

Queensland



Subordinate Legislation 1995 No. 46

Environmental Protection Act 1994

**ENVIRONMENTAL PROTECTION (INTERIM)
REGULATION 1995**

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PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Environmental Protection (Interim) Regulation 1995*.

Commencement

2.(1) Sections 4 and 5 (so far as they relate to items 20, 75(e), 76, 81 and 83 to 85 of Schedule 1) commence on 1 May 1995.

(2) Sections 7(1)(b), 7(2) and 13 commence on 1 June 1995.

(3) Sections 4 and 5 (so far as they relate to items 1(a), 2 and 3) commence on 1 March 1996.

(4) Sections 4 and 5 (so far as they relate to items 45 and 73 of Schedule 1) and Part B of Schedule 8 commence on 1 July 1996.

(5) Sections 4 and 5 (so far as they relate to items 38 and 39 of Schedule 1) commence on 1 March 1997.

(6) The remaining provisions commence on 1 March 1995.

Definitions—dictionary

3. The dictionary in Schedule 10 defines particular words used in this regulation.¹

¹ In some subordinate legislation, definitions are contained in a dictionary appearing as the last Schedule and forming part of the legislation—*Statutory Instruments Act 1992*, section 14 and *Acts Interpretation Act 1954*, section 14.

PART 2—ENVIRONMENTALLY RELEVANT ACTIVITIES

Environmentally relevant activities—levels 1 and 2

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

(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.

Approval required to carry out level 2 environmentally relevant activity

5. A person must not carry out a level 2 environmentally relevant activity without an approval.

Maximum penalty—165 penalty units.

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

6.(1) This section applies if—

- (a) the holder of an approval (other than an approval to explore for or mine minerals) proposes to carry out works for the construction or alteration of a building or structure, or for the installation or alteration of plant or equipment, for carrying out the environmentally relevant activity concerned; and
- (b) the construction, alteration or installation will result in an increase of 10% or more in the release of contaminant into the environment under the approval.

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

released into the environment.

Maximum penalty—100 penalty units.

PART 3—OZONE DEPLETING SUBSTANCES

Division 1—Controlled articles

Responsibilities of owner or person in possession of controlled article

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

- (a) operate and maintain the article as required by the relevant code of practice; 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 to—

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

Labelling

8.(1) A manufacturer or importer of a controlled article must attach a label to the article.

(2) The label must—

- (a) be attached so that it is visible to a person about to work on the article; and
- (b) specify the controlled substances contained or used in the article; and
- (c) be legible; and

- (d) contrast in colour with the article; and
- (e) be capable of enduring for the life of the article.

Maximum penalty—50 penalty units.

Labelling on charging of motor vehicle airconditioning equipment with refrigerant

9.(1) A person who charges motor vehicle airconditioning equipment with refrigerant must attach a label to the equipment or a prominent place on the vehicle.

(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.

Maximum penalty—50 penalty units.

Labelling on charging of commercial or industrial airconditioning or refrigeration equipment with refrigerant

10.(1) A person who charges commercial or industrial airconditioning or refrigeration equipment with refrigerant must attach a label to the equipment.

(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.

Maximum penalty—50 penalty units.

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

11. A person must not release a controlled substance into the environment from any equipment mentioned in Schedule 3 or from any storage vessel unless the release is carried out under the relevant code of practice.

Maximum penalty—50 penalty units.

Restriction on sale or buying of controlled substances

12. A person who sells or buys a controlled substance must comply with Schedule 2, section 1 or 2.

Maximum penalty—50 penalty units.

Restriction on handling or use of controlled substances

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

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

Maximum penalty—50 penalty units.

Duty to reclaim controlled substances

14.(1) This section applies to a person who engages in—

- (a) an activity mentioned in Schedule 3 that might result in the release of a controlled substance into the environment; or
- (b) the service or maintenance of domestic airconditioning equipment at premises established for that purpose.

(2) The person must ensure that any controlled substance released is reclaimed and processed as required by the relevant code of practice and Schedule 2, sections 3 and 4.

Maximum penalty—50 penalty units.

Disposal of a controlled substance

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

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

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

Maximum penalty—50 penalty units.

(2) Subsection (1) does not apply if the controlled substance is a halon.

(3) 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.

(4) 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.

(5) The person must comply with the notice.

Maximum penalty—50 penalty units.

Subdivision 2—Equipment using controlled substances

Procedure for maintenance of equipment

16. A person who operates equipment used in the handling and transfer of a controlled substance to or from bulk storage vessels having a capacity

of more than 100 kg must operate and maintain the equipment as required by the relevant code of practice.

Maximum penalty—50 penalty units.

Solvent cleaning or degreasing

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

- (a) comply with the relevant code of practice; and
- (b) ensure that all controlled substances are reclaimed and processed as required by Schedule 2, section 4.

Maximum penalty—50 penalty units.

Dry cleaning equipment

18. A person who operates or services dry cleaning equipment that uses a controlled substance in its operation must comply with the relevant code of practice.

Maximum penalty—50 penalty units.

Sterilisation equipment

19.(1) A person must not install 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 comply with the relevant code of practice.

Maximum penalty—50 penalty units.

Subdivision 3—Products containing controlled substances

Aerosols containing controlled substances

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

Maximum penalty—50 penalty units.

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

Division 3—Refrigeration and airconditioning

Refrigeration and airconditioning

21. A person who manufactures, installs or services any of the following equipment that uses a controlled substance must comply with the relevant code of practice—

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

Maximum penalty—50 penalty units.

Installation of refrigeration or airconditioning equipment

22.(1) In this section—

“**install**” equipment does not include relocating the equipment either within the same premises or to other premises under the control of the same person.

“**refrigeration or airconditioning equipment**” means commercial or industrial refrigeration or airconditioning equipment that contains or uses a controlled substance.

(2) A person must not install refrigeration or airconditioning equipment unless—

- (a) the person holds a current exemption from compliance under section 40 of the Ozone Protection Act for the equipment; or
- (b) the equipment is the subject of a current exemption under the Ozone Protection Act.

Maximum penalty—50 penalty units.

Division 4—Foams

Manufacture of plastic foams

23. A person must not use a controlled substance in the manufacture of a plastic foam unless the person holds a current exemption under section 40 of the Ozone Protection Act.

Maximum penalty—50 penalty units.

Division 5—Fixed halon flooding systems

Manufacture etc. of fixed halon flooding system

24. A person who manufactures, installs, services, maintains or decommissions a fixed halon flooding system must comply with the relevant code of practice.

Maximum penalty—50 penalty units.

Restriction on installation or refilling of fixed halon flooding system

25. A person must not install or refill a fixed halon flooding system without the chief executive's approval.

Maximum penalty—50 penalty units.

Approval to install or refill a fixed halon flooding system

26.(1) An application for approval to install or refill a fixed halon flooding system 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 conditions on the approval.

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

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

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

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

Testing fixed halon flooding systems

27. A person must not test a fixed halon flooding system in a way that might result in the release of a controlled substance into the environment.

Maximum penalty—50 penalty units.

Release and reclaiming of controlled substances

28.(1) This section applies to the owner or occupier of premises on which a fixed halon flooding system is installed.

(2) The person must—

- (a)** give written notice to the chief executive, as required by

subsection (3), of any release of a controlled substance from the system, and the reason for the release; and

- (b) ensure that, when the system is serviced or decommissioned, a controlled substance that would otherwise be released, is reclaimed.

Maximum penalty—50 penalty units.

- (3) The notice must be given within 30 days of the release.

Decommissioning of fixed halon fire extinguishers

29.(1) An owner of premises on which a fixed halon flooding system is installed must ensure the system is decommissioned, and that all the halon it contains is reclaimed—

- (a) before 1 January 1996; or
- (b) when the extinguisher is wholly or partially discharged;

whichever happens first.

Maximum penalty—50 penalty units.

(2) Subsection (1) does not apply to a person who has a current certificate of approval for the system.

Division 6—Portable halon fire extinguishers

Restriction on sale or refilling of portable halon fire extinguishers

30. A person must not sell a portable halon fire extinguisher to, or refill a portable halon fire extinguisher for, someone else (the “**customer**”) unless the customer gives the person a certificate of approval to buy the portable halon fire extinguisher or to have the portable halon fire extinguisher refilled.

Maximum penalty—50 penalty units.

Approval to buy or refill a portable halon fire extinguisher

31.(1) An application for a certificate of approval to buy 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 that 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 conditions on the approval.

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

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

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

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

Decommissioning of portable halon fire extinguishers

32.(1) A person who is in possession of a portable halon fire extinguisher must ensure that the extinguisher is decommissioned and that all the halon it contains is reclaimed—

- (a) before 1 January 1996; or
- (b) when the extinguisher is wholly or partially discharged;

whichever happens first.

Maximum penalty—50 penalty units.

(2) Subsection (1) does not apply to a person who has a current certificate of approval for the extinguisher.

Division 7—General

Subdivision 1—Fire extinguishers and refrigerant cylinders

Discharge of halon fire extinguishing devices

33. A person must not discharge a halon fire extinguishing device into the environment other than to extinguish a fire in an emergency.

Maximum penalty—50 penalty units.

Aerosol or non-refillable fire extinguishers

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

Maximum penalty—50 penalty units.

Non-refillable refrigerant cylinders

35. A person must not—

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

Maximum penalty—50 penalty units.

Subdivision 2—Cancellation of certificates of approval

Cancellation of certificate of approval

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

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

Procedure for cancellation

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

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

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

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

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

(5) If the administering authority decides to cancel the certificate, the notice must state—

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

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

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

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

- (a) the cancellation does not take effect until—
 - (i) the end of the time to appeal against the conviction; and
 - (ii) if the appeal is made against the conviction—the appeal is finally decided; and
- (b) the cancellation has no effect if the conviction is quashed on appeal.

Return of cancelled certificate

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

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

Maximum penalty—50 penalty units.

Subdivision 3—Codes of practice

Adoption of codes of practice

39. Each of the codes of practice mentioned in Schedule 5 is adopted as the relevant code of practice for the activity concerned.

PART 4—ADMINISTRATION

Division 1—Devolutions

Devolution of powers

40.(1) The administration and enforcement of the Act for 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), 13(b), 19(a), 21(a), 22 to 26, 28, 38, 39, 43, 46, 50, 51, 57, 60, 63(a), 66 to 68, 71 and 75(a) and (b).

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

- (a) carried out by a local government or the State; or
- (b) that includes the carrying out of another activity the administration and enforcement of which is not devolved to local government.

(3) Also, subsection (1) does not apply to an itinerant activity carried out, or to be carried out, by a person in more than 1 local government area.

Division 2—Integrated environmental management systems

Application of Division

41. This Division applies if—

- (a) an application is made to carry out an itinerant activity in more than 1 local government area; or
- (b) a single application is made for an environmental authority for different activities to be carried out by the applicant or activities to be carried out by the applicant at different places.²

² See section 61 of the Act (Single applications and environmental authorities).

Integrated environmental management system

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

(2) The submission must address the following matters about the carrying out of the activities—

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

Standard criteria for environmental authority for activities

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

Division 3—Fees

Fees—general

44.(1) Fees payable under the Act for or in relation to an environmental authority (other than annual licence fees) are fixed by Schedule 6.

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

Refund of fees

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

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

Annual licence fees for non-devolved activities

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

Annual licence fees for devolved activities

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

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

Annual licence fees for single licences, Act—s 61

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

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

Waiver of application and annual licence fees

49. The administering authority may waive, in whole or part, the payment of a licence application fee or annual licence fee payable to it by a person if it is satisfied payment of the fee would cause the person financial hardship.

Fees for environmental management programs

50.(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 considering the program to decide whether or not to approve it.

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

(3) The fee is the amount that—

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

Division 4—Registers

Register of licences

51. An administering authority must record the industry code for the activity carried out under each licence in its register of licences.³

Register of approvals

52. An administering authority must record the industry code for the activity carried out under each approval in its register of approvals.⁴

Register of environmental reports

53. 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;

³ Under sections 45 and 47 of the Act, licences are inserted in the register.

⁴ Under section 45 of the Act, approvals are inserted in the register.

- (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.

Register of monitoring program results

54. 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) the period covered by the program;
- (h) action taken by the authority because of results of the program.

Register of environmental management programs

55. 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) the period over which the program is to be carried out;
- (j) date of submission of the program;
- (k) compliance or non-compliance with the program.

Register of environmental protection orders

56. 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 the order;⁵
- (g) compliance or non-compliance with order.

Register of authorised persons

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

Division 5—General

Approved training courses

58. The chief executive may, by Gazette notice, approve a course provided by a stated entity (an “**approved training course**”) for training people to—

- (a) install, commission, service or decommission a controlled article;
or
- (b) engage in an activity involving the handling or use of a controlled substance.

Review of decisions and appeal

59. Chapter 6, Part 3 of the Act applies to the following decisions—

- (a) a decision of the chief executive to—
 - (i) refuse an application for a certificate of approval;
 - (ii) impose conditions on a certificate of approval;
 - (iii) cancel a certificate of approval;

⁵ Section 109 of the Act states when an environmental protection order may be issued.

- (b) a decision of the administering authority to refuse to waive the payment of a licence application fee or annual licence fee.⁶

Expiry of regulation

60. This regulation expires on 1 March 1998.

PART 5—TRANSITIONAL PROVISIONS

Division 1—Transitional provisions about activities

Environmentally relevant activities

61.(1) An activity (other than an activity mentioned in Schedule 1) for which a licence is continued in force under section 226 of the Act is taken to be a level 1 environmentally relevant activity for carrying out the activity on the premises for which the licence was originally issued.⁷

(2) This section expires on the first applicable day.⁸

Transitional provision for activities under mining authorities—Act, s 239

62.(1) If, under an existing or new mining authority, the holder of the authority is authorised to explore for or mine minerals or petroleum, the authority is taken to be an approval to carry out the activity.⁹

(2) Subsection (1) is a law to which section 20A of the

⁶ Chapter 6, Part 3 of the Act deals with review of, and appeals against, decisions.

⁷ Section 226 of the Act continues in force licences issued under the repealed Acts.

⁸ Section 224 of the Act defines “first applicable day”.

⁹ Exploring for or mining minerals is a level 2 environmentally relevant activity under Schedule 1, item 9.

Acts Interpretation Act 1954 applies.

(3) This section expires on the second applicable day.¹⁰

Transitional provision for other activities

63.(1) This section applies to a person who—

- (a) immediately before the commencing day was carrying out a level 2 environmentally relevant activity (other than exploring for or mining minerals); and
- (b) continues to carry out the activity after the commencing day.

(2) The person is taken to have an approval to carry out the activity.

(3) Subsection (2) is a law to which section 20A of the *Acts Interpretation Act 1954* applies.

(4) This section expires 3 months after the commencing day.¹¹

Transitional provision about works for level 1 activities

64.(1) This section applies if—

- (a) before the commencing day, a person lawfully started construction works for an activity for which a licence was not required under the repealed Acts; and
- (b) the activity becomes a level 1 environmentally relevant activity on the commencing day; and
- (c) the person starts to carry out the activity after the commencing day.

(2) Section 39 of the Act¹² does not apply to the person until whichever is the later of the following—

- (a) the first applicable day;

¹⁰ Section 224 of the Act defines “second applicable day”.

¹¹ Section 224 of the Act defines “commencing day”.

¹² Section 39 of the Act requires level 1 environmentally relevant activities to be licensed.

(b) an application by the person for a licence to carry out the activity is decided.

(3) The administering authority may, by written notice given to the person, require the person to apply for a licence to carry out the activity within a stated time (not earlier than 30 days after the notice is given to the person).

(4) If the person does not apply for a licence within the time stated in the notice, subsection (2) ceases to apply to the person at the end of the time.

(5) Section 42 of the Act does not apply to the person's licence application.¹³

(6) Section 43(1) of the Act applies to the person's licence application as if the time for deciding the application were 90 days after the application date.¹⁴

(7) This section expires on the first applicable day.

Transitional provision about works for level 2 activities

65.(1) This section applies if—

- (a) before the commencing day, a person lawfully started construction works for an activity for which a licence was not required under the repealed Acts; and
- (b) the activity becomes a level 2 environmentally relevant activity on the commencing day; and
- (c) the person starts to carry out the activity after the commencing day.

(2) The person is taken to have an approval to carry out the activity.

(3) Subsection (2) is a law to which section 20A of the *Acts Interpretation Act 1954* applies.

(4) This section expires 3 months after the commencing day.

¹³ Section 42 of the Act requires public notice to be given of applications for licences.

¹⁴ Section 43 of the Act requires the administering authority to decide the application within 28 days after the application date.

*Division 2—Transitional assessment criteria for air***Definitions**

66. In this Division—

“air pollution dispersion model” means a model that—

- (a) is developed under the computer program ‘AUSPLUME’ or a similar program approved by the chief executive; and
- (b) mathematically models the impact of releases of contaminants into the environment.

“approved laboratory method” for calculating odour units means method number 6 under ‘Determination of odour concentrations by dynamic olfactometry’ published by the department.¹⁵

“design standard” means any of the following standards used to assess predicted air quality using an air pollution dispersion model—

- (a) a national air quality standard;
- (b) a standard calculated by dividing the relevant exposure standard by 30;
- (c) a design standard for odour that is not exceeded for more than 0.5% of hours in any year outside the boundary of the area where the activity concerned is or is to be carried out.

“design standard for odour” means—

- (a) for a release of a contaminant into the environment from a chimney of a height calculated using an air pollution dispersion model—0.5 odour units expressed as a 3 minute average odour level; or
- (b) for another release of a contaminant into the environment—2.5 odour units expressed as a 3 minute average odour level.

“exposure standard” means the time weighted average standard stated in

¹⁵ The publication is available for purchase or inspection at the department’s head office and regional offices.

Exposure Standards for Atmospheric Contaminants in the Occupational Environment adopted by the National Occupational Health and Safety Commission, October 1991.

“national air quality standard” means the lower value of—

- (a) for fluoride—a goal stated in ‘National Goals for Fluoride in Ambient Air and Forage, March 1990’ published by ANZECC;¹⁶ or
- (b) for carbon monoxide, lead, nitrogen dioxide, ozone or photochemical oxidants, sulphur dioxide or particles—a goal adopted in session by NHMRC.

“NHMRC” means the National Health and Medical Research Council.

“odour units” means odour units calculated under the approved laboratory method.

Standard criteria for air

67. For the definition “standard criteria”, paragraph (j), in the Act, the following matters are prescribed matters for an environmental authority for an environmentally relevant activity involving the release of a contaminant into air—

- (a) National guidelines for the control of emissions of air pollutants from new stationary sources, adopted by ANZECC and NHMRC, 1985;¹⁷
- (b) a national air quality standard;
- (c) a design standard.

Expiry of Division

68. This Division expires on the first applicable day.¹⁸

¹⁶ The document may be inspected at the department’s head office.

¹⁷ The guidelines were published by the Australian Government Publishing Service and are available for inspection at the department’s head office.

¹⁸ Section 224 of the Act defines “first applicable day”.

Division 3—Transitional assessment criteria for water

Standard criteria for water

69.(1) For paragraph (j) of the definition “standard criteria” in the Act, the Australian Water Quality Guidelines for Fresh and Marine Waters published by ANZECC is a prescribed matter for an environmental authority for an environmentally relevant activity involving the release of a contaminant into waters.

(2) For subsection (1), the collection, storage, preservation and analysis of samples for measuring a parameter under the Guidelines must be carried out under the Water Quality Sampling Manual, 2nd edition, February 1995.¹⁹

Expiry of Division

70. This Division expires on the first applicable day.²⁰

Division 4—Transitional assessment criteria for noise

Definitions

71. In this Division—

“adjusted maximum noise level” has the meaning given the term “adjusted average maximum A—weighted sound pressure level” under AS 1055.1—1989 Acoustics—Description and Measurement of Environmental Noise: Part 1—General Procedures.

“ambient noise” means the totally encompassing sound in a particular environment.

“approved instrument” for calculating the level of noise means an instrument that complies with the specifications for sound level meters type 1 or 2 under AS 1259.1—1990 Acoustics—Sound Level Meters:

¹⁹ The manual is available for purchase or inspection at the department’s head office and regional offices.

²⁰ Section 224 of the Act defines “first applicable day”.

Part 1—Non-integrating or AS 1259.2—1990 Acoustics—Sound Level Meters: Part 2—Integrating—averaging.

“background noise level” has the meaning given the term “background A—weighted sound pressure level” under AS 1055.1—1989 Acoustics—Description and Measurement of Environmental Noise: Part 1—General Procedures.

“commercial place” means a place used as an office or for business or commercial purposes.

“noise sensitive place” means—

- (a) a dwelling, mobile home or caravan park, residential marina or other residential premises; or
- (b) a motel, hotel or hostel; or
- (c) a kindergarten, school, university or other educational institution; or
- (d) a medical centre or hospital; or
- (e) a protected area; or
- (f) a park or gardens.

“protected area” means—

- (a) a protected area under the *Nature Conservation Act 1992*; or
- (b) a marine park under the *Marine Parks Act 1982*; or
- (c) a World Heritage Area.

“World Heritage Area” means an area described in the World Heritage List kept under the World Heritage Convention.

“World Heritage Convention” means the Convention for the Protection of the World Cultural and Natural Heritage adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 16 November 1972.

Standard criteria for noise

72.(1) For the definition “standard criteria”, paragraph (j), in the Act, the emission of excessive noise in the carrying out of an environmentally

relevant activity is a prescribed matter for an environmental authority for the activity.

(2) For subsection (1), noise is excessive noise if—

- (a) the adjusted maximum noise level for the activity calculated in a noise sensitive place is more than the noise level specified in Schedule 7, column 2 in any of the periods set out opposite the level in Schedule 7, column 1; or
- (b) the adjusted maximum noise level for the activity calculated in a commercial place is more than the noise level specified in Schedule 7, column 3 in any of the periods set out opposite the level in Schedule 7, column 1.

(3) For subsection (2), the adjusted maximum noise level for the activity must be calculated under the following Australian Standards, with the change mentioned in subsection (4), using an approved instrument—

- (a) AS 1055.1—1989 Acoustics—Description and Measurement of Environmental Noise: Part 1—General Procedures;
- (b) AS 1055.2—1989 Acoustics—Description and Measurement of Environmental Noise: Part 2—Application to Specific Situations;
- (c) AS 2659.1—1988 Guide to the Use of Sound—Measuring Equipment: Part 1—Portable Sound Level Meters.

(4) A reference in the standard mentioned in subsection (3)(a) to ambient sound is a reference to ambient noise.

Expiry of Division

73. This Division expires when Chapter 8, Part 2, Division 4 of the Act expires.²¹

²¹ Chapter 8, Part 2, Division 4 of the Act contains transitional provisions in relation to the repeal of the *Noise Abatement Act 1978*.

Division 5—General

Fees for continuing licences

74.(1) The annual licence fee for a continuing licence is the licence renewal fee the licensee would have been required to pay under the *Clean Air Act 1963* or the *Clean Waters Act 1971* had the Act not been enacted.

(2) If an administering authority cancels a continuing licence and grants an application for a licence for the environmentally relevant activity conducted by the licensee on the premises for which the original licence was issued, the application fee for the licence is the higher of \$200 or the amount worked out using the formula—

$$\mathbf{AF = \$200 + ALF - (\underline{LF \times DR})}$$

334.

(3) In subsection (2)—

“**AF**” is the application fee.

“**ALF**” is the annual licence fee for the activity under Schedule 1.

“**LF**” is the annual licence fee payable under subsection (1) for the activity.

“**DR**” is the number of days remaining between the cancellation of the licence and 1 March 1996.

(4) This section has effect despite sections 44 and 46.²²

Prohibition of use of certain leaded fuel oil

75.(1) A person must not use a combustible material that is or contains fuel oil having a lead content exceeding 0.02% by weight without the approval of the chief executive.

(2) An applicant for an approval must give the chief executive enough information to decide the application, including, for example, an assessment of the environmental impact of the proposed use of the combustible material.

(3) The chief executive may impose conditions on an approval.

²² Sections 44 and 46 are about fees generally and annual licence fees.

(4) Chapter 6, Part 3 of the Act applies to a decision of the chief executive to refuse an application or to impose conditions on an approval.²³

Expiry of Division

76. This Division expires on the first applicable day.

²³ Chapter 6, Part 3 of the Act deals with review of, and appeals against, decisions.

SCHEDULE 1

LEVELS 1 AND 2 ENVIRONMENTALLY RELEVANT ACTIVITIES AND LICENCE FEES

ss 4, 46 and 47

Environmentally relevant activity	Level	Annual licence fee \$
Agricultural activities		
1. Aquaculture—propagating or rearing marine, estuarine or freshwater organisms (other than molluscs) in ponds or enclosures in waters—		
(a) if the total area of the ponds or enclosures is 5 hectares or more and no wastes are released to waters	1	500.00
(b) if the total area of the ponds or enclosures is less than 5 hectares and wastes are released to waters	1	500.00
(c) if the total area of the ponds or enclosures is 5 hectares or more but less than 10 hectares and wastes are released to waters	1	2 700.00
(d) if the total area of the ponds or enclosures is 10 hectares or more and wastes are released to waters	1	3 300.00
2. Cattle feedlot—holding cattle in cattle feedlots having a capacity of 500 head or more	1	500.00
3. Piggery—farming pigs in a confined area or roofed structures of 500 sows or more	1	2 200.00
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—		

SCHEDULE 1 (continued)

(a) more than 1 000 birds but less than 200 000 birds	2*	—
(b) 200 000 birds or more	1*	400.00
Chemical, coal and petroleum products activities		
5. Alcohol distillation—commercially distilling alcohol in works having a design production capacity of more than 2 500 litres per year . . .	1	5 540.00
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, in a plant or works having a design production capacity of—		
(a) 200 tonnes or more but less than 20 000 tonnes per year	1	4 420.00
(b) 20 000 tonnes or more but less than 100 000 tonnes per year	1	5 200.00
(c) 100 000 or more tonnes per year	1	5 820.00
7. Chemical storage—storing chemicals (other than petroleum products), including crude oil, ozone depleting substances, gases or dangerous goods under the Australian Code for the Transport of Dangerous Goods by Road and Rail in containers having a design storage volume of—		
(a) more than 10 cubic metres but less than 1 000 cubic metres	2	—
(b) 1 000 cubic metres or more	1	1 740.00
8. Coke production—producing, quenching, cutting, crushing or grading coke	1	4 260.00
9. Gas production—commercially producing gas by any method, including the reforming of hydrocarbon gas	1	4 420.00

SCHEDULE 1 (continued)

10. Paint manufacture—manufacturing paint in works having a design capacity of more than 10 000 litres per year	1	2 520.00
11. Petroleum product storage—storing petroleum products in tanks or containers having a combined total storage capacity of—		
(a) 10 000 litres or more but less than 500 000 litres	2*	—
(b) 500 000 litres or more	1	1740.00
12. Petroleum refining or processing—refining or processing of crude oil, shale oil or gas in works having a design production capacity of 500 000 litres per year or more	1	20 540.00
Community infrastructure and services		
13. Crematorium—cremating human, pet or animal remains at—		
(a) a State owned facility	1	1 500.00
(b) another facility	1*	400.00
14. Sewage treatment—operating—		
(a) a standard sewage treatment works having a peak design capacity of not more than 100 equivalent persons	1	500.00
(b) a standard sewage treatment works having a peak design capacity of 100 equivalent persons or more but less than 1 500 equivalent persons	1	1 500.00
(c) a standard sewage treatment works having a peak design capacity of 1 500 equivalent persons or more but less than 4 000 equivalent persons	1	1 980.00
(d) a standard sewage treatment works having a peak design capacity of 4 000 equivalent persons or more but less than 10 000 equivalent persons	1	3 960.00
(e) a standard sewage treatment works having a		

SCHEDULE 1 (continued)

peak design capacity of 10 000 equivalent persons or more but less than 50 000 equivalent persons	1	7 920.00
(f) a standard sewage treatment works having a peak design capacity of 50 000 persons or more per day but less than 100 000 equivalent persons	1	10 140.00
(g) a standard sewage treatment works having a peak design capacity of 100 000 equivalent persons or more	1	15 210.00
(h) a special sewage treatment works	1	500.00

Electricity, gas and water supply activities

15. Municipal water treatment—treating water for domestic use	1	1 580.00
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16. Fuel burning—any process involving the use of fuel burning equipment, including a standby power generator and dry cleaning equipment (other than single gas fired equipment with a heat input rating of 500 megajoules per hour or less) that is capable of burning (whether alone or in total) 500 kg or more of fuel per hour	1	3 000.00
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17. Power station—generating power by consuming fuel at a rated capacity of 10 megawatt electrical or more	1	14 940.00
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Extractive activities and mining

18. 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 tonnes per year	1	700.00
(b) 5 000 tonnes or more, but less than 100 000 tonnes, per year	1	3 960.00
(c) 100 000 tonnes or more per year	1	4 880.00

SCHEDULE 1 (continued)

19. Extraction of 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 under a mining authority) from pits or quarries using plant or equipment having a design capacity of—		
(a) not more than 5 000 tonnes per year	2*	—
(b) 5 000 tonnes or more, but less than 100 000 tonnes, per year	1	3 960.00
(c) 100 000 tonnes or more per year	1	4 880.00
20. Mineral exploration or mining—exploring for or mining minerals under a mining authority .		
	2	—
21. Screening etc. materials—screening, washing, crushing, grinding, milling, sizing or separating material extracted from the earth (other than under a mining authority) or by dredging using plant or equipment having a design capacity of—		
(a) more than 50 tonnes but less than 5 000 tonnes per year	2*	—
(b) 5 000 tonnes or more, but less than 100 000 tonnes, per year	1	3 960.00
(c) 100 000 tonnes or more per year	1	4 880.00
Fabricated metal product activities		
22. Abrasive blasting—commercially cleaning equipment or structures using a stream of abrasives		
	1*	550.00
23. Boiler making or engineering—commercial boiler making, electrical machine manufacturing or construction or assembly of vehicles, agricultural equipment or heavy machinery . . .		
	1*	500.00

SCHEDULE 1 (continued)

24. Metal finishing—commercial spray painting, powder coating or enamelling metal surfaces .	1*	650.00
25. Metal forming—pressing, forging, extending, extruding or rolling metal, forming metal into plate, wire or rods or fabricating sheet metal . .	1*	400.00
26. Metal recovery—commercially operating a scrap metal yard or dismantling automotive or mechanical equipment, including debonding brake or clutch components	1*	500.00
27. Metal surface coating—galvanising, anodising or plating metals in works having a design production capacity of—		
(a) more than 1 000 tonnes but less than 10 000 tonnes per year	1	4 440.00
(b) 10 000 tonnes or more per year	1	5 520.00
28. Motor vehicle workshop—commercially servicing, repairing or maintaining motor vehicles or motor vehicle equipment, including engine tuning, engine reconditioning, radiator repairs and panel beating	1*	500.00
Food processing		
29. Beverage production—commercially producing—		
(a) any non-alcoholic beverage in works having a design production capacity of 200 000 litres or more per year	1	2 860.00
(b) any beer or other alcoholic beverage in works having a design production capacity of more than 400 000 litres per 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 tonnes or more per year	1	3 740.00

SCHEDULE 1 (continued)

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 tonnes or more per year	1	750.00
32. Meat processing—slaughtering animals for commercially producing meat or meat products for human consumption, or processing or packaging of meat or meat products for human consumption, in works (other than a retail butcher shop) having a design production capacity of 1 000 tonnes or more per year	1	5 220.00
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 tonnes or more per 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 tonnes per year	1	2 840.00
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 tonnes or more per year	1	3 500.00
36. Sugar milling or refining—crushing sugar		

SCHEDULE 1 (continued)

cane or manufacturing sugar or sugar cane products from sugar cane (other than on a farm)	1	10 160.00
37. Food processing (other than food processing mentioned in items 37 to 42)—processing of food, including bottling, canning and packaging food, in works having a design production capacity of 200 tonnes or more per year	1	4 440.00
Land development and construction activities		
38. Land development—clearing (other than for agricultural purposes) or reclaiming land having an area of more than 20 000 m ²	2*	—
39. Construction of premises or engineering structures—constructing or demolishing—		
(a) residential (other than a Class 1 or 2 building under the Standard Building Law containing not more than 2 dwelling units), commercial or industrial premises	2*	—
(b) bridges, roads or other engineering structures	2*	—
Metal products activities		
40. Metal foundry—commercially producing metal products by injecting or pouring molten metal into moulds and associated activities, including, for example, handling of sand, producing moulds and grinding, buffing and polishing metal products, in works having a design production capacity of—		
(a) more than 10 tonnes but less than 100 tonnes per year	1	4 140.00
(b) 100 tonnes or more but less than 10 000 tonnes per year	1	4 760.00
(c) 10 000 tonnes or more per year	1	5 540.00
41. Metal works—commercially smelting or processing ores or ore concentrates to produce metal in works having a design production		

SCHEDULE 1 (continued)

capacity of—

(a) more than 10 tonnes but less than 100 tonnes per year	1	9 860.00
(b) 100 tonnes or more per year but less than 10 000 tonnes per year	1	12 380.00
(c) 10 000 tonnes or more per year	1	16 340.00

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 tonnes but less than 100 000 tonnes per year	1	3 140.00
(b) more than 100 000 tonnes per year	1	16 340.00

Miscellaneous activities

43. Animal housing—commercially operating a boarding kennel or dog pound	1*	550.00
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44. Battery manufacture—manufacturing batteries of any kind	1	1 880.00
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45. Crushing, milling or grinding—processing products (other than agricultural products and materials mentioned in item 27), including, for example, uncured rubber and chemicals, by crushing, grinding, milling or separating into different sizes in works having a design production capacity of 5 000 tonnes or more per year	1	400.00
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46. Pet, stock or aquaculture food manufacture—commercially manufacturing or processing pet, stock or aquaculture food (other than an abattoir, slaughter house, rendering works or animal glue or gelatine works)	1*	500.00
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47. Plaster manufacture—manufacturing or processing plaster in works having a design

SCHEDULE 1 (continued)

production capacity of 200 tonnes or more per year	1	3 000.00
48. Pulp or paper manufacture—manufacturing pulp, paper or cardboard in works having a design production capacity of more than 100 tonnes per year	1	6 180.00
49. 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 50) in works having a design production capacity of more than 10 tonnes per year	1	6 020.00
50. Plastic manufacture—commercially manufacturing plastic, blown plastic foam or fibre reinforced plastic products in works having a design production capacity of more than 1 tonne per year	1*	450.00
51. Printing—commercially printing documents (other than photocopying), including stationery, magazines, newspapers and advertising material	1*	300.00
52. Tannery—commercially operating a tannery or works for curing animal skins or hides, or commercially finishing leather	1	4 740.00
53. Textile operations—commercial carpet manufacturing, wool scouring or carbonising, cotton ginning or milling, or textile bleaching, dyeing or finishing	1	4 740.00
54. Tobacco processing—processing tobacco (other than drying tobacco on a tobacco farm) or		

SCHEDULE 1 (continued)

manufacturing products from tobacco or a tobacco derivative	1	3 340.00
55. Tyre manufacturing or retreading— manufacturing or retreading tyres (other than putting grooves in used tyres at a tyre service centre or service station)	1	1 800.00
Non-metallic mineral product manufacture		
56. Asbestos products manufacture— manufacturing an asbestos product	1	800.00
57. Asphalt manufacture—manufacturing asphalt	1*	600.00
58. Cement manufacture—manufacturing cement	1	7 620.00
59. Clay or ceramic products manufacture— manufacturing clay or ceramic products, including bricks, tiles, pipes, pottery goods and refractories, in works having a design production capacity of more than 200 tonnes per year	1	4 740.00
60. Concrete batching—commercially producing concrete or producing concrete products by mixing cement, sand, rock, aggregate or other similar materials in works (including mobile works) having a design production capacity of more than 100 tonnes per year	1*	650.00
61. Glass or glass fibre manufacture— manufacturing glass or glass fibre in works having a design capacity of more than 200 tonnes per year	1	4 740.00
62. Mineral wool or ceramic fibre manufacture— manufacturing mineral wool or ceramic fibre .	1	2 680 .00
Recreational and sporting activities		
63. Motor racing—conducting—		

SCHEDULE 1 (continued)

(a) a motor race (other than an international motor race) on a racing circuit or track, including practice and time trials	2*	—
(b) an international motor race on a racing circuit or track, including practice and time trials	2	—
Sawmilling, woodchipping and wood product manufacturing		
64. Chemical treatment of timber—commercially treating timber for preservation using chemicals, including, for example, copper, chromium, arsenic, borax and creosote	1	2 860.00
65. Sawmilling or woodchipping—sawing, cutting, chipping, compressing, milling or machining timber, or drying timber in a kiln, in a mill or works having a design production capacity of more than 100 tonnes per year	1	800.00
66. Wood product manufacturing—commercially manufacturing or fabricating wood products (other than as mentioned in items 73 and 74), including cabinet-making activities in works having a design production capacity of more than 1 tonne per year	1*	550.00
Transport and maritime services		
67. Boat building or repair facility—operating a commercial facility for boat building or repairs	1*	650.00
68. Helicopter landing facility—operating a facility for arrival and departure of helicopters (other than a facility forming part of an aerodrome used for general aviation)	2*	—
69. Port—operating a port (other than an airport) under the <i>Transport Infrastructure Act 1994</i> .	2	—
70. Railway yard or depot—operating any facility where trade waste is released into a sewer or		

SCHEDULE 1 (continued)

waters, including, for example, the following—

- | | | |
|--------------------------------------|---|----------|
| (a) rolling stock washing facility; | | |
| (b) rolling stock depot; | | |
| (c) rolling stock maintenance depot; | | |
| (d) marshalling yard | 1 | 5 040.00 |

- | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|--------|
| 71. Seaplane mooring or marina—operating a facility for mooring seaplanes or a commercial marina, including any land-based buildings or works used in association with the mooring or marina | 1* | 550.00 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|--------|

- | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----------|
| 72. Stockpiling, loading or unloading goods in bulk—commercially loading, unloading or stockpiling materials or goods using a crane, conveyor, pump or other similar way at a rate of more than 100 tonnes per day associated with an activity mentioned in items 78 to 80 | 1 | 3 000.00 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----------|

Waste disposal

- | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|--------|
| 73. Compost manufacture—commercially storing, processing, drying or composting organic material or wastes, including, for example, animal manures, sludges and domestic waste, for manufacturing soil conditioners or fertilisers in works having a design production capacity of 200 tonnes or more per year | 1 | 400.00 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|--------|

- | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------|---|----------|
| 74. General permanently waste disposal facility—operating a facility for disposing of general waste designed to receive waste at the rate of— | | |
| (a) more than 1 tonne but not more than 2 000 tonnes per year | 1 | 500.00 |
| (b) 2 000 tonnes or more, but less than 5 000 tonnes, per year | 1 | 750.00 |
| (c) 5 000 tonnes or more, but less than 10 000 tonnes, per year | 1 | 1 000.00 |
| (d) 10 000 tonnes or more, but less than 20 000 | | |

SCHEDULE 1 (continued)

tonnes, per year	1	1 500.00
(e) 20 000 tonnes or more, but less than 50 000 tonnes, per year	1	2 000.00
(f) 50 000 tonnes or more, but less than 75 000 tonnes, per year	1	2 500.00
(g) 75 000 tonnes or more, but less than 100 000 tonnes, per year	1	5 000.00
(h) 100 000 tonnes or more, but less than 200 000 tonnes, per year	1	7 500.00
(i) 200 000 tonnes or more per year	1	10 000.00
75. Incineration facility—operating a facility for incinerating—		
(a) vegetation in a pitburner	2*	—
(b) clean paper or cardboard	2*	—
(c) general waste (other than waste mentioned in paragraphs (a) and (b)) designed to incinerate waste at the rate of—		
(i) not more than 5 000 tonnes per year	1	2 280.00
(ii) 5 000 tonnes or more per year	1	5 000.00
(d) biomedical or quarantine waste	1	4 750.00
(e) regulated waste (other than waste mentioned in paragraph (d))	1	6 000.00
76. Regulated waste disposal facility—operating a facility for disposing of regulated waste	1	5 220.00
Waste recycling and reprocessing		
77. Battery reprocessing—reprocessing of any kind of batteries	1	1 880.00
78. Chemical or oil recycling—commercially reprocessing used chemicals, oils or solvents to produce saleable products	1	3 820.00
79. Drum reconditioning—commercially reconditioning metal or plastic drums	1	2 860.00

SCHEDULE 1 (continued)

80. Waste tyres—commercially reprocessing tyres (other than retreading tyres)	1	1 670.00
81. Regulated waste recycling or reprocessing—recycling or reprocessing regulated waste (other than waste mentioned in items 87 to 90) to produce saleable products	1	2 280.00
Waste transport		
82. Waste transfer station—operating a waste transfer station designed to receive waste at the rate of 20 000 tonnes or more of waste per year	1	900.00
83. Waste transport—transporting regulated waste for fee or reward or in quantities of more than 250 kg in a load—		
(a) for 1 to 5 licensed vehicles	1	900.00
(b) for 6 to 15 licensed vehicles	1	1 800.00
(c) for 16 to 30 licensed vehicles	1	2 500.00
(d) for 31 or more licensed vehicles	1	4 000.00
Regulated waste treatment and storage		
84. Regulated waste storage—receiving and storing—		
(a) more than 500 tyres in whole or equivalent parts	1	1 400.00
(b) other regulated waste	1	2 000.00
85. Regulated waste treatment—treating regulated waste (other than by incineration) to render it less or non-hazardous	1	4 750.00

* indicates administration and enforcement of the Act for the activity is devolved to local government—see s 40 (Devolution of powers).

SCHEDULE 2

CONDITIONS APPLYING TO PARTICULAR ACTIVITIES INVOLVING CONTROLLED SUBSTANCES

sections 12, 14 and 17

Sale of controlled substances

- 1.(1)** A seller of controlled substances must—
- (a) ensure that a person employed or engaged by the seller to transfer the substance between vessels—
 - (i) is trained in the procedures contained in the relevant code of practice for the handling and storage of the substance; and
 - (ii) transfers the substance as required by the relevant code of practice in a way that prevents or minimises release of the substance into the environment; 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 1; and
 - (iii) the name and address of the seller; and
 - (iv) a statement that the container must be used only for the storage and return of the substance specified; and
 - (c) not sell a controlled substance in a container that cannot be recharged or refilled.

SCHEDULE 2 (continued)

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

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

Buying controlled substances

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

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

Handling or use of controlled substances

3. A person engaging in an activity mentioned in Schedule 3 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.

Reclaiming of controlled substances

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

SCHEDULE 2 (continued)

controlled substance must—

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

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

sections 13 and 14, sch 2

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, servicing or maintaining domestic refrigerators.
5. Manufacturing, installing, servicing, maintaining or decommissioning halon fire extinguishing devices.

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

sections 26 and 31

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**CODES OF PRACTICE ADOPTED UNDER THE
REGULATION**

section 39

1. Australian Refrigeration and Air Conditioning Code of Practice for the Reduction of Emissions of Controlled Ozone Depleting Refrigerants in Commercial and Industrial Refrigeration and Air Conditioning Applications (HB40—1992), prepared by the Association of Fluorocarbon Consumers and Manufacturers (AFCAM) and endorsed by ANZECC.
2. Domestic Refrigeration Code of Good Practice for the Reduction of Emissions of Chlorofluorocarbons (CFC's) R12 in Domestic Refrigeration Applications, prepared by AFCAM and endorsed by ANZECC on 4 May 1990.
3. 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.
4. Code of Practice for the Control of Chlorofluorocarbons from Motor Vehicle Air Conditioners, prepared by the Motor Trades Association of Australia and endorsed by ANZECC on 7 January 1991.
5. 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.
6. Code of Practice, Methyl Chloroform (1, 1, 1-Trichloroethane), prepared by AFCAM and endorsed by ANZECC on 20 May 1992.
7. Code of Practice for Manufacture and Use of Ethylene Oxide/CFC-12 Mixtures for Sterilisation Processes, prepared by AFCAM on 15 October 1993.
8. Halon and Fire Protection Codes of Practice prepared by the Fire

SCHEDULE 5 (continued)

Protection Industry Association of Australia and endorsed by ANZECC on 25 October 1990 and issued on 1 November 1990.

SCHEDULE 6**FEES—GENERAL**

section 44

- | | | |
|----|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| 1. | Application for approval (s 41 of the Act)— | |
| | (a) for a devolved activity— | |
| | if made before 1 March 1996 | NIL |
| | if made on or after 1 March 1996 | \$200.00 |
| | (b) for a non-devolved activity | \$200.00 |
| 2. | Application for licence (other than a replacement licence ¹) (s 41 of the Act)— | |
| | (a) for a devolved activity— | |
| | if made before 1 March 1996 | NIL |
| | if made on or after 1 March 1996 | \$200.00 plus
an amount
equal to the
annual licence
fee for the
activity |
| | (b) for a non-devolved activity | \$200.00 plus
an amount
equal to the
annual licence
fee for the
activity |
| 3. | Application for single environmental authority to carry out multiple activities (ss 41 and 61 of the Act) | \$200.00 plus
an amount
equal to the
higher or
highest annual
licence fee for
the activities |

¹ For the application fee for a replacement licence, see section 74 (Fees for continuing licences).

SCHEDULE 6 (continued)

4.	Application for amendment of licence (s 49 of the Act)	\$150.00
5.	Application for transfer of licence (s 55 of the Act)	\$50.00
6.	Late payment fee (s 68(3)(b)(i) of the Act) . .	\$50.00

SCHEDULE 7**MAXIMUM NOISE LEVELS**

section 72

Period	Noise level for noise sensitive place	Noise level for commercial place
7 am—6 pm	background noise level plus 5dB(A)	background noise level plus 10dB(A)
6 pm—10 pm	background noise level plus 5dB(A)	background noise level plus 10dB(A)
10 pm—7 am	background noise level plus 3dB(A)	background noise level plus 8dB(A)

SCHEDULE 8**REGULATED WASTES**

schedule 10, definition "regulated waste"

PART A

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

Contaminated soils

SCHEDULE 8 (continued)

Copper compounds

Cytotoxic wastes

Detergents

Distillation residues

Dyes

Electroplating effluent and residues

Filter backwash waters

Filter cake sludges and residues

Fish processing waste

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

SCHEDULE 8 (continued)

Metal finishing effluent and residues

Methacrylate compounds (other than solid inert polymeric materials)

Nickel

Oil interceptor sludges

Oil water emulsions and mixtures

Oils

Organic solvents

Oxidising agents

Ozone depleting Substances

Paint sludges and residues

Perchlorates

Pesticides

Petroleum tank sludges

Pharmaceutical substances

Phenolic compounds (other than solid inert polymeric materials)

Phosphorus

Pickling liquors

Polychlorinated biphenyls and related substances and anything containing polychlorinated biphenyls or related substances

Polymeric lattices

Poultry processing wastes

Reactive chemicals

Reducing agents

Resins (other than solid inert polymeric materials)

Saline effluent and residues

Selenium

SCHEDULE 8 (continued)

Silver compounds

Solvent recovery residues

Surfactants

Tallow

Tannery effluent and residues

Tars and tarry residues

Tellurium

Textile effluent and residues

Thallium

Timber preservative effluent and residues

Treatment tank sludges and residues (other than sewage and septic tank sludges and residues)

Tyres

Vanadium

Vegetable oils

Vehicle wash down waters

Wool scouring effluent and residues

Zinc compounds

SCHEDULE 8 (continued)

PART B

Bacterial sludge (septic tank and sewage)

Fly ash

Infectious substances

Materials or equipment contaminated with infectious substances

Nightsoil

SCHEDULE 9**OZONE DEPLETING SUBSTANCES**

sch 10, def "ozone depleting substances"

Substance	Common name	Chemical formula
CHLOROFLUOROCARBONS		
Trichlorofluoromethane	CFC 11	CCl_3F
Dichlorodifluoromethane	CFC 12	CCl_2F_2
Monochlorotrifluoromethane	CFC 13	CClF_3
Pentachlorofluoroethane	CFC 111	$\text{C}_2\text{Cl}_5\text{F}$
Tetrachlorodifluoroethane	CFC 112	$\text{C}_2\text{Cl}_4\text{F}_2$
Trichlorotrifluoroethane	CFC 113	$\text{C}_2\text{Cl}_3\text{F}_3$
Dichlorotetrafluoroethane	CFC 114	$\text{C}_2\text{Cl}_2\text{F}_4$
Monochloropentafluoroethane	CFC 115	C_2ClF_5
Heptachlorofluoropropane	CFC 211	$\text{C}_3\text{Cl}_7\text{F}$
Hexachloradifluoropropane	CFC 212	$\text{C}_3\text{Cl}_6\text{F}_2$
Pentachlorotrifluoropropane	CFC 213	$\text{C}_3\text{Cl}_5\text{F}_3$
Tetrachlorotetrafluoropropane	CFC 214	$\text{C}_3\text{Cl}_4\text{F}_4$
Trichloropentafluoropropane	CFC 215	$\text{C}_3\text{Cl}_3\text{F}_5$
Dichlorohexafluoropropane	CFC 216	$\text{C}_3\text{Cl}_2\text{F}_6$
Chloroheptafluoropropane	CFC 217	C_3ClF_7

SCHEDULE 9 (continued)

HALONS

Bromochlorodifluoromethane	Halon 1211	CBrClF ₂
Bromotrifluoromethane	Halon 1301	CBrF ₃
Dibromotetrafluoroethane	Halon 2402	C ₂ Br ₂ F ₄

OTHER SUBSTANCES

Carbon tetrachloride		CCl ₄
1, 1, 1 – Trichloroethane	Methyl Chloroform	C ₂ H ₃ Cl ₃

SCHEDULE 10**DICTIONARY**

section 3

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

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

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

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

“approved training course” see section 58.

“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 26 (Approval to install or refill a fixed halon flooding system) or 31 (Approval to buy or refill a portable halon fire extinguisher).

“code of practice” means a code of work practices adopted under section 39.

“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.

SCHEDULE 10 (continued)

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

“continuing licence” means a licence continued in force under section 226 of the Act.²⁴

“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.

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

“devolved activity” means an environmentally relevant activity the administration and enforcement of which is devolved to local government.²⁵

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

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

²⁴ Section 226 of the Act continues in force licences issued under the repealed *Clean Air Act 1963* and *Clean Waters Act 1971*.

²⁵ See section 40 (Devolution of powers).

SCHEDULE 10 (continued)

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

“general waste” means waste other than regulated waste.

“general waste disposal facility” means a facility for disposing of general waste other than by incinerating it.

“halon” means an ozone depleting substance mentioned under the heading ‘HALONS’ in Schedule 9.

“industry code” for an activity means the industry code assigned to the activity under Australian and New Zealand Standard Industrial Classification, 1993.²⁶

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

“integrated environmental management system” see section 42.

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

“mining authority” means—

- (a) a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease granted under the *Mineral Resources Act 1989*; or
- (b) a prospecting petroleum permit, authority to prospect or petroleum lease granted under the *Petroleum Act 1923*; or
- (c) a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*.

“motor vehicle” means any vehicle, including farm machinery and earthmoving equipment, to which airconditioning equipment can be fitted.

“motor vehicle airconditioning equipment” means airconditioning

²⁶ The document is published by the Australian Bureau of Statistics.

SCHEDULE 10 (continued)

equipment that—

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

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

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

“ozone depleting substance” means a substance mentioned in Schedule 9.

“Ozone Protection Act” means the *Ozone Protection Act 1989* (Cwlth).

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

“qualified person”, for an activity, means a person who has successfully completed an approved training course for the activity.

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

“regulated waste” means non-domestic waste mentioned in Schedule 8, and includes—

- (a) for an element—any chemical compound containing the element; and
- (b) anything that has contained a regulated waste; and
- (c) regulated waste that has been treated or immobilised.

“regulated waste disposal facility” means a facility for disposing of regulated waste other than by incinerating it.

“relevant code of practice”, for a particular activity, means a code of practice that—

- (a) provides the way in which the activity is to be carried out; and
- (b) is adopted under this regulation for the activity.

“replacement licence” means a licence issued to replace a continuing

SCHEDULE 10 (continued)

licence.

“sell” includes—

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

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

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

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

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

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

ENDNOTES

1. Made by the Governor in Council on 27 February 1995.
2. Notified in the Gazette on 27 February 1995.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Environment and Heritage.