



Queensland

Environmental Protection and Other Legislation Amendment Regulation (No. 1) 2009

Subordinate Legislation 2009 No. 145

made under the

Environmental Protection Act 1994

State Penalties Enforcement Act 1999

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Environmental Protection and Other Legislation Amendment Regulation (No. 1) 2009*.

Part 2 Amendment of Environmental Protection Regulation 2008

2 Regulation amended in pt 2 and schedule

This part and the schedule amend the *Environmental Protection Regulation 2008*.

3 Insertion of new s 22A

Chapter 3, part 1, division 4—
insert—

‘22A Prescribed circumstance for adding, changing or cancelling development condition of particular approval—Act, s 73C

- ‘(1) For section 73C(1)(i) of the Act, a prescribed circumstance for adding, changing or cancelling a development condition of a development approval for waste disposal at a site is that immediately before 1 January 2009—
- (a) the development approval was for former ERA 75; and
 - (b) former ERA 82 was carried out at the site; and
 - (c) there was no development approval for former ERA 82 at the site.
- ‘(2) In this section—

[s 4]

former ERA 75 means the environmentally relevant activity mentioned in the repealed regulation, schedule 1, item 75.

former ERA 82 means the environmentally relevant activity mentioned in the repealed regulation, schedule 1, item 82.

repealed regulation means the repealed *Environmental Protection Regulation 1998*.

waste disposal means the environmentally relevant activity under schedule 2, section 60.’.

4 Replacement of s 29 (Criteria for mining activities—Act, s 151)

Section 29—

omit, insert—

‘29 Criteria for mining activities forming level 1 or level 2 mining projects—Act, s 151

‘This division prescribes criteria for mining activities under an environmental authority (mining activities) that form—

- (a) a level 1 mining project for section 151(1)(a) of the Act;
or
- (b) a level 2 mining project for section 151(2)(b)(i) of the Act.’.

5 Amendment of s 101 (Particular chapter 4 activities)

(1) Section 101(a)(vii)—

omit.

(2) Section 101(a)(viii) to (x)—

renumber as section 101(a)(vii) to (ix).

(3) Section 101(b)(iii), ‘fabricating’—

omit, insert—

‘manufacturing’.

(4) Section 101(b)(ii) to (iv)—

renumber as section 101(b)(iii) to (v).

(5) Section 101(b)—

insert—

‘(ii) metal recovery, for—

(A) recovering less than 100t of metal in a day;
or

(B) recovering, without using a fragmentiser,
100t or more of metal in a day or 10000t or
more of metal in a year.’

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

Section 106(2), from ‘relates’—

omit, insert—

‘relates to—

(a) a thing that is, or is claimed to have been, done, or omitted to be done, by a State or local government entity; or

(b) an environmentally relevant activity that is not devolved to a local government.’

7 Amendment of s 116 (Fees payable under Act)

Section 116—

insert—

‘(4) Despite subsection (3)(b), the annual fee is not payable for an application for a registration certificate for a continuing chapter 4 activity.’

8 Amendment of s 119 (Annual fee to accompany particular applications)

(1) Section 119(1)(c), ‘petroleum’—

[s 9]

omit, insert—

‘chapter 5A’.

- (2) Section 119(2), from ‘by’ to ‘authority.’—

omit, insert—

‘by—

- (a) the application fee for the relevant authority; and
(b) the annual fee for the relevant authority, unless the relevant authority is a registration certificate for a continuing chapter 4 activity.’.

9 Amendment of s 122 (Definitions for div 2)

- (1) Section 122, definition *prescribed environmental management system*—

omit.

- (2) Section 122—

insert—

‘***conformity assessment body*** means a body accredited under JAS-ANZ for certifying environmental management systems.

JAS-ANZ means the Joint Accreditation System of Australia and New Zealand that was declared under the *Joint Accreditation System of Australia and New Zealand (Privileges and Immunities) Regulations 1998* (Cwlth) to be an international organisation to which the *International Organisations (Privileges and Immunities) Act 1963* (Cwlth) applies.

prescribed environmental management system means an environmental management system that a conformity assessment body has certified as conforming to AS/NZS ISO 14001:2004.

Editor’s note—

AS/NZS ISO 14001:2004 Environmental management systems - Requirements with guidance for use’.

10 Amendment of s 143 (Prescribed local government exempt from fees)

Section 143(1)(b) and (c)—

omit, insert—

- ‘(b) Aurukun Shire Council;
- (c) Mornington Shire Council;
- (d) Northern Peninsula Area Regional Council;
- (e) Torres Shire Council;
- (f) Torres Strait Island Regional Council.’.

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

(1) Section 147, before ‘A reference’—

insert—

‘(1) This section is subject to section 148 and subdivision 2.’.

(2) Section 147, ‘following table’—

omit, insert—

‘table below subsection (3)’.

(3) Section 147, before the table—

insert—

‘(3) However, if an aspect of a column 1 ERA (the *relevant aspect*) is mentioned in column 1 of the table, a reference in an Act or document to the column 1 ERA may, to the extent the column 1 ERA involved the relevant aspect and if the context permits, be taken to be a reference to the column 2 ERA opposite the relevant aspect.’.

(4) Section 147, table, entries for items 14 and 43, column 2, ‘—’, second occurring—

omit.

(5) Section 147, table, entry for item 47—

[s 12]

omit, insert—

‘47	Pet, stock or aquaculture food manufacturing—		
	(a) to the extent an aspect of the former ERA involved an activity to which schedule 2, section 25 would have applied	25	Meat processing
	(b) to the extent an aspect of the former ERA involved an activity to which schedule 2, section 27 would have applied	27	Seafood processing’.

(6) Section 147, table, entry for item 67—

omit, insert—

‘67	Sawmilling or woodchipping—		
	(a) to the extent an aspect of the former ERA involved an activity to which schedule 2, section 47 would have applied	47	Timber milling and woodchipping
	(b) to the extent an aspect of the former ERA involved an activity to which schedule 2, section 48 would have applied	48	Wooden and laminated product manufacturing’.

12 Amendment of s 148 (Existing development approvals and registration certificates)

Section 148(4), ‘division’—

omit, insert—

‘division, other than section 147’.

13 Amendment of s 150 (Activities that are no longer environmentally relevant activities)

(1) Section 150(1)(a), ‘16(c), 22(a),’—

omit.

-
- (2) Section 150(1)(b) and (c), ‘in a year’—
omit.
 - (3) Section 150(1)(d), ‘or mineral products’—
omit.
 - (4) Section 150(1)(g) to (w)—
renumber as section 150(1)(h) to (x).
 - (5) Section 150(1)—
insert—
‘(g) former ERA 22(a), if the activity consists of screening, washing, crushing, grinding, milling, sizing or separating, in a year, more than 50t but less than 5000t of material extracted from the earth, other than in a wild river area;’.
 - (6) Section 150(3), ‘administering authority’—
omit, insert—
‘former administering authority for the former environmentally relevant activity’.
 - (7) Section 150—
insert—
 - ‘(4) In this section—
former administering authority, for a former environmentally relevant activity, means the entity that was the administering authority for the activity immediately before the commencement.’.

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

- (1) Schedule 2, section 16(1)(c), example, second dot point—
omit.
- (2) Schedule 2, section 16(1)(d)—

[s 14]

omit, insert—

- ‘(d) screening 50t or more of material, in a year, in a wild river area;
- (e) screening 5000t or more of material, in a year, other than in a wild river area.’.

(3) Schedule 2, section 16(2)(a)—

omit, insert—

- ‘(a) extracting material under an environmental authority (chapter 5A activities) or environmental authority (mining activities); or’.

(4) Schedule 2, section 16(2)—

insert—

- ‘(d) extracting material from a road reserve, other than in a wild river area, if—
 - (i) the material is to be used for constructing or maintaining a road; and
 - (ii) the surface area from which the material is extracted is less than 10000m²; or
- (e) extracting material from a place for constructing a road or railway at the place; or

Examples—

- cutting and filling land for constructing a road or railway
- extracting material for constructing a tunnel for a road or railway
- (f) extracting material from a place, other than by dredging, for constructing the foundations of a building at the place; or
- (g) extracting material for reshaping land if—
 - (i) reshaping the land does not involve blasting; and
 - (ii) the material is not removed from the site from which it is extracted; or

Example—

cutting and filling land for creating building lots

- (h) screening material on the site from which it has been extracted in the course of carrying out an activity mentioned in paragraphs (a) to (g).’.

- (5) Schedule 2, section 16(3), table—

insert—

‘2A screening, in a year, 50t to less than 5000t of material in a wild river area	no score’.
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- (6) Schedule 2, section 16(4), definition *material*, ‘rock and sand’—

omit, insert—

‘rock, sand and other substances found in the earth’.

- (7) Schedule 2, section 16(4), definition *screening*, ‘materials extracted from the earth’—

omit, insert—

‘material’.

- (8) Schedule 2, section 33(3)(a)—

omit, insert—

‘(a) crushing, grinding, milling or screening—

(i) grain crops; or

(ii) other agricultural products on a farm for use on the farm; or’.

- (9) Schedule 2, section 38(2)(b)—

renumber as schedule 2, section 38(2)(c).

- (10) Schedule 2, section 38(2)—

insert—

‘(b) coating or painting for marking pavements or roads; or’.

- (11) Schedule 2, section 48(1)(a) and (3), table, item 1, ‘fabricating’—

[s 14]

omit, insert—

‘manufacturing’.

- (12) Schedule 2, section 48(1)(b) and (3), table, items 2 and 3, ‘manufacturing’—

omit, insert—

‘fabricating’.

- (13) Schedule 2, section 50(4)—

insert—

‘**port** means the port area of a port authority under the *Transport Infrastructure Act 1994*.’.

- (14) Schedule 2, section 53(4)—

omit, insert—

- ‘(4) In this section—

organic waste—

- (a) includes the following—

- (i) a substance used for manufacturing fertiliser for agricultural, horticultural or garden use;
- (ii) animal manure;
- (iii) biosolids;
- (iv) cardboard and paper waste;
- (v) fish processing waste;
- (vi) food and food processing waste;
- (vii) plant material;
- (viii) poultry processing waste;
- (ix) waste generated from an abattoir; but

- (b) does not include—

- (i) clinical or related waste; or
- (ii) contaminated soil; or

- (iii) organic chemicals, other than a substance mentioned in paragraph (a)(i); or

Examples of organic chemicals for subparagraph (iii)—

chlorinated hydrocarbons, lubricating greases, pesticides,
tars

- (iv) plastics that are not compostable.’.

- (15) Schedule 2, section 60(1)—

omit, insert—

- ‘(1) Waste disposal (the ***relevant activity***) consists of only 1 of the following—

- (a) operating a facility for disposing of—

- (i) only regulated waste; or
- (ii) regulated waste and any, or any combination, of the following—
 - (A) general waste;
 - (B) limited regulated waste;
 - (C) if the facility is in a scheduled area—no more than 5t of untreated clinical waste in a year;

- (b) operating a facility for disposing of, in a year, 50t or more of waste consisting of—

- (i) only general waste; or
- (ii) general waste and either, or a combination, of the following—
 - (A) a quantity of limited regulated waste that is no more than 10% of the total amount of waste received at the facility in a year;
 - (B) if the facility is in a scheduled area—no more than 5t of untreated clinical waste.’.

- (16) Schedule 2, section 61(2)—

omit, insert—

[s 14]

- ‘(2) The relevant activity does not include—
- (a) incinerating human or animal remains unless the remains are clinical waste or quarantine waste; or
 - (b) thermal treatment of waste carried out as part of another activity mentioned in this schedule.

Example—

thermally treating waste to generate electricity under section 14 (Electricity generation)’.

- (17) Schedule 2, section 62(3) and (4)—
renumber as schedule 2, section 62(4) and (5).
- (18) Schedule 2, section 62—
insert—
- ‘(3) The relevant activity does not include operating a waste transfer station on a site if an activity to which section 60 applies is carried out on the site.’
- (19) Schedule 2, section 63(4), definition *daily peak design capacity—*

omit, insert—

‘***daily peak design capacity***, for sewage treatment works, means the higher EP for the works calculated using each of the following formulae—

(a) **$EP = V/200$**

where—

V is the volume, in litres, of the average dry weather flow of sewage that can be treated at the works in a day;

(b) **$EP = M/ 2.5$**

where—

M is the mass, in grams, of phosphorus in the influent that the works are designed to treat as the inlet load in a day.’

15 Amendment of sch 5 (Level 1 petroleum activities and their aggregate environmental scores)

- (1) Schedule 5, heading, ‘petroleum’—
omit, insert—
 ‘**chapter 5A**’.
- (2) Schedule 5, headings for columns 1 and 2 and entry for item 1—
omit, insert—

‘Column 1	Column 2
Level 1 chapter 5A activity	Aggregate environmental score (AES)
1 activities under a GHG injection and storage lease under the GHG storage Act	49’.

- (3) Schedule 5, entry for item 8—
omit, insert—

‘8 a petroleum activity, other than a petroleum activity mentioned in items 1 to 7, that includes 1 or more chapter 4 activities for which an aggregate environmental score is stated	126 or, if 1 or more of the chapter 4 activities have an AES of more than 126, the AES for the chapter 4 activity that has the highest AES’.
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16 Amendment of sch 10 (Fees)

- Schedule 10, part 2—
omit, insert—

[s 17]

**‘Part 2 Fees for environmental
 authorities (chapter 5A
 activities)’**

	\$
6 application for environmental authority (chapter 5A activities) for a level 1 chapter 5A activity (Act, s 310C(d)(ii))	500.00
7 application for environmental authority (chapter 5A activities) for a level 2 chapter 5A activity (Act, s 309Q(d)).	500.00
8 amendment application for environmental authority (chapter 5A activities) (Act, s 310U(c)).	250.00
9 transfer application for environmental authority (chapter 5A activities) (Act, s 311D(d))	100.00
10 annual fee for environmental authority (chapter 5A activities) for a level 2 chapter 5A activity	500.00’.

17 Amendment of sch 12 (Dictionary)

(1) Schedule 12, part 2, definition *bed*—
 omit.

(2) Schedule 12, part 2—
 insert—

 ‘**AES** means aggregate environmental score.

bed, of any waters—

- (a) includes an area covered, permanently or intermittently, by tidal or non-tidal waters; but
- (b) does not include land adjoining or adjacent to the bed that is from time to time covered by floodwater.

conformity assessment body, for chapter 8, part 3, division 2, see section 122.

floodwater means water overflowing, or that has overflowed, from a watercourse onto or over riparian land that is not submerged when the watercourse flows between or is contained within its bed and banks.

JAS-ANZ, for chapter 8, part 3, division 2, see section 122.’.

- (3) Schedule 12, part 2, definition *limited regulated waste*, paragraphs (b), (d) and (f)—

omit.

- (4) Schedule 12, part 2, definition *limited regulated waste*, paragraphs (a) to (i)—

renumber as paragraphs (b) to (g).

- (5) Schedule 12, part 2, definition *limited regulated waste*—

insert—

‘(a) animal effluent and residues, including abattoir effluent and poultry and fish processing waste;’.

Part 3 Amendment of State Penalties Enforcement Regulation 2000

18 Regulation amended

This part amends the *State Penalties Enforcement Regulation 2000*.

19 Omission of s 24 (Proof of complaint for noise offence)

Section 24—

omit.

[s 20]

20 Amendment of sch 6 (Dictionary)

Schedule 6, definition *relevant nuisance complaint*—
omit.

Schedule **Minor and consequential
amendments of Environmental
Protection Regulation 2008**

section 2

- 1** **Section 18(2)(c), ‘than than’—**
omit, insert—
‘than’.
- 2** **Chapter 3, part 2, heading and section 23, heading,
‘Petroleum’—**
omit, insert—
‘Chapter 5A’.
- 3** **Sections 23 and 24, headings, ‘petroleum’—**
omit, insert—
‘chapter 5A’.
- 4** **Sections 23, 24, 30, 120, 122, definition *relevant activity*
and 134, ‘petroleum’—**
omit, insert—
‘chapter 5A’.
- 5** **Section 52(1)(g), example, second dot point, ‘of
contaminant’—**
omit, insert—
‘of a contaminant’.

Schedule

- 6 Section 56(3)(a), ‘moon’—**
omit, insert—
‘tide’.
- 7 Section 62(4), definition *acid-producing rock*, ‘sulphitic’—**
omit, insert—
‘sulfidic’.
- 8 Chapter 5, part 6, heading and section 104, heading, ‘Record-keeping’—**
omit, insert—
‘Record keeping’.
- 9 Section 124(1), ‘with’—**
omit, insert—
‘as a partner under’.
- 10 Section 144(2), definition *relevant threshold*, ‘section 63(4)’—**
omit, insert—
‘section 63(3)’.
- 11 Schedule 2, section 21 and schedule 12, part 2, definition *aggregate environmental score*, ‘petroleum’—**
omit, insert—
‘chapter 5A’.
- 12 Schedule 3, item 1, ‘Version 2’—**
omit, insert—
‘Version 3’.

- 13** **Schedule 4, item 46, ‘Darymple’—**
omit, insert—
 ‘Dalrymple’.
- 14** **Schedule 7, item 43, ‘organochlorine’—**
omit, insert—
 ‘organochlorine’.
- 15** **Schedule 7, item 54—**
omit.
- 16** **Schedule 7, items 55 to 72—**
renumber as schedule 7, items 54 to 71.
- 17** **Schedule 9, item 22—**
omit.
- 18** **Schedule 9, item 23, ‘untreated ballast water,’ and ‘, water
from testing fire sprinklers’—**
omit.
- 19** **Schedule 9, item 23—**
renumber as schedule 9, item 22.
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ENDNOTES

- 1 Made by the Governor in Council on 9 July 2009.
- 2 Notified in the gazette on 10 July 2009.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Environment and Resource Management.

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