and conditions

(1) Information given under section 2(f) must include the following—

- (a) details of any planning instrument under the *Integrated Planning Act 1997*⁴⁸ dealing with the project including, for example, the following—
 - (i) what environmental assessment of the project has been, or is being, carried out under the planning instrument;
 - (ii) how the planning instrument provides for preventing, minimising and managing the project's relevant impacts;

48 *Integrated Planning Act 1997*, schedule 10 (Dictionary)—

“**planning instrument**” means a State planning policy, planning scheme, temporary local planning instrument or planning scheme policy.

SCHEDULE 1AA (continued)

- (b) a description of any approval, other than the Commonwealth approval, obtained from a State or Commonwealth entity, including any approval conditions applying to the project;
- (c) a statement identifying any other required approval, other than the Commonwealth approval;
- (d) a description of the monitoring, enforcement and review procedures applying, or proposed to apply, to the project.

(2) In this section—

“Commonwealth approval” means the Commonwealth Minister’s approval of the action the subject of the project under the Commonwealth Act, chapter 4, part 9.

6 Proponent’s environmental record

(1) Details of any proceedings under a law of the Commonwealth or a State for the protection of the environment or the conservation and sustainable use of natural resources (an **“environmental law”**) against—

- (a) the proponent; and
- (b) the applicant for any permit under an environmental law for the project.

(2) If the proponent is a corporation, details of the corporation’s environmental policy and planning framework.

7 Information sources

The EIS must state the following about information given in the EIS—

- (a) the source of the information;
- (b) how recent the information is;
- (c) how the reliability of the information was tested;
- (d) any uncertainties in the information.

SCHEDULE 1A**CRITERIA FOR STANDARD MINING ACTIVITIES**

section 6

PART 1—PRELIMINARY**1 What is a “category A environmentally sensitive area”**

In this schedule, a “category A environmentally sensitive area” means any of the following—

- (a) the following under the *Nature Conservation Act 1992*—
 - (i) a national park (scientific);
 - (ii) a national park;
 - (iii) a national park (Aboriginal land);
 - (iv) a national park (Torres Strait Islander land);
 - (v) a national park (recovery);
 - (vi) a conservation park;
- (b) the wet tropics area under the *Wet Tropics World Heritage Protection and Management Act 1993*;
- (c) a restricted area under the Mineral Resources Act that includes a constructed water reservoir;
- (d) the Great Barrier Reef Marine Park Region under the *Great Barrier Reef Marine Park Act 1975* (Cwlth);
- (e) a marine park under the *Marine Parks Act 1982*, other than a part of the park that is a general use zone.

2 What is a “category B environmentally sensitive area”

In this schedule, a “category B environmentally sensitive area” means any of the following—

- (a) an area as follows under the *Nature Conservation Act 1992*—

SCHEDULE 1A (continued)

- (i) a coordinated conservation area;
 - (ii) a wilderness area;
 - (iii) a World heritage management area;
 - (iv) an international agreement area;
 - (v) an area of critical habitat or major interest identified under a conservation plan;
 - (vi) an area subject to an interim conservation order;
 - (vii) a forest reserve.
- (b) an area subject to the following conventions to which Australia is a signatory—
- (i) the ‘Convention on the Conservation of Migratory Species of Wild Animals’ (Bonn, 23 June 1979);
 - (ii) the ‘Convention on Wetlands of International Importance, especially as Waterfowl Habitat’ (Ramsar, 2 February 1971);
 - (iii) the ‘Convention Concerning the Protection of the World Cultural and Natural Heritage’ (Paris, 16 November 1972);
- (c) a general use zone of a marine park under the *Marine Parks Act 1982*;
- (d) an area to the seaward side of the highest astronomical tide;
- (e) the following under the *Queensland Heritage Act 1992*—
- (i) a place of cultural heritage significance;
 - (ii) a protected area;
 - (iii) a registered place;
 - (iv) a restricted zone;
- (f) a designated landscape area under the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987*, other than the area known as the ‘Stanbroke Pastoral Development Holding’, leased under the *Land Act 1994* by lease number PH 13/5398;

SCHEDULE 1A (continued)

- (g) a feature protection area, State forest park or Scientific area under the *Forestry Act 1959*;
- (h) a fish habitat area under the *Fisheries Act 1994*;
- (i) a place in which a marine plant under the *Fisheries Act 1994* is situated;
- (j) an endangered regional ecosystem or area of high nature conservation value identified in the document published by the department called 'The Conservation Status of Queensland's Bioregional Ecosystems'.⁴⁹

3 Limits of "riverine area"

In this schedule, a **"riverine area"** does not include land outside the flood flow channel of a watercourse.

4 What is "significantly disturbed" land

(1) In this schedule, land is **"significantly disturbed"** if—

- (a) it is contaminated land; or
- (b) it has been disturbed and human intervention is needed to rehabilitate it—
 - (i) to a state required under the relevant environmental authority; or
 - (ii) if the environmental authority does not require the land to be rehabilitated to a particular state—to its state immediately before the disturbance.

Examples of a 'disturbance' to land—

1. The covering, compaction, exposure, removal or stockpiling of soil or other material.
2. The destruction or removal of vegetation.
3. The carrying out of a mining activity in a watercourse or wetland.
4. The submergence of an area with a hazardous contaminant, tailings, or water.

⁴⁹ A copy of the document may be inspected by members of the public during office hours on business days at the department's head office at 160 Ann Street, Brisbane.

SCHEDULE 1A (continued)

(2) Without limiting subsection (1)(b), land requires human intervention to rehabilitate it if—

- (a) the disturbance has made the land more susceptible to erosion; or
- (b) the land use capability or suitability of the land is diminished; or
- (c) the quality of water in a watercourse downstream of the land has been significantly reduced.

(3) If land is significantly disturbed land because it is contaminated land, it ceases to be significantly disturbed land if a suitability statement is issued for the land.

(4) If land is significantly disturbed land under subsection (1)(b), it ceases to be significantly disturbed land if the administering authority becomes satisfied the land has been rehabilitated—

- (a) to its state immediately before the disturbance; or
- (b) to another state decided by the administering authority.

5 What is a “watercourse”

In this schedule, a “**watercourse**” is a creek, river or stream—

- (a) in which water flows intermittently or permanently in a visibly defined channel, whether artificial, artificially improved or natural; and
- (b) that has a clear bank and bed; and
- (c) that has evidence of biological dependence on any water that flows in the creek, river or stream or on the banks or bed.

PART 2—CRITERIA

6 Criteria for environmental authority (mining lease)

(1) The following criteria apply for mining activities allowed, or to be allowed, under an environmental authority (mining lease)—

SCHEDULE 1A (continued)

- (a) the mining activities do not, or will not, cause more than 10 ha of any land to be significantly disturbed at any one time;
- (b) the mining activities do not, or will not, cause more than 5 ha of any riverine area and mine workings to be significantly disturbed at any one time;
- (c) the mining activities are not, or will not be, carried out in, or within 2 km of, a category A environmentally sensitive area;
- (d) the mining activities are not, or will not be, carried out in, or within 1 km of, a category B environmentally sensitive area;
- (e) the mining activities do not include a level 1 environmentally relevant activity;
- (f) no more than 20 persons are carrying out or, will at any one time, carry out, the mining activities;
- (g) only mining of a type as follows is permitted under any relevant mining lease—
 - (i) alluvial mining;
 - (ii) clay pit mining;
 - (iii) dimension stone mining;
 - (iv) hard rock mining;
 - (v) opal mining;
 - (vi) shallow pit mining.

(2) In this section—

“alluvial mining” means excavating, in any way, unconsolidated or waterborne or weathered material (whether or not it is in a watercourse) and processing it by using chemical methods or gravity separation to extract minerals from the material.

Examples—

Gem, gold and tin mining from alluvial wash.

“clay pit mining” means excavating waterborne or weathered material (whether or not it is in a watercourse) and processing it by a non-crushing method.

SCHEDULE 1A (continued)

“dimension stone mining” means extracting rock and processing it by further cutting or shaping to use it for building.

Examples of rock extracted as ‘dimension stone’—

Granite, limestone, marble, sandstone and slate.

“hard rock mining” means extracting material from underground or open cut pits and processing it by crushing or milling and using chemical methods or gravity separation to extract minerals from it.

“mine workings” means an area from which ore or overburden has been extracted or on which waste rock is stored that is not—

- (a) substantially rehabilitated to the satisfaction of the administering authority; or
- (b) used for a camp site, road, plant, tailings dam, water storage dam, or other infrastructure.

“opal mining” means extracting material from underground or open cut pits and processing it by manually separating opal rock or by using gravity separation to extract opal.

“shallow pit mining” means extracting material from an open cut pit no more than 5 m deep and processing the material to extract minerals.

7 Criteria for other environmental authority (mining activities)

The following criteria apply for mining activities allowed, or to be allowed, under an environmental authority (mining activities), other an environmental authority (mining lease)—

- (a) the mining activities do not, or will not, cause more than 10 ha of any land to be significantly disturbed at any one time;
- (b) no more than 5000 m² are disturbed at any campsite at any one time;
- (c) no more than 20 m³ of any substance is extracted from each kilometre of any riverine area in any year;
- (d) the mining activities are not, or will not be, carried out in a category A or B environmentally sensitive area;
- (e) the mining activities do not include a level 1 environmentally relevant activity.

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

sections 12, 14 and 17

1 Sale of controlled substances**(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.

(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.

SCHEDULE 2 (continued)

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

2 Buying controlled substances

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.

3 Handling or use of controlled substances

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.

4 Reclaiming of controlled substances

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

SCHEDULE 2 (continued)

- (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.
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**FEEES****PART 1—FEES RELATING TO ENVIRONMENTAL
AUTHORITIES AND DEVELOPMENT APPROVALS
OTHER THAN FOR MINING ACTIVITIES**

section 44

\$

- | | | | |
|----|-------------------------------------------------------------------------------------------------------------------------------------|--------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Application for assessment of development application under ch 4, pt 2 of the Act. | 200.00 | |
| | | | plus an amount equal to the annual fee for the activity |
| 2. | Application for level 2 approval (s 100 of the Act) . | 200.00 | |
| 3. | Conversion application under ch 4, pt 4 of the Act. | 200.00 | |
| 4. | Application for environmental authority, other than a level 2 approval for an environmental authority (mining activities) | 200.00 | |
| | | | plus an amount equal to the higher or highest annual fee for any activity mentioned in schedule 1 proposed to be carried out under the authority |
| 5. | Amendment application under ch 4, pt 5 of the Act | 150.00 | |
| 6. | Transfer application under ch 4, pt 6, div 2 of the Act | 50.00 | |

SCHEDULE 6 (continued)

**PART 1A—FEES RELATING TO ENVIRONMENTAL
AUTHORITIES (MINING ACTIVITIES)**

section 44

Division 1—Application fees and annual fees for transitional authorities

	\$
7. Application for standard environmental authority (mining activities), other than an environmental authority (prospecting) or environmental authority (mining claim) (s 154 of the Act)	200.00
8. Application for a non-standard environmental authority (mining activities) (s 154 of the Act)	200.00
	plus an amount equal to the higher or highest annual fee for any activity mentioned in schedule 1 or in items 11B to 11D in this schedule proposed to be carried out under the authority, other than an activity mentioned in items 21 to 21D of that schedule
9. Amendment application for environmental authority (mining activities) (s 240 of the Act)	150.00
10. Transfer application for environmental authority (mining activities) (s 260 of the Act)	50.00

SCHEDULE 6 (continued)

	\$
11. Annual fee for transitional authority first year of transitional period (s 601 of the Act)	an amount equal to the higher or highest annual fee for any activity mentioned in schedule 1 proposed to be carried out under the authority, other than an activity mentioned in items 21C and 21D of that schedule
11A. Annual fee for transitional authority second year of transitional period (s 316 of the Act)	an amount equal to the higher or highest annual fee for any activity mentioned in schedule 1 proposed to be carried out under the authority, other than an activity mentioned in items 21C and 21D of that schedule

Division 2—Annual fees for mining activities

Mining activity	Level	Annual fee
11B. Mining activities, other than a standard mining activity, carried out using equipment and plant—		
(a) having a mineral ore throughput of less than 100 000 t a year	— ^a	4 880.00
(b) having a mineral ore throughput of more than 100 000 t, but less than 500 000 t, a year	—	12 380.00

SCHEDULE 6 (continued)

(c) having a mineral ore throughput of 500 000 t or more a year or if mineral ores mined are chemically processed to produce concentrates.	— 16 340.00
11C. Mining activities, other than a standard mining activity, involving drilling, costeaning or pitting or geophysical surveys causing significant disturbance.	— 700.00
11D. Mining activities, other than a standard mining activity, investigating the potential development of a mineral resource by large bulk sampling, exploratory shaft, adit or open pit construction.	— 3 960.00

a Section 20 (Levels for environmentally relevant activities) of the Act gives the levels for mining activities.

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

section 44B

\$

12. 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—each lot.	400.00

SCHEDULE 6 (continued)

	\$
(b) any other land—each lot	900.00
13. Extract from the environmental management register or contaminated land register—each lot . .	30.00

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

Clinical waste

Copper compounds

Detergents

Distillation residues

Dyes

SCHEDULE 7 (continued)

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
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
Mercaptans
Mercury and anything containing mercury
Metal finishing effluent and residues
Methacrylate compounds (other than solid inert polymeric materials)
Nickel
Nightsoil
Oil interceptor sludges
Oils

SCHEDULE 7 (continued)

Oil water emulsions and mixtures
Organic solvents
Oxidising agents
Ozone depleting substances
Paint sludges and residues
Perchlorates
Pesticides
Petroleum tank sludges
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
Related waste
Resins (other than solid inert polymeric materials)
Saline effluent and residues
Selenium
Silver compounds
Solvent recovery residues
Surfactants
Tallow
Tannery effluent and residues
Tars and tarry residues

SCHEDULE 7 (continued)

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)

Substance	Common name	Chemical formula
Trichlorofluoromethane	CFC-11	CFCl_3
Dichlorodifluoromethane	CFC-12	CF_2Cl_2
Chlorotrifluoromethane	CFC-13	CF_3Cl
Pentachlorofluoroethane	CFC-111	C_2FCl_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	C_3FCl_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

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

PART C—HYDROCHLOROFLUOROCARBONS (HCFC'S)

Substance	Common name	Chemical formula
Dichlorofluoromethane	HCFC-21	CHFCl ₂
Monochlorodifluoromethane	HCFC-22	CHF ₂ Cl
Monochlorofluoromethane	HCFC-31	CH ₂ FCl
Tetrachlorofluoroethane	HCFC-121	C ₂ HFCl ₄
Trichlorodifluoroethane	HCFC-122	C ₂ HF ₂ Cl ₃
Dichlorotrifluoroethane	HCFC-123	C ₂ HF ₃ Cl ₂
Monochlorotetrafluoroethane	HCFC-124	C ₂ HF ₄ Cl
Trichlorofluoroethane	HCFC-131	C ₂ H ₂ FCl ₃
Dichlorodifluoroethane	HCFC-132	C ₂ H ₂ F ₂ Cl ₂
Monochlorotrifluoroethane	HCFC-133	C ₂ H ₂ F ₃ Cl
Dichlorofluoroethane	HCFC-141	C ₂ H ₃ FCl ₂
Monochlorodifluoroethane	HCFC-142	C ₂ H ₃ F ₂ Cl
Chlorofluoroethane	HCFC-151	C ₂ H ₄ FCl
Hexachlorofluoropropane	HCFC-221	C ₂ HFCl ₆
Pentachlorodifluoropropane	HCFC-222	C ₃ HF ₂ Cl ₅
Tetrachlorotrifluoropropane	HCFC-223	C ₃ HF ₃ Cl ₄

SCHEDULE 8 (continued)

Substance	Common name	Chemical formula
Trichlorotetrafluoropropane	HCFC-224	$C_3HF_4Cl_3$
Dichloropentafluoropropane	HCFC-225	$C_3HF_5Cl_2$
Monochlorohexafluoropropane	HCFC-226	C_3HF_6Cl
Pentachlorofluoropropane	HCFC-231	$C_3H_2FCl_5$
Tetrachlorodifluoropropane	HCFC-232	$C_3H_2F_2Cl_4$
Trichlorotrifluoropropane	HCFC-233	$C_3H_2F_3Cl_3$
Dichlorotetrafluoropropane	HCFC-234	$C_3H_2F_4Cl_2$
Monochloropentafluoropropane	HCFC-235	$C_3H_2F_5Cl$
Tetrachlorofluoropropane	HCFC-241	$C_3H_3FCl_4$
Trichlorodifluoropropane	HCFC-242	$C_3H_3F_2Cl_3$
Dichlorotrifluoropropane	HCFC-243	$C_3H_3F_3Cl_2$
Monochlorotetrafluoropropane	HCFC-244	$C_3H_3F_4Cl$
Trichlorofluoropropane	HCFC-251	$C_3H_4FCl_3$
Dichlorodifluoropropane	HCFC-252	$C_3H_4F_2Cl_2$
Monochlorotrifluoropropane	HCFC-253	$C_3H_4F_3Cl$
Dichlorofluoropropane	HCFC-261	$C_3H_5FCl_2$
Monochlorodifluoropropane	HCFC-262	$C_3H_5F_2Cl$
Monochlorofluoropropane	HCFC-271	C_3H_6FCl

**PART D—MISCELLANEOUS CONTROLLED
SUBSTANCES**

Substance	Common name	Chemical formula
Tetrachloromethane	Carbon tetrachloride	CCl_4
1, 1, 1 – Trichloroethane	Methyl Chloroform	$C_2H_3Cl_3$

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 8B**AREAS OF LOCAL GOVERNMENTS FORMING
SCHEDULED AREAS**

schedule 9, definition “scheduled area”

Aramac, Aurukun, Badu Island, Balonne, Bamaga Island, Barcaldine, Barcoo, Bauhinia, Bendemere, Biggenden, Blackall, Boigu Island, Booringa, Boulia, Bulloo, Bungil, Burke, Cambooya, Carpentaria, Cherbourg, Chinchilla, Clifton, Cloncurry, Coconut Island, Cook, Croydon, Dalrymple, Darnley Island, Dauan Island, Diamantina, Doomadgee, Eidsvold, Etheridge, Flinders, Gayndah, Goondiwindi, Hammond Island, Hope Vale, Ilfracombe, Inglewood, Injinoo, Isisford, Jericho, Kilcoy, Kilkivan, Kolan, Kowanyama, Kubin Island, Lockhart River, Longreach, Mabuiag Island, Mapoon, McKinlay, Millmerran, Monto, Mornington, Mount Isa, Mount Morgan, Munduberra, Murgon, Murilla, Murray Island, Murweh, Napranum, Nebo, New Mapoon, Paroo, Peak Downs, Perry, Pittsworth, Pormpuraaw, Quilpie, Richmond, Roma, Saibai Island, Seisia Island, Stephen Island, St Pauls Island, Sue Island, Tambo, Tara, Taroom, Tiaro, Torres, Umagico, Waggamba, Wambo, Warroo, Weipa, Winton, Wondai, Woocoo, Woorabinda, Wujal Wujal, Yam Island, Yarrabah, Yorke Island.

SCHEDULE 8C**PRESCRIBED PERIODS UNDER ACT**

section 63B of the regulation

PART 1—PRESCRIBED PERIODS FOR CHAPTER 3**1 Advice to chief executive about draft terms of reference—Act, s 45**

For section 45, the period is the later of the following periods to end—

- (a) 20 business days after the chief executive has given the proponent a copy of all comments received within the comment period;
- (b) if the chief executive and the proponent have, within the 20 business days, agreed to a longer period—the longer period.

2 Finalising terms of reference—Act, s 46

For section 46, the period is the later of the following periods to end—

- (a) 20 business days after the giving of the documents mentioned in section 45;
- (b) if the chief executive and the proponent have, within the 20 business days, agreed to a longer period—the longer period.

3 Decision on whether to allow EIS to proceed—Act, s 49

For section 49(1), the period is the later of the following periods to end—

- (a) 20 business days after the EIS is submitted;
- (b) if the chief executive and the proponent have, within the 20 business days, agreed to a longer period—the longer period.

SCHEDULE 8C (continued)

PART 2—PRESCRIBED PERIODS FOR CHAPTER 5*Division 1—Assessment level decision and EIS requirement***4 Assessment level decision—Act, s 162**

For section 162(1), the period is 5 business days after the administering authority receives the application.

5 Decision about EIS requirement—Act, s 164

For section 164(1) and (3), the period is the later of the following periods to end—

- (a) 10 business days after the administering authority receives the application;
- (b) if the administering authority, within the 10 business days, gives the applicant a written notice that the EPA Minister has fixed a longer period—the longer period.

*Division 2—Environmental authority (prospecting) applications***6 Decision period—Act, s 168**

For section 168(1), the period is 5 business days after the administering authority receives the application.

7 Failure to decide—Act, s 169

For section 169, the period is 6 business days after the administering authority receives the application.

SCHEDULE 8C (continued)

Division 3—Environmental authority (mining claim) applications**8 Decision to refuse or allow to proceed—Act, s 173**

For section 173(1), the period is 5 business days after the administering authority receives the application.

9 Giving draft environmental authority—Act, s 175

For section 175(2), the period is the later of the following periods to end—

- (a) 5 business days after the refusal period ends;
- (b) if additional conditions have been requested under section 176—10 business days after the last request for additional conditions;
- (c) if the applicant and the administering authority have, within the later of the periods under paragraph (a) or (b) to end, agreed to a longer period for the preparation of the draft—the longer period.

Division 4—Environmental authority (exploration) and environmental authority (mineral development) applications**10 Decision period—Act, s 181**

(1) For section 181(1), the period is 10 business days after the later of the following days—

- (a) the day the administering authority receives the application;
- (b) if, within 5 business days after the receipt of the application, additional conditions are requested under section 180(2) of the Act—the day the last request for additional conditions is made.

11 Assessment period for EM plan assessment report—Act, s 191

(1) For section 191(2), subject to subsection (2), the period is the later of the following periods to end—

SCHEDULE 8C (continued)

- (a) 30 business days after the environmental management plan is submitted;
- (b) if the applicant has amended the plan within the 30 business days—30 business days after the EM plan amendment notice for the amendment is given to the administering authority.

(2) However, if the applicant and administering authority have agreed, in writing, to a shorter period, the period is the shorter period.

12 Decision period—Act, s 193

For section 193(1), the period is 10 business days after the later of the following events to happen—

- (a) if an EIS requirement has been made for the application—the completion of the EIS process;
- (b) the end of the assessment period under section 191(2).

13 Assessment period for EMOS assessment report—Act, s 205

(1) For section 205(2), subject to subsection (2), the period is the later of the following periods to end—

- (a) 30 business days after the EMOS is submitted;
- (b) if the applicant has amended the EMOS within the 30 business days—30 business days after the EMOS amendment notice for the amendment is given to the administering authority.

(2) However, if the applicant and administering authority have agreed, in writing, to a shorter period, the period is the shorter period.

14 Decision to refuse or allow to proceed—Act, s 207

(1) This section prescribes the period for section 207(1).

(2) If the application is a standard application, the period is 5 business days after the administering authority receives the application.

(3) If the application is a non-standard application, the period is 10 business days after the later of the following events to happen—

SCHEDULE 8C (continued)

- (a) if an EIS requirement has been made for the application—the completion of the EIS process;
- (b) the end of the assessment period;
- (c) if, before the end of the assessment period, a relevant mining tenement has, under the State Development Act, part 4, been declared to be, or include, a significant project—the preparation of the coordinator-general's report evaluating the EIS for the project under section 29K⁵⁰ of that Act.

*Division 6—Amendment applications***15 Decision to refuse or allow to proceed—Act, s 242**

For section 242(1), the period is 10 business days after the administering authority receives the application.

16 Assessment level decision—Act, s 246

For section 246(1), the period is 10 business days after the administering authority receives the application.

17 Deciding application—Act, s 257

For section 257(1), the period is 20 business days after the administering authority receives the application.

⁵⁰ The State Development Act, part 4 (Environmental coordination) and section 35 (Coordinator-General evaluates EIS, submissions, other material and prepares report)

SCHEDULE 8C (continued)

*Division 7—Surrender applications***18 When surrender required—Act, s 270**

For section 270(3), the period is the following number of days before the relevant mining tenement is, according to its conditions, to end other than by cancellation—

- (a) if the relevant mining tenement is a mining claim—30 business days;
- (b) if the relevant mining tenement is an exploration permit or mineral development licence—60 business days;
- (c) if the relevant mining tenement is a mining lease—90 business days.

19 FRR assessment report period—Act, s 276

For section 276(2), the period is the later of the following periods to end—

- (a) 30 business days after the final rehabilitation report is submitted;
- (b) if the applicant has amended the report within the 30 business days—30 business days after the FRR amendment notice for the amendment is given to the administering authority.

20 Deciding application—Act, s 277

For section 277, the period is the later of the following—

- (a) 40 business days after the final rehabilitation report is submitted;
- (b) if the applicant has amended the report—40 business days after the FRR amendment notice for the amendment is given to the administering authority.

SCHEDULE 9**DICTIONARY**

section 3

“action” has the meaning given by the Commonwealth Environment Act, chapter 8, part 23, division 1, subdivision A.

“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.

“affected building”, for noise, for part 2A, see section 6D.

“affected person”, for part 5, division 5, see section 65.

“annual licence fee”, for an activity, for part 5, see section 65.

“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.

“AS 1055”, for part 2A, see section 6D.

“ASTM”, for part 3C, see section 38ZJ.

“at”, a place or premises, for part 2A, see section 6D.

“audible noise”, for part 2A, see section 6E.

“background noise level”, for part 2A, see section 6D.

“builder”, for part 2A, see section 6D.

“building”, for part 2A, see section 6D.

SCHEDULE 9 (continued)

“Building Code of Australia” means the Building Code of Australia including the Queensland Appendix, made by the Australian Building Codes Board.

“building contractor”, for part 2A, see section 6D.

“building site”, for part 2A, see section 6D.

“building work”, for part 2A, see section 6D

“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 30.

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

“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

SCHEDULE 9 (continued)

- (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.

“clinical waste” means waste that has the potential to cause disease, including, for example, the following—

- (a) animal waste;
- (b) discarded sharps;
- (c) human tissue waste;
- (d) laboratory waste.

“commercial”, for an activity mentioned in schedule 1, means carried out for a fee or reward.

“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.

SCHEDULE 9 (continued)

“Commonwealth Minister” means the Minister of the Commonwealth responsible for administering the Commonwealth Environment Act.

“complainant”, for part 2A, see section 6D.

“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.

“controlling provision”, for a project, means a provision of the Commonwealth Environment Act, chapter 2, part 3, decided by the Commonwealth Minister as a controlling provision for the project under that Act, chapter 4, part 7, division 2.

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

“dangerous goods code” means the sixth edition of the Australian Code for the Transport of Dangerous Goods by Road and Rail.⁵¹

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

“designated proponent”, for a project, means the person designated as a proponent for the action the subject of the project under the Commonwealth Environment Act, section 75(3).

“devolved activity” means an environmentally relevant activity in relation to which the administration and enforcement of the Act is devolved to local government.⁵²

“distribute”, for part 3C, see section 38ZJ.

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

51 A copy of the code may be purchased from the Australian Government Information Service, City Plaza, Adelaide and George Streets, Brisbane.

52 See section 40 (Devolution of powers—other activities).

SCHEDULE 9 (continued)

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

“educational institution”, for part 2A, see section 6D.

“emission”, for a substance—

- (a) for part 2A, see section 6D; or
- (b) for part 3A, see section 38B.

“emission data”, for a substance, for part 3A, see section 38B.

“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.

“estimation technique”, for part 3A, see section 38B.

“ETBE”, for part 3C, see section 38ZJ.

“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 m³ of materials is extracted or the surface area of the land is less than 5 200 m²; or
- (b) extracting material in the course of cutting and filling land for constructing a road or railway.

“facility” for—

- (a) part 3A, see section 38D; or
- (b) an environmentally relevant activity, means a premises or other place used for the activity, and includes—
 - (i) 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

SCHEDULE 9 (continued)

- (ii) 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).

“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 emission criteria”, for part 2A, means the general emission criteria under section 6S.

“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.

“import”, for part 3C, see section 38ZJ.

“indoor venue”, for part 2A, see section 6D.

“industry code”, for an activity, means the industry code assigned to the activity under ‘Australian and New Zealand Standard Industrial Classification’, 1993.⁵³

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

“industry handbook”, for a facility, for part 3A, see section 38B.

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

“licensed premises”, for part 2A, see section 6D.

“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, clinical waste or quarantine

53 The document is published by the Australian Bureau of Statistics.

SCHEDULE 9 (continued)

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.

“low volatility zone”, for part 3C, see section 38ZJ.

“manufacture”, for part 3C, see section 38ZJ.

“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
- (c) motor vehicle body panels (other than windscreens, window glasses, upholstery and interior trimmings), including, for

SCHEDULE 9 (continued)

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.

“**MTBE**”, for part 3C, see section 38ZJ.

“**noise emission criteria**”, for part 2A, means the noise emission criteria under section 6T.

“**noise offence**”, for part 2A, means an offence against part 2A, division 4.

“**noise offence exemption**”, for part 2A, see section 6ZG(1).

“**noise policy**” means the *Environmental Protection (Noise) Policy 1997*.

“**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.

“**NPIM**”, for part 3A, see section 38B.

“**nuisance abatement notice**”, for part 2A, means a nuisance abatement notice given under part 2A, division 3.

“**nuisance complaint**”, for part 2A, see section 6D.

“**occupier**”, for a facility, for part 3A, see section 38B.

“**offshore facility**”, for part 3A, see section 38E.

“**open-air event**”, for part 2A, see section 6D.

“**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.

“**power boat**”, for part 2A, see section 6D.

SCHEDULE 9 (continued)

“**prescribed activity**”, for part 5, division 5, see section 65.

“**prescribed environmentally relevant activity**” means an activity prescribed as an environmentally relevant activity under section 4(1).

“**published**”, for part 3A, see section 38B.

“**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.

“**railway**”, for part 2A, see section 6D.

“**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.

“**Reid vapour pressure**”, for part 3C, see section 38ZJ.

“**rejection notice**”, for part 2A, see section 6M(3).

“**related waste**” means waste that constitutes, or is contaminated with, chemicals, cytotoxic drugs, human body parts, pharmaceutical products or radioactive substances.

“**relevant impacts**”, for part 1A and schedule 1AA, means the impacts a project has or will have, or is likely to have, on the matter protected by a controlling provision for the project.’.

“**relevant nuisance complaint**”, for an emission, for part 2A, see section 6D.

“**repealed regulation**”, for part 5, see section 65.

“**reporting facility**”, for part 3A, see section 38B.

“**reporting period**”, for a facility, for part 3A, see section 38B.

“**reporting requirement**”, for an occupier, for part 3A, see section 38B.

SCHEDULE 9 (continued)

- “responsible person”**, for an emission, for part 2A, see section 6D.
- “schedule 3 activity”** means an activity specified in schedule 3.
- “scheduled area”** means a local government area mentioned in schedule 8B.
- “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.
- “source noise”**, for part 2A, see section 6ZN.
- “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.
- “substance”**, for part 3A, see section 38F.
- “summer period”**, for part 3C, see section 38ZJ.
- “TAME”**, for part 3C, see section 38ZJ.

SCHEDULE 9 (continued)

“unlawful environmental nuisance”, for part 2A, see part 2A, division 1, subdivision 4.

“untreated clinical waste” includes clinical waste that has been only partly treated.

“waiver application” see section 49(1).

“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.

ENDNOTES**1 Index to endnotes**

	Page
2 Date to which amendments incorporated	183
3 Key	184
4 Table of reprints	184
5 Tables in earlier reprints	184
6 List of legislation	184
7 List of annotations	186
8 Provisions that have not commenced and are not incorporated into reprint	201

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 6 December 2002. 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

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

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 item 38 commences 1 July 2003 (see s 2 (as amd 2002 SL No. 160 s 3; 2000 SL No. 321 s 3; 2002 SL No. 160 s 3))

sch 1 item 39 never commenced and om 2002 SL No. 160 s 4(2) (provision was to commence 1 July 2002 (see s 2))

remaining provisions commenced 1 March 1998 (see s 2(3))

exp 1 September 2008 (see SIA s 54)

Note—A regulatory impact statement and explanatory note were prepared amending legislation—

Environmental Protection Act 1994 No. 62 ss 1–2, 616(2) (as ins 2000 No. 64 s 52)

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provision commenced 1 January 2001

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

Environmental Protection Amendment Regulation (No. 2) 1999 SL No. 297 pts 1–2

notfd gaz 26 November 1999 pp 1268–70

commenced on date of notification

Note—A regulatory impact statement and explanatory note were prepared

Environmental Protection Amendment Regulation (No. 3) 1999 SL No. 320

notfd gaz 10 December 1999 pp 1448–50

commenced on date of notification

Environmental Protection Amendment Regulation (No. 1) 2000 SL No. 162

notfd gaz 30 June 2000 pp 736–48

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2000 (see s 2)

Note—An explanatory note was prepared

Environmental Protection Amendment Regulation (No. 2) 2000 SL No. 163

notfd gaz 30 June 2000 pp 736–48

commenced on date of notification

Environmental Protection (Waste Management) Regulation 2000 SL No. 178
ss 1, 2(5) pt 9

notfd gaz 30 June 2000 pp 736–48

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2000 (see s 2(5))

Note—A regulatory impact statement and explanatory note were prepared

Environmental Protection Amendment Regulation (No. 3) 2000 SL No. 179

notfd gaz 30 June 2000 pp 736–48

ss 1–2 commenced on date of notification

remaining provisions commenced 14 July 2000 (see s 2)

Note—An explanatory note was prepared

Environmental Protection Amendment Regulation (No. 4) 2000 SL No. 321

notfd gaz 8 December 2000 pp 1374–7

commenced on date of notification

Environmental Protection and Other Legislation Amendment Regulation (No. 1) 2000 SL No. 351 pts 1–2

notfd gaz 15 December 2000 pp 1478–83

ss 1–2, 35 (to the extent it ins s 63A) commenced on date of notification

remaining provisions commenced 1 January 2001 (see s 2)

Note—An explanatory note was prepared

Education (Accreditation of Non-State Schools) Regulation 2001 SL No. 211
ss 1–2, 22

notfd gaz 23 November pp 1088–91

ss 1–2 commenced on date of notification

remaining provisions commenced 1 January 2002 (see s 2)

Environmental Protection Amendment Regulation (No. 1) 2001 SL No. 284

notfd gaz 21 December 2001 pp 1482–8

commenced on date of notification

Environmental Protection Amendment Regulation (No. 1) 2002 SL No. 160

notfd gaz 28 June 2002 pp 876–83

commenced on date of notification

Environmental Protection Amendment Regulation (No. 2) 2002 SL No. 291

notfd gaz 1 November 2002 pp 759–62

commenced on date of notification

Environmental Protection Amendment Regulation (No. 3) 2002 SL No. 324

notfd gaz 6 December 2002 pp 1162–66

ss 1–2, 16(4) commenced on date of notification

remaining provisions commence 1 January 2003 (see s 2)**7 List of annotations****Commencement**

- s 2 amd 1998 SL No. 358 s 3; 2000 SL No. 321 s 3
 sub 1999 SL No. 320 s 3; 2002 SL No. 160 s 3

PART 1A—ENVIRONMENTAL IMPACT STATEMENTS**pt hdg** ins 2001 SL No. 284 s 3**Division 1—Preliminary****div 1 (s 3A)** ins 2001 SL No. 284 s 3**Division 2—EIS process****div 2 (ss 3B–3F)** ins 2001 SL No. 284 s 3**Types of project****Levels 1 and 2 prescribed environmentally relevant activities****s 4** amd 2000 SL No. 351 s 4; 2001 SL No. 284 s 4**Approval required to carry out level 2 environmentally relevant activity****s 5** amd 1998 SL No. 179 s 4

om 2000 SL No. 351 s 5

Prescribed criteria for standard mining activities—Act, s 151**prov hdg** amd 2000 No. 64 s 617(2)**s 6** sub 2000 SL No. 351 s 5

amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Environmentally relevant activity—waste disposal**s 6A** ins 1998 SL No. 179 s 5

amd 2000 SL No. 178 s 75

PART 2A—ENVIRONMENTAL NUISANCE**pt hdg** ins 1999 SL No. 297 s 4**Division 1—Preliminary****div hdg** ins 1999 SL No. 297 s 4**Subdivision 1—Object of part and its achievement****sdiv hdg** ins 1999 SL No. 297 s 4**Object of pt 2A****s 6B** ins 1999 SL No. 297 s 4**How object is achieved****s 6C** ins 1999 SL No. 297 s 4**Subdivision 2—Standard definitions****sdiv hdg** ins 1999 SL No. 297 s 4**Definitions for pt 2A****s 6D** ins 1999 SL No. 297 s 4

amd 2001 SL No. 211 s 22(2); 2001 SL No. 284 s 5

Subdivision 3—Meaning of audible noise**sdiv hdg** ins 1999 SL No. 297 s 4**Meaning of “audible noise”****s 6E** ins 1999 SL No. 297 s 4**Subdivision 4—Meaning of unlawful environmental nuisance****sdiv hdg** ins 1999 SL No. 297 s 4

General definition

s 6F ins 1999 SL No. 297 s 4
amd 2000 SL No. 178 s 76

Animal noise exclusion

s 6G ins 1999 SL No. 297 s 4

Audible traffic signal noise exclusion

s 6H ins 1999 SL No. 297 s 4

Blasting noise exclusion

s 6I ins 1999 SL No. 297 s 4

Outdoor shooting range noise exclusion

s 6J ins 1999 SL No. 297 s 4

Cooking odour exclusion

s 6K ins 1999 SL No. 297 s 4

Division 2—Investigation of unlawful environmental nuisance

div hdg ins 1999 SL No. 297 s 4

How nuisance complaint may be made

s 6L ins 1999 SL No. 297 s 4

Frivolous, vexatious or mistaken complaints

s 6M ins 1999 SL No. 297 s 4
amd 2000 SL No. 351 s 6

Subdivision 2—Investigations

sdiv 2 (ss 6N–6P) ins 1999 SL No. 297 s 4

Division 3—Nuisance abatement notices

div hdg ins 1999 SL No. 297 s 4

Subdivision 1—When nuisance abatement notice may be given

sdiv 1 (ss 6Q–6R) ins 1999 SL No. 297 s 4

Subdivision 2—Emission criteria

sdiv 2 (ss 6S–6T) ins 1999 SL No. 297 s 4

Subdivision 3—Requirements for nuisance abatement notices**Requirements**

s 6U ins 1999 SL No. 297 s 4
amd 2000 SL No. 351 s 7

Subdivision 4—Compliance with nuisance abatement notices**Failure to comply with nuisance abatement notice**

s 6V ins 1999 SL No. 297 s 4

Division 4—Noise offences

div hdg ins 1999 SL No. 297 s 4

Subdivision 1—Offences

sdiv 1 (ss 6W–6ZF) ins 1999 SL No. 297 s 4

Subdivision 2—Exemptions

sdiv hdg ins 1999 SL No. 297 s 4

Operation of sdiv 2

s **6ZG** ins 1999 SL No. 297 s 4

Compliance with general environmental duty

s **6ZH** ins 1999 SL No. 297 s 4
amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Lawful environmental nuisance

s **6I** ins 1999 SL No. 297 s 4

Certain environmentally relevant activities

s **6J** ins 1999 SL No. 297 s 4

Compliance with certain instruments under Act or a local law

s **6K** ins 1999 SL No. 297 s 4

Subdivision 3—Proceedings for noise offences

sdiv 3 (ss **6ZL–6M**) ins 1999 SL No. 297 s 4

Division 5—Measurement of noise

div 5 (ss **6ZN–6ZS**) ins 1999 SL No. 297 s 4

Division 6—Miscellaneous

div 6 (ss **6ZT–6ZU**) ins 1999 SL No. 297 s 4

PART 3—OZONE DEPLETING SUBSTANCES**Release of controlled substance**

s **11** amd 1998 SL No. 316 s 3

Restriction on installing, keeping and refilling of fixed halon system

s **25** amd 2000 SL No. 351 s 8

Approval to buy or refill a portable halon fire extinguisher

s **30** amd 2000 SL No. 351 s 9

Procedure for cancellation

s **37** amd 2000 SL No. 351 s 10

PART 3A—NATIONAL POLLUTANT INVENTORY

pt hdg ins 1999 SL No. 208 s 3

Division 1—Preliminary

div hdg ins 1999 SL No. 208 s 3

Subdivision 1—General

sdiv hdg ins 1999 SL No. 208 s 3

Purpose of pt 3

s **38A** ins 1999 SL No. 208 s 3

Subdivision 2—Interpretation

sdiv hdg ins 1999 SL No. 208 s 3

Definitions for pt 3A

s **38B** ins 1999 SL No. 208 s 3

Meaning of “emission” of a substance

s **38C** ins 1999 SL No. 208 s 3

Meaning of “facility”

s 38D ins 1999 SL No. 208 s 3

Meaning of “offshore facility”

s 38E ins 1999 SL No. 208 s 3

Meaning of “substance”

s 38F ins 1999 SL No. 208 s 3
sub 2000 SL No. 163 s 3

General

s 38G ins 1999 SL No. 208 s 3

Division 2—Collecting data for the national pollutant inventory

div hdg ins 1999 SL No. 208 s 3

Occupiers of reporting facilities to give information

s 38H ins 1999 SL No. 208 s 3
amd 2000 SL No. 163 s 4; 2000 SL No. 351 s 11

Exceeding reporting threshold

s 38I ins 1999 SL No. 208 s 3

Reporting period for facility

s 38J ins 1999 SL No. 208 s 3
amd 2000 SL No. 351 s 12; 2002 SL No. 160 s 2 sch

Estimation technique for emission data

s 38K ins 1999 SL No. 208 s 3

Application for approval of estimation technique

s 38L ins 1999 SL No. 208 s 3
amd 2000 SL No. 351 s 13

Approving estimation technique

s 38M ins 1999 SL No. 208 s 3
amd 2000 SL No. 351 s 14

Occupier must keep particular data for 3 years

s 38N ins 1999 SL No. 208 s 3

Exemption on ground of national security

s 38O ins 1999 SL No. 208 s 3

Claiming exemption on ground of commercial confidentiality

s 38P ins 1999 SL No. 208 s 3
amd 2000 SL No. 351 s 15

Deciding claim for exemption on ground of commercial confidentiality

s 38Q ins 1999 SL No. 208 s 3
amd 2000 SL No. 351 s 16

Division 3—Giving information to Commonwealth

div hdg ins 1999 SL No. 208 s 3

Chief executive to give information to Commonwealth

s 38R ins 1999 SL No. 208 s 3

Division 4—Enforcement provisions**div hdg** ins 1999 SL No. 208 s 3**Noncompliance with reporting requirement****s 38S** ins 1999 SL No. 208 s 3
amd 2000 SL No. 163 s 5**Minister may name occupier in report to council****s 38T** ins 1999 SL No. 208 s 3
amd 2000 SL No. 162 s 4; 2000 SL No. 351 s 17**Division 5—Miscellaneous****div hdg** ins 1999 SL No. 208 s 3**Industry handbooks****s 38U** ins 1999 SL No. 208 s 3**Information not to be used as evidence****s 38V** ins 2000 SL No. 162 s 5
amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)**PART 3B—USED PACKAGING MATERIALS****pt hdg** ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)**Division 1—Preliminary****div 1 (ss 38W–38Y)** ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)**Division 2—Responsibilities of brand owners****div hdg** ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)**Subdivision 1—Application****sdiv hdg** ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)**Application of div 2****s 38Z** ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)**Subdivision 2—Action plans and record keeping****div hdg** ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)**Action plans****s 38ZA** ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)**Brand owner to keep information****s 38ZB** ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)**Claiming exemption on ground of commercial confidentiality****s 38ZC** ins 2000 SL No. 162 s 6

amd 2000 SL No. 351 s 18
exp 1 July 2004 (see s 38ZH)

Deciding claim for exemption on ground of commercial confidentiality

s 38ZD ins 2000 SL No. 162 s 6
 amd 2000 SL No. 351 s 19
exp 1 July 2004 (see s 38ZH)

Subdivision 3—Compliance notices

sdiv hdg ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)

Authorised person may give notice to comply

s 38ZE ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)

Division 3—Operators of kerbside recycling collection services to give information to chief executive

div 3 (ss 38ZF–38ZG) ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)

Division 4—Expiry

div hdg ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)

Expiry of pt 3B

s 38ZH ins 2000 SL No. 162 s 6
exp 1 July 2004 (see s 38ZH)

PART 3C—QUALITY STANDARDS FOR PETROL AND DIESEL

pt hdg ins 2000 SL No. 179 s 4

Division 1—Preliminary

div 1 (ss 38ZI–38ZJ) ins 2000 SL No. 179 s 4

Division 2—Permitted concentrations of particular chemicals

div hdg ins 2000 SL No. 179 s 4
 sub 2002 SL No. 291 s 2 sch

Permitted concentration of ethers and benzene

prov hdg amd 2002 SL No. 291 s 2 sch
s 38ZK ins 2000 SL No. 179 s 4
 amd 2001 SL No. 284 s 6; 2002 SL No. 291 s 2 sch

Permitted concentration of sulfur

prov hdg amd 2002 SL No. 291 s 2 sch
s 38ZL ins 2000 SL No. 179 s 4
 amd 2002 SL No. 291 s 2 sch

Permitted concentration of lead

prov hdg amd 2002 SL No. 291 s 2 sch
s 38 ZM ins 2000 SL No. 179 s 4
 amd 2002 SL No. 291 s 2 sch

Division 3—Reid vapour pressure of petrol

div hdg ins 2000 SL No. 179 s 4

Permitted Reid vapour pressure—before 15 November 2002

- prov hdg** amd 2002 SL No. 291 s 2 sch
s 38ZN ins 2000 SL No. 179 s 4
 amd 2002 SL No. 291 s 3
 om 2002 SL No. 291 s 4

Permitted Reid vapour pressure—after 15 November 2002

- s 38ZO** ins 2000 SL No. 179 s 4
 sub 2002 SL No. 291 s 4

Division 4—Exemptions

- div hdg** ins 2000 SL No. 179 s 4

Applications

- s 38ZP** ins 2000 SL No. 179 s 4

Additional information for applications

- s 38ZQ** ins 2000 SL No. 179 s 4
 amd 2000 SL No. 351 s 20

Deciding applications

- s 38ZR** ins 2000 SL No. 179 s 4

Giving exemptions

- s 38ZS** ins 2000 SL No. 179 s 4
 amd 2000 SL No. 351 s 21

Refusing applications

- s 38ZT** ins 2000 SL No. 179 s 4
 amd 2000 SL No. 351 s 22

Division 5—Record keeping

- div hdg** ins 2000 SL No. 179 s 4

Record keeping requirements

- s 38ZU** sub 2002 SL No. 291 s 5

Devolution of powers—environmentally relevant activities

- s 39** amd 1998 SL No. 179 s 6; 1999 SL No. 208 s 4; 2000 SL No. 162 s 7

Devolution of powers—other activities

- s 40 prov hdg** amd 1999 SL No. 297 s 5

Devolution of Act includes statutory instruments under Act

- s 40A** ins 1998 SL No. 179 s 7

Devolution of powers—residential land

- s 40B** ins 1999 SL No. 297 s 6
 amd 2000 SL No. 351 s 23

Division 2—Integrated environmental management systems

- div 2 hdg** om 2000 SL No. 351 s 24

Application of division

- s 41** om 2000 SL No. 351 s 24

Integrated environmental management system

s 42 om 2000 SL No. 351 s 24

Standard criteria for environmental authority for activitiess 43 amd 1998 SL No. 179 s 8
om 2000 SL No. 351 s 24**Subdivision 1—Fees for environmental authorities**sdiv hdg ins 2002 SL No. 324 s 4**Fees—general**s 44 amd 1998 SL No. 179 s 9; 2000 SL No. 351 s 25; 2001 SL No. 284 s 7
sub 2002 SL No. 324 s 4**General fees for environmental authority**s 44AA ins 2002 SL No. 324 s 4
renum 2002 SL No. 324 s 6**Fee for transfer application**s 44AB ins 2002 SL No. 324 s 4
renum 2002 SL No. 324 s 6**Fee for anniversary changeover applications**s 44AC ins 2002 SL No. 324 s 4
renum 2002 SL No. 324 s 6**Application fee for environmental authority not payable if prior application for development approval made**s 44A ins 1998 SL No. 179 s 10
renum 2002 SL No. 324 s 6**Fees for contaminated land**s 44B ins 1998 SL No. 179 s 10
om 2002 SL No. 324 s 5**Refund of annual fee if environmental authority refused**prov hdg amd 2001 SL No. 284 s 8; 2002 SL No. 324 s 7
s 45 sub 2000 SL No. 351 s 26**Refund of annual fee if replacement environmental authority issued**

s 45A ins 2001 SL No. 284 s 9

Subdivision 2—Application and annual fees for integrated authoritiessdiv hdg ins 2002 SL No. 324 s 8**Annual fees for prescribed environmentally relevant activities**s 46 sub 2000 SL No. 351 s 27; 2001 SL No. 284 s 10; 2002 SL No. 324 s 8**Subdivision 3—Fees for adding new constituent part to integrated authority**sdiv hdg ins 2002 SL No. 324 s 8**Annual fees for devolved activities**prov hdg amd 2000 SL No. 351 s 28(1)
s 47 amd 2000 SL No. 351 s 28(2)
sub 2002 SL No. 324 s 8

Annual fees for environmental authorities

prov hdg sub 2000 SL No. 351 s 29
s 48 amd 2000 SL No. 351 s 29
 sub 2002 SL No. 324 s 8

Fee for adding new constituent part to integrated authority

s 48A ins 2002 SL No. 324 s 8

Refund of amount in particular circumstances

s 48B ins 2002 SL No. 324 s 8

Subdivision 4—Waiver of fees for environmental or integrated authorities

sdiv hdg ins 2002 SL No. 324 s 9

Application for waiver of fee

s 49 amd 1998 SL No. 179 s 11
 sub 2000 SL No. 351 s 30
 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52); 2002 SL No. 324 s 10

Criteria for deciding waiver application

prov hdg amd 2000 SL No. 351 s 31
s 50 amd 2002 SL No. 324 s 11

Effect of decision on waiver application

s 51 amd 1998 SL No. 179 s 12
 sub 2000 SL No. 351 s 32

Subdivision 5—Other fees

sdiv hdg ins 2002 SL No. 324 s 12

Fee for late payment of annual fee

s 51A ins 2000 SL No. 351 s 32
amd 2002 SL No. 324 s 13

Fees for contaminated land

s 51B ins 2002 SL No. 324 s 14

Register of approved codes of practice

s 60 om 2000 SL No. 351 s 33

Environmental management register and contaminated land register

s 60A ins 1998 SL No. 179 s 13
 om 2000 SL No. 351 s 33

Review of decisions and appeal

s 62 amd 1999 SL No. 208 s 5; 1999 SL No. 297 s 7; 2000 SL No. 162 s 8; 2000
 SL No. 179 s 5; 2000 SL No. 351 s 34; 1994 No. 62 s 616(2) (as ins 2000
 No. 64 s 52); 2002 SL No. 324 s 15

PART 4A—MISCELLANEOUS

pt hdg ins 1998 SL No. 316 s 4

Authorised persons—Act, s 96

s 63 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Codes of environmental compliance

s 63A ins 1998 SL No. 179 s 14
sub 2000 SL No. 351 s 35

Prescribed periods under Act—sch 8C

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)
sub 2000 SL No. 351 s 35
amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Prescribed organisations in relation to site investigation

s 63C ins 1998 SL No. 179 s 15
amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Prescribed regulated waste—Act, sch 2, item 37

s 63D ins 1998 SL No. 316 s 6
sub 2000 SL No. 351 s 36
amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

PART 5—REPEAL AND TRANSITIONAL PROVISIONS

pt hdg renum 1999 SL No. 297 s 9

Applications for environmental authorities

s 70 amd 2000 SL No. 351 s 37; 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Undecided applications for amendment or transfer of licences

s 71 amd 2000 SL No. 351 s 38; 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

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

s 74 amd 2000 SL No. 351 s 39; 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52);
2002 SL No. 160 s 2 sch

Annual licence fee—continuing level 1 environmentally relevant activities

s 75 amd 2000 SL No. 351 s 40; 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52);
2002 SL No. 160 s 2 sch

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

s 78 sub 2000 SL No. 351 s 41

Administering authority to give affected person notice about change

s 80 amd 1998 SL No. 179 s 16

Undecided applications for amendment or transfer of licences for prescribed activities

s 82 amd 2000 SL No. 351 s 42; 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Division 6—Transitional provision for part 2A and Environmental Protection (Noise) Amendment Policy (No. 1) 1999

div hdg ins 1999 SL No. 297 s 8
renum 1999 SL No. 297 s 9

Noise policy applies to existing noise complaints

s 82A ins 1999 SL No. 297 s 8

Division 6A—Transitional provision for sch 1, item 75

div hdg ins 2000 SL No. 178 s 77

Transitional provision for waste facilities in scheduled areas

s 82B ins 2000 SL No. 178 s 77

Division 7—Miscellaneous transitional provisions

div hdg renum 1999 SL No. 297 s 9

Prescribed circumstance for Act, s 130

prov hdg amd 2000 SL No. 351 s 43; 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

s 83 amd 2000 SL No. 351 s 43; 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

SCHEDULE 1—PRESCRIBED ENVIRONMENTALLY RELEVANT ACTIVITIES AND ANNUAL FEES

sch hdg amd 2000 SL No. 351 s 44; 2001 SL No. 284 s 11(1); 2002 SL No. 324 s 16(1)

sch 1 amd 1998 SL No. 179 s 17; 2000 SL No. 178 s 78; 2000 SL No. 351 s 44; 2001 SL No. 284 s 11(2); 2002 SL No. 160 ss 4, 2 sch; 2002 SL No. 324 s 16(2)–(3); 2002 SL No. 324 s 16(4)**SCHEDULE 1AA—MATTERS TO BE ADDRESSED BY ASSESSMENT**

ins 2001 SL No. 284 s 12

SCHEDULE 1A—CRITERIA FOR STANDARD MINING ACTIVITIES

ins 2000 SL No. 351 s 45

SCHEDULE 6—FEES

sub 1998 SL No. 179 s 18

amd 2000 SL No. 351 s 46; 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52);

2001 SL No. 284 ss 11(3), 13; 2002 SL No. 160 s 2 sch; 2002 SL No. 324 s 17**SCHEDULE 7—REGULATED WASTES**

amd 1998 SL No. 179 s 20; 2000 SL No. 178 s 79

SCHEDULE 8A—PRESCRIBED ORGANISATIONS FOR CONTAMINATED LAND MATTERS

ins 1998 SL No. 179 s 19

SCHEDULE 8B—AREAS OF LOCAL GOVERNMENTS FORMING SCHEDULED AREAS

ins 2000 SL No. 178 s 80

amd 2002 SL No. 160 s 5

SCHEDULE 8C—PRESCRIBED PERIODS UNDER ACT

sch hdg ins 2000 SL No. 351 s 47

PART 1—PRESCRIBED PERIODS FOR CHAPTER 3

pt hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Advice to chief executive about draft terms of reference—Act, s 45

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 1 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Finalising terms of reference—Act, s 46

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 2 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Decision on whether to allow EIS to proceed—Act, s 49

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 3 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

PART 2—PRESCRIBED PERIODS FOR CHAPTER 5

pt hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Assessment level decision—Act, s 162

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 4 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Decision about EIS requirement—Act, s 164

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 5 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Decision period—Act, s 168

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 6 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Failure to decide—Act, s 169

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 7 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Decision to refuse or allow to proceed—Act, s 173

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 8 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Giving draft environmental authority—Act, s 175

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 9 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Decision period—Act, s 181

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 10 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
 sub 2001 SL No. 284 s 14(1)

Assessment period for EM plan assessment report—Act, s 191

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 11 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
 sub 2001 SL No. 284 s 14(2)

Decision period—Act, s 193

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 12 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Assessment period for EMOS assessment report—Act, s 205

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 13 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
 sub 2001 SL No. 284 s 14(3)

Decision to refuse or allow to proceed—Act, s 207

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 14 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Decision to refuse or allow to proceed—Act, s 242

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 15 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Assessment level decision—Act, s 246

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 16 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Deciding application—Act, s 257

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 17 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

When surrender required—Act, s 270

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 18 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

FRR assessment report period—Act, s 276

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 19 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

Deciding application—Act, s 277

prov hdg amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)
s 20 amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

SCHEDULE 9—DICTIONARY

def “**action**” ins 2001 SL No. 284 s 15(2)
 def “**affected building**” ins 1999 SL No. 297 s 10(2)
 def “**affected person**” ins 1999 SL No. 297 s 10(2)
 def “**anniversary changeover application**” ins 2002 SL No. 324 s 18
 def “**annual fee**” ins 2002 SL No. 324 s 18
 def “**annual fee component**” ins 2002 SL No. 324 s 18
 def “**annual licence fee**” ins 1999 SL No. 297 s 10(2)
 def “**AS**” ins 1999 SL No. 297 s 10(2)
 om 2001 SL No. 284 s 15(1)
 def “**AS 1055**” ins 1999 SL No. 297 s 10(2)
 def “**ASTM**” ins 2002 SL No. 291 s 2 sch
 def “**at**” ins 1999 SL No. 297 s 10(2)
 def “**audible noise**” ins 1999 SL No. 297 s 10(2)
 def “**background noise level**” ins 1999 SL No. 297 s 10(2)
 def “**builder**” ins 1999 SL No. 297 s 10(2)
 def “**building**” ins 1999 SL No. 297 s 10(2)
 def “**Building Code of Australia**” ins 1999 SL No. 297 s 10(2)
 def “**building contractor**” ins 1999 SL No. 297 s 10(2)
 def “**building site**” ins 1999 SL No. 297 s 10(2)

- def **“building work”** ins 1999 SL No. 297 s 10(2)
- def **“certificate of approval”** amd 2000 SL No. 178 s 81(3)
- def **“chemical”** amd 1998 SL No. 316 s 7(1)
- def **“clinical waste”** ins 2000 SL No. 178 s 81(2)
- def **“Commonwealth Minister”** ins 2001 SL No. 284 s 15(2)
- def **“complainant”** ins 1999 SL No. 297 s 10(2)
- def **“controlling provision”** ins 2001 SL No. 284 s 15(2)
- def **“council”** ins 2000 SL No. 162 s 9
- def **“dangerous goods code”** sub 1998 SL No. 316 s 7(2)
- def **“designated proponent”** ins 2001 SL No. 284 s 15(2)
- def **“distribute”** ins 2002 SL No. 291 s 2 sch
- def **“educational institution”** ins 1999 SL No. 297 s 10(2)
- def **“emission”** ins 1999 SL No. 297 s 10(2)
- def **“emission data”** ins 1999 SL No. 297 s 10(2)
- def **“estimation technique”** ins 1999 SL No. 297 s 10(2)
- def **“ETBE”** ins 2002 SL No. 291 s 2 sch
- def **“facility”** sub 1998 SL No. 179 s 21(1)–(2); 1999 SL No. 297 s 10(1)–(2)
amd 2000 SL No. 351 s 48(3)
- def **“general emission criteria”** ins 1999 SL No. 297 s 10(2)
- def **“import”** ins 2002 SL No. 291 s 2 sch
- def **“indoor venue”** ins 1999 SL No. 297 s 10(2)
- def **“industry handbook”** ins 1999 SL No. 297 s 10(2)
- def **“infectious waste”** om 2000 SL No. 178 s 81(1)
- def **“integrated environmental management system”** om 2000 SL No. 351
s 48(1)
- def **“licensed premises”** ins 1999 SL No. 297 s 10(2)
- def **“limited regulated waste”** amd 1998 SL No. 179 s 21(3); 2000
SL No. 178 s 81(4)
- def **“low volatility zone”** ins 2002 SL No. 291 s 2 sch
- def **“manufacture”** ins 2002 SL No. 291 s 2 sch
- def **“material change of use”** ins 1998 SL No. 179 s 21(2)
om 2000 SL No. 351 s 48(1)
- def **“mining authority”** om 1998 SL No. 179 s 21(1)
- def **“MTBE”** ins 2002 SL No. 291 s 2 sch
- def **“next anniversary day”** ins 2002 SL No. 324 s 18
- def **“noise emission criteria”** ins 1999 SL No. 297 s 10(2)
- def **“noise offence”** ins 1999 SL No. 297 s 10(2)
- def **“noise offence exemption”** ins 1999 SL No. 297 s 10(2)
- def **“noise policy”** ins 1999 SL No. 297 s 10(2)
- def **“NPIM”** ins 1999 SL No. 297 s 10(2)
- def **“nuisance abatement notice”** ins 1999 SL No. 297 s 10(2)
- def **“nuisance complaint”** ins 1999 SL No. 297 s 10(2)
- def **“occupier”** ins 1999 SL No. 297 s 10(2)
- def **“offshore facility”** ins 1999 SL No. 297 s 10(2)
- def **“open-air event”** ins 1999 SL No. 297 s 10(2)
- def **“power boat”** ins 1999 SL No. 297 s 10(2)
- def **“prescribed activity”** ins 1999 SL No. 297 s 10(2)
- def **“prescribed environmentally relevant activity”** ins 2001 SL No. 284
s 15(2)
- def **“published”** ins 1999 SL No. 297 s 10(2)

def “**railway**” ins 1999 SL No. 297 s 10(2)
 def “**regulated waste**” amd 1998 SL No. 179 s 21(4)–(5)
 def “**Reid vapour pressure**” ins 2002 SL No. 291 s 2 sch
 def “**rejection notice**” ins 1999 SL No. 297 s 10(2)
 def “**related waste**” ins 2000 SL No. 178 s 81(2)
 def “**relevant impacts**” ins 2001 SL No. 284 s 15(2)
 def “**relevant nuisance complaint**” ins 1999 SL No. 297 s 10(2)
 def “**repealed regulation**” ins 1999 SL No. 297 s 10(2)
 def “**reporting facility**” ins 1999 SL No. 297 s 10(2)
 def “**reporting period**” ins 1999 SL No. 297 s 10(2)
 def “**reporting requirement**” ins 1999 SL No. 297 s 10(2)
 def “**responsible person**” ins 1999 SL No. 297 s 10(2)
 def “**scheduled area**” ins 2000 SL No. 178 s 81(2)
 def “**source noise**” ins 1999 SL No. 297 s 10(2)
 def “**substance**” ins 1999 SL No. 297 s 10(2)
 def “**summer period**” ins 2002 SL No. 291 s 2 sch
 def “**TAME**” ins 2002 SL No. 291 s 2 sch
 def “**transfer application**” ins 2002 SL No. 324 s 18
 def “**unlawful environmental nuisance**” ins 1999 SL No. 297 s 10(2)
 def “**untreated clinical waste**” ins 2000 SL No. 178 s 81(2)
 def “**waiver application**” ins 2000 SL No. 351 s 48(2)

8 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

Environmental Protection Amendment Regulation (No. 3) 2002 SL No. 324 ss 4–16(3) and 17–18 reads as follows—

4 Replacement of s 44 (Fees—general)

(1) Section 44—

omit, insert—

‘Subdivision 1—Fees for environmental authorities

‘44 Definitions for subdiv 1

‘In this subdivision—

“anniversary changeover application” means an application, under section 318A⁵⁴ of the Act, to change the anniversary day for an environmental authority.

“transfer application” means a transfer application under chapter 4, part 6, division 2, or chapter 5, part 9,⁵⁵ of the Act.

‘44AA General fees for environmental authority

‘(1) The fees payable under the Act for an environmental authority, other than fees for a transfer application or an anniversary changeover application, or a development approval are—

- (a) for an environmental authority, other than an environmental authority (mining activities), or a development approval—
 - (i) the fees stated in schedule 6, part 1; or
 - (ii) if the authority or approval relates to a devolved activity and the local government to which the fee for the authority or approval is payable has made a resolution or local law prescribing a lower fee—the fees prescribed by the resolution or local law; or
- (b) for an environmental authority (mining activities)—the fees stated in schedule 6, part 2.⁵⁶

‘(2) However, if the environmental authority is a constituent part of an integrated authority, the application and annual fees payable in relation to

54 Section 318A (Changing anniversary day) of the Act

55 Chapter 4 (Development approvals and environmental authorities other than for mining activities), part 6 (Dealings with licences), division 2 (Transfer of licenses (without development approval)), or chapter 5 (Environmental authorities for mining activities), part 9 (Transfer of authorities), of the Act

56 See, however, section 49 (Application for waiver of fee).

the environmental authority are the application and annual fees payable for the integrated authority.⁵⁷

‘44AB Fee for transfer application

‘The fee for a transfer application is—

- (a) for an environmental authority that is a constituent part of an integrated authority—the amount worked out by using the following formula—

$$\mathbf{TF} = 50 + \left(\frac{\mathbf{AF}}{365} \times \mathbf{D} \right)$$

where—

“**TF**” is the amount of the fee for the transfer application.

“**AF**” is an amount equal to the annual fee payable for an environmental authority of the same type as the constituent part.

“**D**” is the number of days from the day the transfer application is made to the next anniversary day for the environmental authority; or

- (b) for another environmental authority—\$50.00.

‘44AC Fee for anniversary changeover applications

‘(1) The fee payable for an anniversary changeover application must be worked out using the following formula—

$$\mathbf{CF} = 150 + \left(\frac{\mathbf{AF}}{365} \times \mathbf{D} \right)$$

where—

“**CF**” is the amount of the fee for the anniversary changeover application.

⁵⁷ See section 46 (Application and annual fees for integrated authorities) and subdivision 3 (Fees for adding new constituent part to integrated authority) for fees payable in relation to integrated authorities. See also section 49 (Application for waiver of fee).

“**AF**” is an amount equal to the annual fee payable for an environmental authority of the type to which the anniversary changeover application relates.

“**D**” is the number of days in the interim year.

‘(2) In this section—

“**interim year**” see section 318B(1)(a)⁵⁸ of the Act.’.

5 Omission of s 44B

Section 44B—

omit.

6 Renumbering of ss 44AA–44A

Sections 44AA to 44A—

renumber as sections 44A to 44D.

7 Amendment of s 45 (Refund of annual fee if environmental authority refused)

Section 45, heading, after ‘fee’—

insert—

‘**component**’.

8 Replacement of ss 46–48

Sections 46 to 48—

omit, insert—

⁵⁸ Section 318B (Special provisions for changeover in anniversary day) of the Act

‘Subdivision 2—Application and annual fees for integrated authorities**‘46 Application and annual fees for integrated authority**

‘(1) The application fee payable for an integrated authority is an amount equal to the higher or highest application fee payable for the environmental authorities that are the constituent parts of the integrated authority.

‘(2) The annual fee payable for an integrated authority is an amount equal to the higher or highest annual fee payable for the environmental authorities that are constituent parts of the integrated authority.

‘(3) For this section, the application or annual fee payable for an environmental authority that is a constituent part of an integrated authority is the application or annual fee that would have been payable, under section 44A, for the environmental authority if it was not a constituent part of an integrated authority.

Example—

An integrated authority consists of the following constituent parts—

1. An environmental authority relating to metal surface coating having an annual throughput of metal products of more than 2 000 t but less than 10 000 t
2. An environmental authority relating to metal works having a design capacity of more than 100 t but less than 10 000 t
3. An environmental authority (mining activities) relating to mining activities, other than a standard mining activity, carried out using equipment and plant having a mineral ore throughput of less than 100 000 t a year.

The annual fee that would be payable, under section 44A, for each of the constituent parts if it were not a constituent part is—

- for the environmental authority relating to metal surface coating—\$600.00 being the amount stated opposite the activity in schedule 1, item 25(b).
- for the environmental authority relating to metal works—\$12 380.00 being the amount stated opposite the activity in schedule 1, item 41(b).
- for the environmental authority relating to mining activities—\$4 880.00 being the amount stated opposite the activity in schedule 6, item 12(a).

Therefore, the annual fee payable for the integrated authority is \$12 380.00 being the higher or highest of the annual fees payable for the constituent parts.

‘Subdivision 3—Fees for adding new constituent part to integrated authority

‘47 Application of subdiv 3

‘This subdivision applies to an application, under section 315D⁵⁹ of the Act, to amend an integrated authority to add an environmental authority as a new constituent part of the integrated authority.

‘48 Definitions for subdiv 3

‘In this subdivision—

“annual fee” includes the annual fee component of the application fee for the environmental or integrated authority.

“next anniversary day”, in relation to a new constituent part or an integrated authority, means the first anniversary day for the new constituent part or integrated authority after the day the application to add the new constituent part to the integrated authority is made.

‘48A Fee for adding new constituent part to integrated authority

‘(1) The fee payable for the application is \$150.00.

‘(2) However, if the next anniversary day of the new constituent part is before the next anniversary day of the integrated authority and the annual fee for the new constituent part is higher than the annual fee for the integrated authority, the fee payable for the application is the sum of—

- (a) \$150.00; and
- (b) an additional amount worked out using the following formula—

$$A = \left(\frac{AF - IF}{365} \right) \times D$$

where—

“A” is the additional amount.

59 Section 315D (Adding new constituent part) of the Act

“**AF**” is an amount equal to the annual fee payable for an environmental authority of the same type as the new constituent part.

“**IF**” is the annual fee for the integrated authority for the year in which the application is made.

“**D**” is the number of days from the anniversary day of the new constituent part to the anniversary day for the integrated authority.

‘48B Refund of amount in particular circumstances

‘(1) If the next anniversary day of the new constituent part is after the next anniversary day of the integrated authority, the administering authority must refund an amount worked out using the following formula—

$$\text{AR} = \left(\frac{\text{AF}}{365} \times \text{D} \right)$$

where—

“**AR**” is the amount of the refund.

“**AF**” is an amount equal to the annual fee payable for an environmental authority of the same type as the new constituent part.

“**D**” is the number of days from the next anniversary day of the integrated authority to the next anniversary day for the new constituent part.

‘(2) However, if the payment of the annual fee for an environmental authority is waived, wholly or partly, for the year in which the application to add the environmental authority as a new constituent part is made, the amount of the refund worked out under subsection (1) must be reduced by—

- (a) if the payment of the whole annual fee is waived—100%; or
- (b) if the payment of part of the annual fee is waived—the percentage of the annual fee that is waived.

‘(3) The administering authority may offset all or part of the refund worked out under this section against the application fee payable under section 48A.’

9 Insertion of new pt 4, div 3, subdiv 3, hdg

Before section 49—

insert—

‘Subdivision 4—Waiver of fees for environmental or integrated authorities’.

10 Amendment of s 49 (Application for waiver of fee)

(1) Section 49(1)(a), after ‘environmental’—

insert—

‘or integrated’.

(2) Section 49(1)(b)—

omit, insert—

‘(b) an annual fee for an environmental or integrated authority.’.

11 Amendment of s 50 (Criteria for deciding waiver application)

(1) Section 50(1)(a) and (b), ‘the person’—

omit, insert—

‘the applicant’.

(2) Section 50(3)(a) and (4), ‘licence’—

omit, insert—

‘environmental or integrated authority for which the waiver application is made’.

(3) Section 50(5)—

insert—

‘**“activity”** means—

(a) for an environmental authority—the environmentally relevant activity under the environmental authority for which the waiver application is made; or

(b) for an integrated authority—the environmentally relevant activity under each of the constituent parts of the integrated authority for which the waiver application is made.’.

12 Insertion of new pt 4, div 3, subdiv 4, hdg

Before section 51A—

insert—

‘Subdivision 5—Other fees’.

13 Amendment of s 51A (Fee for late payment of annual fee)

Section 51A(1)(a)—

omit, insert—

‘(a) a holder of an environmental or integrated authority has not paid an annual fee or part of an annual fee for the authority—

(i) on or before the anniversary day for the authority; or

(ii) if a waiver application for the annual fee was made and has, under section 51, been refused or only partly waived—on or before the due day fixed, under section 51(2), for payment of the outstanding amount of the fee; and’.

14 Insertion of new s 51B

After section 51A—

insert—

‘51B Fees for contaminated land

‘The fees payable for contaminated land are stated in schedule 6, part 3.’.

15 Amendment of s 62 (Review of decisions and appeals)

(1) Section 62(1), ‘a decision as follows’—

omit, insert—

‘the following decisions’.

(2) Section 62(1)(b)—

omit, insert—

‘(b) a decision of the administering authority to refuse to waive, or to only partly waive, the payment of an application or annual fee for an environmental or integrated authority;’.

16 Amendment of sch 1 (Prescribed environmentally relevant activities and annual fees)

(1) Schedule 1, heading, after ‘and’—

insert—

‘AMOUNTS FOR’.

(2) Schedule 1, column 3, heading—

omit, insert—

‘Amount for annual fees’.

(3) Schedule 1, items 1(a), 2(a), 3(a), 4(a), 7(a), 10(b), 11(a), 13(a), 16, 20(a), 21C, 21D, 22(a), 24, 26, 31, 35, 38, 40(a)(i), (b)(i) and (c), 43, 45, 50(a), 52, 59, 65, 68, 70, 71, 73(a), 76(a) and (b), 77, 79, 80 and 83(a), column 3, ‘—’—

omit, insert—

‘nil’.

17 Amendment of sch 6 (Fees)

(1) Schedule 6, parts 1A and 2—

renumber as parts 2 and 3.

(2) Schedule 6, items 11B to 13—

renumber as items 12 to 16.

(3) Schedule 6, part 1—

omit, insert—

**‘PART 1—FEES FOR ENVIRONMENTAL
AUTHORITIES OTHER THAN ENVIRONMENTAL
AUTHORITIES (MINING ACTIVITIES) AND FOR
DEVELOPMENT APPROVALS**

section 44A(1)(a)

\$

- | | | | |
|----|---------------------------------------------------------------------------------------------------------------------------------|--------|------------------------------------------------------------------------------------------------------------------|
| 1. | Application for assessment of development application under the Act, ch 4, pt 2 | 200.00 | plus an amount equal to the amount stated, in schedule 1, opposite the activity to which the application relates |
| 2. | Request, under the Integrated Planning Act, s 3.5.33, to change or cancel condition imposed on a development approval | 150.00 | |
| 3. | Application for an environmental authority, other than a level 2 approval | 200.00 | plus an amount equal to the annual fee for the authority |
| 4. | Application for a level 2 approval (Act, s 100) . . . | 200.00 | |
| 5. | Conversion application under the Act, ch 4, pt 4 . | 200.00 | |
| 6. | Amendment application under the Act, ch 4, pt 5 . | 150.00 | |
| 7. | Annual fee for an environmental authority | | the amount stated, in schedule 1, opposite the activity to which the environmental authority relates’. |

(4) Schedule 6, part 2, as renumbered, division 1 and division 2, heading—

omit, insert—

**‘PART 2—FEES FOR ENVIRONMENTAL
AUTHORITIES (MINING ACTIVITIES)**

section 44A(1)(b)

‘Division 1—Application fees and annual fees

	\$
8. Application for standard environmental authority (mining activities), other than an environmental authority (prospecting) or environmental authority (mining claim) (Act, s 154)	200.00
9. Application for a non-standard environmental authority (mining activities) (Act, s 154).	200.00
	plus an amount equal to the annual fee for the authority
10. Amendment application for environmental authority (mining activities) (Act, s 240).	150.00
11. Annual fee for an environmental authority (mining activities)—	
(a) if the authority is for 1 environmentally relevant activity	the amount stated, in schedule 1 or items 12 to 14 of this schedule, opposite the activity to which the authority relates
(b) if the authority is for more than 1 environmentally relevant activities	the higher or highest amount stated, in schedule 1 or items 12 to 14 of this schedule, opposite the activities to which the authority relates

‘Division 2—Amounts for annual fees for particular environmental authorities (mining activities)’.

(5) Schedule 6, part 2, as renumbered, division 2, column 3, heading—
omit, insert—

‘Amount for annual fees’.

(6) Schedule 6, part 3, as renumbered, heading, ‘section 44B’—
omit, insert—

‘section 51B’.

18 Amendment of sch 9 (Dictionary)

Schedule 9—

insert—

‘ **“anniversary changeover application”**, for part 4, division 3, subdivision 1, see section 44.

“annual fee”, for part 4, division 3, subdivision 3, see section 48.

“annual fee component”, of an application fee, means the part of the application fee that is equal to the amount of the annual fee for the environmental authority for which the application fee is payable.

“next anniversary day”, for part 4, division 3, subdivision 3, see section 48.

“transfer application”, for part 4, division 3, subdivision 1, see section 44.’.