



Queensland

Environmental Protection and Other Legislation Amendment Regulation (No. 2) 2008

Subordinate Legislation 2008 No. 439

made under the

Environmental Protection Act 1994

State Penalties Enforcement Act 1999

Contents

		Page
Part 1	Preliminary	
1	Short title	3
2	Commencement	3
Part 2	Amendment of Environmental Protection Regulation 2008	
3	Regulation amended in pt 2	3
4	Amendment of s 101 (Particular chapter 4 activities)	3
5	Amendment of s 106 (Particular acts, omissions or activities by or for State or local government entity)	3
6	Amendment of s 126 (Eligibility for payment of a reduced annual fee)	4
7	Amendment of s 129 (Offence to pay reduced annual fee if not eligible)	4
8	Replacement of s 130 (Requirement to keep records for reduced annual fee)	4
	130 Requirement to keep records for reduced annual fee	4
9	Replacement of s 132 (Requirement to notify change of eligibility)	5
	132 Requirement to notify change of eligibility	5

Contents

10	Amendment of s 147 (General matters for environmentally relevant activities)	6
11	Amendment of s 149 (Existing applications)	6
12	Amendment of s 154 (Existing applications)	7
13	Amendment of sch 2 (Chapter 4 activities and aggregate environmental scores)	7
Part 3	Amendment of State Penalties Enforcement Regulation 2000	
14	Regulation amended in pt 3	8
15	Amendment of sch 2 (Environmental legislation)	8

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Environmental Protection and Other Legislation Amendment Regulation (No. 2) 2008*.

2 Commencement

This regulation commences 1 January 2009.

Part 2 Amendment of Environmental Protection Regulation 2008

3 Regulation amended in pt 2

This part amends the *Environmental Protection Regulation 2008*.

4 Amendment of s 101 (Particular chapter 4 activities)

Section 101(b)(ii)(A), ‘less than 100t’—

omit, insert—

‘1t to 100t’.

5 Amendment of s 106 (Particular acts, omissions or activities by or for State or local government entity)

(1) Section 106, heading, ‘or for’—

omit.

(2) Section 106(2) and (3), ‘by or for, a State’—

omit, insert—

‘by a State’.

[s 6]

6 Amendment of s 126 (Eligibility for payment of a reduced annual fee)

Section 126(3), definition *compliance action event*, from ‘*compliance action event*’ to end of paragraph (a)—

omit, insert—

‘*compliance action event*, for the holder of a relevant authority, means any of the following directly relating to an activity carried out or a thing omitted to be done under the authority—

- (a) the serving of an infringement notice under the *State Penalties Enforcement Act 1999* on the holder for an offence;’.

7 Amendment of s 129 (Offence to pay reduced annual fee if not eligible)

Section 129, ‘knows, or ought reasonably to know, the holder’—

omit.

8 Replacement of s 130 (Requirement to keep records for reduced annual fee)

Section 130—

omit, insert—

‘130 Requirement to keep records for reduced annual fee

‘The holder must, unless the holder has a reasonable excuse, keep each of the following records relating to the payment of the reduced annual fee for at least 5 years after the reduced annual fee is paid—

- (a) if the holder was eligible for the reduction under section 126(1)(c)(i)—a copy of an accreditation certificate prepared under the relevant prescribed environmental management system for the approved EMS;

-
- (b) if the holder was eligible for the reduction under section 126(1)(c)(ii)—
- (i) the holder's certificate of registration under the business partnership program; and
 - (ii) a copy of the action plan the holder was required to develop for the holder's registration under the business partnership program;

Editor's note—

On the day this section commenced information about the development of an action plan was available on the department's website.

- (c) if the holder was eligible for the reduction under section 126(1)(c)(iii)—a copy of the data and methodology used to calculate the holder's emissions score for the relevant activity under the authority;
- (d) if the holder was under section 126(1)(d), required to give the chief executive a statutory declaration about the relevant activities carried out under the relevant authority—
- (i) a copy of the statutory declaration; and
 - (ii) for the appropriately qualified person who completed the statutory declaration—the person's contact details and evidence of the person's membership of a prescribed organisation.

Maximum penalty—20 penalty units.'.

9 Replacement of s 132 (Requirement to notify change of eligibility)

Section 132—

omit, insert—

'132 Requirement to notify change of eligibility

'If the holder's eligibility for the reduced annual fee under section 126(1)(c)(i) or (ii) stops during the year to which the fee applies, the holder must give the administering authority

[s 10]

written notice of the fact within 10 business days after the eligibility stops.

Maximum penalty—20 penalty units.’.

10 Amendment of s 147 (General matters for environmentally relevant activities)

Section 147, table, entry for ‘80 Tyre recycling’—

omit, insert—

‘80	Tyre recycling	59	Tyre recycling’.
-----	----------------	----	------------------

11 Amendment of s 149 (Existing applications)

(1) Section 149(1), after ‘made’—

insert—

‘before the commencement’.

(2) Section 149—

insert—

‘(1A) However—

(a) if before the commencement the applicant paid the former application fees for the application—the application fee and annual fee for the application under this regulation are taken to have been paid; and

(b) if the application is an application for a development approval and paragraph (a) does not apply—the repealed regulation continues to apply for the payment of the former application fees for the application as if this regulation had not commenced.’.

(3) Section 149(3), ‘However, subsection (4)’—

omit, insert—

‘Also, subsection (5)’.

(4) Section 149(1A) to (4)—

renumber as section 149(2) to (5).

(5) Section 149—

insert—

‘(6) In this section—

former application fees means the application fee and the prescribed annual fee amount payable under the repealed regulation.’.

12 Amendment of s 154 (Existing applications)

(1) Section 154(1), after ‘made’—

insert—

‘before the commencement’.

(2) Section 154(2), ‘On the commencement,’—

omit, insert—

‘Subject to subsection (3), on the commencement’.

(3) Section 154(3)—

omit, insert—

‘(3) If before the commencement the applicant paid the former application fee for the application, the application fee and annual fee for the application under this regulation are taken to have been paid.

‘(4) In this section—

former application fee means either or both of the following payable under the repealed regulation—

(a) the application fee;

(b) an amount equal to the annual fee.’.

13 Amendment of sch 2 (Chapter 4 activities and aggregate environmental scores)

(1) Schedule 2, section 16(1)(c), example, 4th dot point—

omit, insert—

‘Environmental Protection Regulation 2008

Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)
s 21(1)	2
s 21(3)	2
s 85(2)	2
s 85(7)	2
s 87(2)	2
s 87(4)	2
s 129.....	2
s 130.....	2
s 131(3)	2
s 132.....	2

Authorised person for service of infringement notices—an authorised person appointed under the *Environmental Protection Act 1994*, section 445’.

- (3) Schedule 2, entry for *Environmental Protection Act 1994*, entries for sections 369, 426(2) and 427(2)—

omit.

- (4) Schedule 2, entry for *Environmental Protection Act 1994*—

insert—

‘s 363E.....	10	20
s 369.....	25	40
s 369C	25	40
s 426(b)	5	20
s 426A(b).....	5	20
s 427(1)	5	20
s 440Q(1).....	10	20

[s 15]

s 440ZG if the deposit or release is done other than wilfully	10	20
s 440ZI(1) if the release is done other than wilfully	10	20
s 440ZJ(1) if the release is done other than wilfully	10	20
s 440ZJ(2) if the release is done other than wilfully	10	20
s 440ZK(1) if the deposit is done other than wilfully	10	20 [*] .

ENDNOTES

- 1 Made by the Governor in Council on 11 December 2008.
- 2 Notified in the gazette on 12 December 2008.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Environmental Protection Agency.

© State of Queensland 2008