

Queensland



Explanatory Notes for SL 2000 No. 178

Environmental Protection Act 1994

Justices Act 1886

Sewerage and Water Supply Act 1949

ENVIRONMENTAL PROTECTION (WASTE MANAGEMENT) REGULATION 2000

Short title

Environmental Protection (Waste Management) Regulation 2000.

Authorising law

This explanatory note pertains to the *Environmental Protection (Waste Management) Regulation 2000*, made under the head of power contained in *section 220* of the *Environmental Protection Act 1994*, *subsection (1)* of which states “The Governor in Council may make regulations under this Act” in regard to—

- *section 220(g)* setting standards, controls or procedures for the manufacture, sale use, transportation, storage, treatment or disposal of a contaminant, including waste;
- *section 220(h)* the removal, collection, transport, deposit, storage or disposal of waste; and
- *section 220(k)* litter.

The regulation amends the *Justices Regulation 1993* under the head of power contained in the *Justices Act 1886*, *section 98B* to prescribe an “**infringement notice offence**” and an “**infringement notice penalty**”.

The regulation also amends the *Standard Sewerage Law* under the head of power contained in the *Sewerage and Water Supply Act 1949*, section 5 to make a regulation that may make provision with respect to sewerage, sanitary conveniences and stormwater drainage.

Policy objectives of the regulation

The object of the *Environmental Protection Act 1994* is to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends ("**ecologically sustainable development**").

The objective of the regulation is, in turn, to protect the environment through the minimisation of the impact of waste on the environment, including the impact of waste as it directly affects human health; and the establishment of an integrated framework for minimising and managing waste under the principles of ecologically sustainable development.

Achieving the policy objectives of the regulation

The policy objectives are to be met by the regulation providing, amongst other things, for the following—

- controlling litter and inappropriate waste disposal;
- imposing conditions on an environmental authority for waste disposal facilities and restricting burning and receipt of types of waste including liquid waste;
- waste transporters to comply with directions of persons controlling waste facilities;
- tracking certain wastes from where it is generated, how transported and method of disposal;
- specific requirements for the management of clinical and related waste;
- management of polychlorinated biphenyls (PCBs); and
- setting design criteria for waste equipment.

Consistency with the policy objectives of other legislation

The regulation is not inconsistent with the objectives of any other legislation.

The requirement under the *Statutory Instruments Act 1992* to prepare a Regulatory Impact Statement has been complied with.

A Public Benefit Test, for the purposes of National Competition Policy (NCP), is not required, as the current gatekeeping arrangements extend to the *Environmental Protection (Waste Management) Regulation 2000*. The subordinate legislation under the *Environmental Protection Act 1994* will be reviewed concurrently with the Act, in accordance with the approved timetable for NCP review.

Alternative ways of achieving the policy objectives

Alternative ways of achieving the policy objectives of the regulation were considered. These options are addressed in the Regulatory Impact Statement.

Statement of costs and benefits

A statement of costs and benefits is contained in the Regulatory Impact Statement.

Consistency with Fundamental Legislative Principles

The *Legislative Standards Act 1992* outlines a number of fundamental legislative principles. These principles require that the legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament. The regulation is consistent with the fundamental legislative principles.

Consultation on the regulation

Government departments, numerous local governments, key stakeholders and the community have been consulted on the Regulatory

Impact Statement (RIS) for the *Environmental Protection (Waste Management) Regulation 2000*.

All comments made during both rounds of consultation have been considered and, where appropriate, changes have been made to incorporate those comments.

The Regulatory Impact Statement was not revised following consideration of submissions received.

General

Throughout this explanatory note a reference to—

“**the Act**” means the *Environmental Protection Act 1994* and “**the regulation**” means the *Environmental Protection (Waste Management) Regulation 2000*.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Short title

Section 1 states the short title of the regulation as being the *Environmental Protection (Waste Management) Regulation 2000*.

Commencement

Section 2 states the commencement date for the regulation and various provisions of the regulation as being on the following dates—

Part of regulation

Commencement date

Part 4, division 3, subdivision 1—Intrastate waste tracking 1 July 2001

<i>Section 64</i> —Use of equipment containing concentrated PCB material	1 January 2002
<i>Section 65</i> —Use of equipment containing scheduled PCB material	1 January 2008
<i>Section 69</i> —Intrastate waste tracking (transitional definition)	1 July 2001
The balance of the regulation	1 July 2000

Definitions

Section 3 states the dictionary in *schedule 9* of the regulation provides definitions for the terms used in the regulation, to clarify intent of the regulation. Some terms are also defined throughout the body of the regulation (where they apply to a particular part) or in the *Environmental Protection Act 1994* or *Environmental Protection Regulation 1998*.

Object of this regulation

Section 4 states that the object of the regulation is to protect the environment by minimising impacts on the environment from waste and providing an integrated framework for minimising and managing waste under the principles of ecologically sustainable development.

Application in relation to sewerage and storm water drainage

Section 5 states that the regulation does not apply to the release of a contaminant to a sewerage or storm water drain as defined in *section 17A* of the *Sewerage and Water Supply Act 1949*.

PART 2—LITTER AND RELATED MATTERS

Meaning of “dispose” for pt 2

Section 6 describes actions that could result in littering or a related offence under this part.

Unlawful disposal

Section 7 describes the conditions under this part that make the disposal of litter or other waste lawful. For instance, it is not unlawful for a person to dispose of litter at a place if they are the occupier of the place. It is unlawful disposal if the conditions relating to disposal under this section are not met.

Littering

Section 8 creates the offence for the unlawful disposal of litter at a public or private place.

Waste dumping

Section 9 creates an offence for a person to unlawfully dispose of more than 20 litres of waste at a public or private place. As a guide if the waste disposed can fill more than a 20 litre bucket then the maximum penalty of *40 penalty units*. If the waste disposed of can fill more than a 205 litre drum or package then the maximum penalty of 165 penalty units applies.

Defence

Section 10 describes how it may be a defence against unlawful disposal of litter or waste if a person is able to show that they took all reasonable steps to prevent the disposal or that the person has a reasonable excuse as to why the disposal occurred.

PART 3—WASTE RECEIVAL AND DISPOSAL

Definition for pt 3

Section 11 provides a definition of “**waste facility**” for *part 3* of the regulation. A waste facility may include an environmentally relevant activity for recycling, incineration, storage or treatment of waste mentioned in *schedule 1* of the *Environmental Protection Regulation 1998*.

Unlawful disposal of waste at waste facility

Section 12 describes the wastes which can not be lawfully disposed of at a waste facility.

Subsection (1) list the types of wastes that can not be deposited at a waste facility.

Subsection (2) states that *subsection (1)* does not apply if the disposal is undertaken with the consent of the person who carries out the environmental authority for the facility or the person in charge of the facility. For instance, liquid waste may be disposed of to a landfill facility that is licensed to receive that waste or with the consent of the holder of the environmental authority. For the purposes of this section, if a development approval has been granted under the *Integrated Planning Act 1997* for a waste facility, then the person who holds a licence under *chapter 3, part 4A* of the *Environmental Protection Act 1994* may give consent.

Restrictions on burning waste at waste facility

Section 13 provides circumstances under which waste at a waste facility can be burnt. Circumstances where a person may set fire to waste are if it is under an environmental authority relating to that waste facility or under the provisions of the *Fire and Rescue Authority Act 1990*. At any other times, waste must not be burnt or set on fire.

Restriction on use of waste facility

Section 14 outlines the restrictions on the use of a waste facility.

Subsection (1) states the circumstances relating to the use of the waste facility. For instance, a person can not enter the facility other than to deposit waste, without the consent of the owner or operator of the waste facility.

Subsection (2) states that the provisions of *subsection (1)* do not apply if the person is the owner or operator of that facility or is an authorised person.

Waste transporter to comply with directions and give information

Section 15 sets out the requirements for a waste transporter at a waste facility.

Subsection (1) states that this section applies to a person who transports waste to a waste facility.

Subsection (2) states the requirements that a waste transporter must comply with. A waste transporter must—

- comply with all signage that is reasonable and relevant and has been displayed by the owner or operator of the facility;
- deal with the waste in accordance with any reasonable instructions given by the person in charge of the facility; and
- when requested, give information to the person in charge of the facility relating to the type and amount of waste being delivered.

PART 4—WASTE TRACKING

Division 1—Preliminary

Object of pt 4

Section 16 states the object of this part.

Subsection (1) describes the object of this part as it applies to the transportation of certain regulated waste.

Subsection (2) allows the administering authority to collect sufficient information regarding the transportation of regulated waste so that the environmental risks from the waste can be managed.

Subsection (3) requires that people involved in the transportation of waste keep records, pass on information to other people involved in the transportation and give information regarding the wastes transported to the administering authority.

Waste transportation to which this part applies

Section 17 outlines the wastes to which this part applies.

Subsection (1) states that this part applies to the transportation of certain regulated waste described in *schedule 1* of the regulation as trackable waste.

Subsection (2) describes when this part of the regulation does not apply. For instance, this part does not apply to the transportation of—

- trackable wastes by pipeline; or
- trackable wastes to a place for use as stock food; or
- trackable waste to a farm to use as soil conditioner or fertiliser; or
- trackable waste of less than 250 kg and undertaken as a non-commercial activity.

Waste handlers

Section 18 states who are the waste handlers for the transportation of wastes to which this part applies.

Subsection (1) describes who is the “**generator**”, “**transporter**” and “**receiver**” in the transport of waste listed in *schedule 1* of the regulation.

Subsection (2) states that where the same person acts in more than one role of “**generator**”, “**transporter**” or “**receiver**” the person must comply with the requirements of each capacity in which they are acting.

Division 2—Prescribed matters for the giving of information**Prescribed information**

Section 19 states that the prescribed information required to be recorded or given to the administering authority or another waste handler is described in *schedule 2* of the regulation.

Prescribed way of giving information

Section 20 describes how the information is to be given. It states that the information can be either given in the prescribed form or given in another way that is approved by the administering executive.

Prescribed time to give information

Section 21 describes the time frame within which information is to be given to the administering authority. If the information is given in the prescribed form, the prescribed time is 7 days. If the information is given in another approved way, the prescribed time is the time specified on the approval.

Division 3—Obligations of waste handlers***Subdivision 1—Transportation within Queensland*****Application of sdiv 1**

Section 22 describes the application of this subdivision. This subdivision applies to the transportation of trackable waste within Queensland borders.

Responsibilities of generator

Section 23 describes the responsibilities of the waste generator.

Subsection (1) describes the actions of a generator when giving the waste to a transporter. The generator must record the prescribed information and give that information to the transporter.

Subsection (2) describes how and when the generator must give to the administering authority the information required under *subsection (1)(a)* in the prescribed way and within the prescribed time after giving the waste to the transporter.

Subsection (3) states that the generator must keep a record of the information in *subsection (1)(a)* for at least 5 years.

Responsibilities of transporter

Section 24 describes the responsibilities of the waste transporter.

Subsection (1) states that while transporting the waste in Queensland, the transporter must carry information that has been received from the generator under *section 23*.

Subsection (2) describes the actions of a transporter when giving the waste to a receiver. The transporter must record the prescribed information and give that information to the receiver.

Subsection (3) describes the actions to be taken when a discrepancy between the information received from the generator (under *section 23*) and the information given to the receiver is noted. As soon as possible after noting the discrepancy, the transporter must give written notice to the administering authority.

Subsection (4) states that the transporter must keep a record of the information in *subsection (2)(a)* for at least 5 years.

Responsibilities of receiver

Section 25 states the responsibilities of the waste receiver.

Subsection (1) states that the receiver must record the prescribed information about the waste when it is received from the transporter.

Subsection (2) describes how and when the receiver must give to the administering authority the information required under *subsection (1)*.

Subsection (3) describes the actions to be taken when a discrepancy in the information received from the transporter (under *section 24*) is noted. As soon as possible after noting the discrepancy, the receiver must give written notice to the administering authority.

Subsection (4) states that the receiver must keep a record of the information in *subsection (1)* for at least 5 years.

Responsibilities of waste handler acting in more than 1 capacity

Section 26 describes the responsibilities of a waste handler who acts in more than one capacity.

Subsection (1) describes the responsibilities of a waste handler if that person is both the generator and the transporter. It states which sections and subsections of this part do not apply and the circumstances under which the remaining sections of this part apply.

Subsection (2) describes the responsibilities of a person if that person is both the transporter and the receiver. The application of various sections and subsections under this part are stated.

Subdivision 2—Transportation into Queensland

Application of sdiv 2

Section 27 describes the application of this subdivision. This subdivision applies to the transportation of trackable wastes when generated outside Queensland and transported to a receiver in Queensland.

Responsibilities of transporter

Section 28 describes the responsibilities of a transporter carrying waste into Queensland that has been generated outside Queensland.

Subsection (1) states that waste must not be transported into Queensland unless the administering authority has assigned a consignment number to that load.

Subsection (2) states that the transporter must obtain information relating to the load (other than a load number) from the generator before the waste is transported into Queensland. The information to be obtained is stated in *section 23(1)(b)* of the regulation.

Subsection (3) states that while the transporter is transporting waste in Queensland, documentation containing the consignment number and the information from the generator must be carried.

Subsection (4) states the responsibilities of the transporter when the waste is given to the receiver. The transporter must record the prescribed information about the waste and give the receiver this information.

Subsection (5) describes the action to be taken by the transporter when a discrepancy is noted. As soon as possible after noting the discrepancy, the transporter must give written notice of the discrepancy to the administering authority.

Subsection (6) states that the transporter must keep record of the prescribed information for at least 5 years.

Responsibilities of receiver

Section 29 describes the responsibilities of the receiver of waste generated outside Queensland.

Subsection (1) describes the action by the receiver when the transporter gives them the waste. The receiver must record the prescribed information about the waste.

Subsection (2) describes how the receiver is to deal with the prescribed information. The receiver must give the information to the administering authority within a certain time and in a certain way, after receiving it from the transporter.

Subsection (3) describes the action to be taken by the receiver when a discrepancy in the information received from the transporter (under *section 28*) is noted. As soon as possible after noting the discrepancy, the receiver must give written notice of the discrepancy to the administering authority.

Subsection (4) states that the receiver must keep record of the prescribed information for at least 5 years.

Responsibilities of waste handler acting in more than 1 capacity

Section 30 describes the responsibilities of a waste handler if that person is both the transporter and the receiver. It states which sections and subsections of this part do not apply and the circumstances under which the remaining sections of this part apply.

Subdivision 3—Transportation out of Queensland**Application of sdiv 3**

Section 31 describes the application of this subdivision. This subdivision applies to trackable waste that is generated in Queensland and transported to a receiver outside Queensland.

Responsibilities of generator

Section 32 describes the responsibilities of the generator within Queensland.

Subsection (1) describes the responsibilities of the generator when giving the waste to the transporter. The generator must record the prescribed information about the waste and give that information to the transporter.

Subsection (2) describes the responsibilities of the generator in forwarding prescribed information to the administering authority, after giving the information to a transporter, within a certain time and in a certain way.

Subsection (3) states that the generator must keep record of the prescribed information for at least 5 years.

Responsibilities of transporter

Section 33 describes the responsibility of a transporter carrying waste generated in Queensland to a receiver outside Queensland.

Subsection (1) describes the responsibilities of the transporter while transporting the waste in Queensland. The transporter must carry a

document containing the information received from the generator, under *section 32*.

Subsection (2) describes the action to be taken by the transporter when a discrepancy in the information received from the generator (under *section 32*) is noted. As soon as possible after noting the discrepancy, the transporter must give written notice of the discrepancy to the administering authority.

Responsibilities of waste handler acting in more than 1 capacity

Section 34 describes the responsibilities of a person if that person is both the generator and the transporter. It states which sections and subsections of this part do not apply and the circumstances under which the remaining sections of this part apply.

Division 4—Miscellaneous

Application of provisions to agents

Section 35 describes how the provisions apply to agents.

Subsection (1) states the application of this section. This section applies to a waste handler who is required, under *division 3*, to do something and the waste handler enters into a written agreement with another person (for that other person to do the thing for the waste handler) and the agreement states that the agent is aware of *subsection (3)* of this section.

Subsection (2) states the conditions under which the waste handler would have a defence against contravention of the waste tracking provision. It is a defence if the waste handler has an agreement with the agent and the contravention was directly caused by the failure of the agent to do something in compliance with the agreement.

Subsection (3) describes when the waste tracking provision applies to the agent. The provision applies where the agent has agreed to do something that is required by the provision, as if reference to the waste handler was a reference to the agent.

Giving information to administering authority in prescribed form

Section 36 describes the provisions applying to the prescribed form.

Subsection (1) describes the action of the chief executive in preparing forms. These forms are the prescribed forms for use in giving information to the administering authority.

Subsection (2) states that each form must be uniquely marked so that number is used as the load number.

Subsection (3) states that the chief executive must make the forms available at the head office of the department.

Subsection (4) states that if a person obtains a prescribed form from the chief executive and uses that form to give information to the administering authority under *division 3* about the transportation of trackable waste, then the number that is marked on the form under *subsection (2)* is the load number for that waste.

Approval of ways of giving information to the administering authority

Section 37 describes the approval of ways of giving information to the administering authority.

Subsection (1) states that a person may apply for approval to the administering authority for approval of a particular way of giving information to the administering authority under *division 3*.

Subsection (2) describes what the applicant must do. The applicant must give to the administering executive the information required to decide the application and pay the reasonable fee required within the time stated by the executive.

Subsection (3) states that if *subsection (2)* is not complied with, the application lapses.

Subsection (4) states that the way of giving information may be approved if the administering executive is satisfied that the way is reliable, timely, effective and efficient and the information will be secure while it is being given. The administering executive must also be satisfied that the information will be given in a form that enables the authority to access,

record and otherwise deal with the information. A system for assigning a unique load number to each load must be included.

Subsection (5) states that the approval may be given on reasonable conditions.

Subsection (6) states that the approval must specify the timeframe in which the information is to be given.

Subsection (7) states that the application is refused if the administering executive does not decide by the due day.

Subsection (8) states that the applicant is the dissatisfied person for the decision.

Subsection (9) states that the administering executive must record details of the approved way on the register.

Subsection (10) states the administering executive may approve a way of giving information even if no one has applied for approval.

Subsection (11) defines “**due day**” for deciding an application in this section as being the sixtieth day after the application has been made. It does not include any day that the administering executive has asked for information, a day the applicant gives the requested information or any days in between. The “**due day**” may also be a later day agreed on by the administering executive and the applicant.

Consignment numbers for waste transported into Queensland

Section 38 sets out how consignment numbers are to be applied for.

Subsection (1) states that a person may apply to the administering executive for a consignment number for a load of trackable waste that is being transported into Queensland from another State.

Subsection (2) states that the application must be made in the approved form.

Subsection (3) states that the applicant must give to the administering executive information that the executive requests, including—

- information mentioned in *schedule 2, section 1*, about the load; and

- information that the executive reasonably requires to make a decision about the application under *subsection (4)* of this section.

Subsection (4) states that the administering executive must grant the application if it is satisfied that the stated intended treatment of the waste is lawful and that the stated intended receiver has an environmental authority under the Act to conduct the intended treatment.

Subsection (5) states that if the application is granted, a consignment number must be assigned by the executive and written notice of the consignment number must be given to the applicant.

Subsection (6) states that if the application is not decided by the due day, it is taken as a refusal of the application by the executive.

Subsection (7) states that a decision on the application is a decision under *chapter 6, part 3* of the Act, and the applicant is the dissatisfied person.

Subsection (8) provides definitions for “**due day**” and “**intended treatment**” as they apply to deciding an application under this section.

Exemptions

Section 39 describes the exemptions that may be given under this part.

Subsection (1) states that a person can apply for an exemption for the transportation of a particular trackable waste, if that waste has not already been granted an exemption under *section 17(2)*.

Subsection (2) states that the person must give the administering authority any information that it reasonably requires to decide the application.

Subsection (3) states that the administering authority may grant the application if it is satisfied that the waste does not show any environmentally significant characteristics.

Subsection (4) states that reasonable conditions may be attached to the exemption.

Subsection (5) states that if the administering authority has not decided the application by the due day, then the application is taken to be refused.

Subsection (6) states that a decision on the application is a decision under *chapter 6, part 3* of the Act, and the applicant is the dissatisfied person.

Subsection (7) states that the administering authority must record the details of each exemption given under this section on the register.

Subsection (8) provides definitions for “**due day**”, “**environmentally significant characteristic**” and “**NEPM**” as they apply to this section.

Emergencies

Section 40 provides a defence for persons breaching this part in certain emergency situations, including under emergency direction.

Trackable waste to be given to licensed transporter

Section 41 provides an offence for a person to give trackable waste to someone else to transport in a vehicle if it is commercially or in a load of more than 250 kg, unless that person is satisfied that the transporter holds an environmental authority to transport the waste.

Generator identification number

Section 42 states that the administering executive must provide a person with a generator identification number when an application has been lodged.

PART 5—MANAGEMENT OF CLINICAL AND RELATED WASTES

This part provides detail for the management of clinical and related wastes, from the point of generation through to treatment and ultimate disposal. The provisions are in accordance with the general recommendations contained in the National Health and Medical Research Council guidelines for the Management of Clinical and Related Wastes.

Division 1—Clinical and related waste management plans**Clinical and related waste management plan required**

Section 43 describes the facilities that are required under this part to prepare a clinical and related waste management plan. These facilities include hospitals, blood banks, multi-service medical clinics and laboratories. The term hospital includes a dental hospital or a hospice.

Contents of plan

Section 44 outlines the requirements for the development of a clinical and related waste management plan.

Subsection (1) states that the person preparing the clinical and related waste management plan must have regard for the waste management hierarchy and principles.

Subsection (2) describes the matters that a person developing a clinical and related waste management plan should consider when developing a plan. Such matters include, conduction of a waste audit to collect baseline data, waste segregation procedures, waste storage requirements and strategies for promoting the plan within the organisation.

Requirement for plan to be maintained

Section 45 states that the review period for a clinical and related waste management plan is at least every 5 years. Plans may be reviewed and amended more frequently as, for example, options for waste treatment change, the health care facility is renovated or re-use or recycling schemes within the facility commence.

Division 2—Managing clinical and related waste**Segregation of waste**

Section 46 provides the requirement for segregation of clinical or related wastes.

Subsection (1) outlines the different segregation categories for clinical and related waste.

Subsection (2) states it is a defence not to segregate waste if the treatment or disposal facility receiving the waste holds an environmental authority to accept the highest level of waste present under *subsection (1)*. For instance, wastes requiring a higher level of treatment or disposal (eg. cytotoxic waste) must not be mixed with wastes requiring a lower level of treatment or disposal (eg. general waste) unless the higher level of treatment or disposal is used for **all** that waste mix.

Design requirements for waste containers

Section 47 states containers used for the collection, storage, transportation or disposal of clinical and related waste must meet the requirements of *schedule 4* of this regulation. For instance clinical waste is to be placed into yellow containers, cytotoxic into purple and radioactive into red. Wastes such as human body parts and pharmaceutical waste should be placed into an appropriate container for the treatment or disposal method.

Sending waste to waste disposal or treatment facility

Section 48, subsection (1) states that clinical or related waste is not to be given to a person for treatment or disposal unless that person holds an environmental authority to receive the waste.

Subsection (2) provides a defence for *subsection (1)*. For instance cytotoxic waste must not be given to a treatment or disposal facility unless that facility is licensed to accept cytotoxic waste—being licensed to treat clinical waste is not an authority to treat cytotoxic waste.

Disposal of sharps

Section 49 provides requirements for the disposal of hypodermic needles and sharps.

Subsection (1) states that *subsection (2)* applies to—

- (a) a person generating a hypodermic needle, at a domestic premise,

that has been in contact with human or animal blood and tissue or body fluids; or

- (b) a person generating a hypodermic needle at a place other than a domestic premise; or
- (c) a person generating a sharp at premises where skin penetration activities are undertaken, under the *Health Regulation 1996 (Part 15—Skin penetration)*

Paragraphs (a) and (b) do not apply to any other sharp other than a hypodermic needle. Paragraph (c) applies to all sharps, including hypodermic needles.

Subsection (2) states that the hypodermic needles or sharps mentioned in *subsection (1)* must be placed into a rigid-walled, puncture-resistant container and that the person must seal or securely close the container. It is a breach of this section if a hypodermic needle or sharp is not placed into a container for disposal. For instance, a person is in breach of these provisions if that person disposes of a hypodermic needle in a park and does not place that hypodermic needle in a container at the place, but disposes of it onto the ground.

Subsection (3) states that *subsection (4)* applies to a person who discards a needle or sharp at premises that generate clinical or related waste.

Subsection (4) states that sharps or needles discarded at premises mentioned in *subsection (3)* must be placed into a container that complies with either the Australian Standard for Reusable Containers (AS/NZS 4261-1994) or the Australian Standard for Non-Reusable Containers (AS 4031-1992).

Subsection (5) states that any person disposing of a needle or sharp must ensure that needle or sharp is inaccessible. This means that the contents of the container into which the needle or sharp is placed must be inaccessible to any other person.

Storage area for clinical or related waste

Section 50 describes the requirements for a clinical or related waste storage area. It states that an area for storing the waste must be set aside and that the waste can not be stored in any place other than that area. The

storage area must only be accessible to authorised people. For the purposes of this provision, waste disposal at ward level is not considered to be storage. This includes, for example, patient bedside waste bins and waste containers in public areas.

Clinical waste to be removed within 7 days

Section 51 provides requirements for the length of time that clinical waste can be stored at the generating premises. This section does not apply to related wastes such as cytotoxic and pharmaceutical product waste. There is no legislated time frame for the storage of these wastes.

Subsection (1) states that clinical waste can not stored at a premise that generates clinical and related waste for longer than 7 days without the approval of the administering authority. Waste can be stored for less than 7 days without requiring approval.

Subsection (2) states that a person operating a premise generating clinical waste can apply to the administering authority for approval of a longer time to store clinical waste for *subsection (1)*.

Subsection (3) describes the issues the administering authority must consider when deciding the application. These issues include the type and amounts of waste generated, the facilities available for storage, treatment and disposal and the way and place the waste is stored.

Subsection (4) states that this is a decision to which *chapter 6, part 3* of the *Environmental Protection Act 1994* applies, and that the applicant is the dissatisfied person.

Treatment of clinical or related waste

Section 52 states that clinical or related waste must be treated and disposed of in accordance with the treatment and disposal methods described in *schedule 5* of this regulation. For instance, cytotoxic waste must be treated by high temperature incineration prior to disposal to landfill—it can not be disposed of directly to landfill.

Prohibition on use of waste chutes for movement of clinical or related waste

Section 53 describes when a waste chute at a premises generating clinical or related waste can not be used. A waste chute can not be used to moved clinical or related waste.

**PART 6—MANAGEMENT OF POLYCHLORINATED
BIPHENYLS (PCBs)**

This part defines PCBs, classifies PCB material according to the amount and concentration of PCBs in it and in general provides provisions for management and phasing out of PCBs. The provisions are in accordance with the requirements set by the ANZECC-developed national *PCB Management Plan* (1996 and 1999 versions).

Division 1—Preliminary**Definitions for pt 6**

Section 54 provides definitions for terms used in this part. The definitions for “**licensed disposal facility**” or “**licensed treatment facility**” include facilities operated by a person licensed under *chapter 3, part 4A* of the *Environmental Protection Act 1994* to dispose of PCB waste or to treat PCB material.

Types of PCB material

Section 55 describes types of PCB material.

Subsection (1) states that this part applies to PCB material according to the amount and concentration of PCBs in it.

Subsection (2) classifies PCB material as either scheduled or non-scheduled, according to the concentration and amount of PCBs present within the material.

Subsection (3) states that PCB material is scheduled if it contains at least 50 g of PCBs with a concentration of 50 mg/kg.

Subsection (4) states that scheduled PCB material is concentrated if the concentration of PCBs is at least 100 000 mg/kg. Scheduled PCB material contains at least 50 g of PCB.

Deciding if material or equipment is PCB-free

Section 56 outlines the circumstances under which material or equipment can be considered to be PCB-free.

Subsection (1) states that equipment is PCB-free if there is no PCB material in the equipment and the surface concentration of PCB of the contaminated metal does not exceed 1 mg/m². Material is PCB-free if it is not a PCB material.

Subsection (2) requires that the chief executive must prepare guidelines explaining the method of measuring surface concentration and ensure that copies of the guidelines are available on request.

Subsection (3) provides a definition for PCB contaminated metal.

Division 2—Treatment of PCB material

Treatment of PCB material only at licensed facilities

Section 57 states that PCB material must only be treated at licensed facilities.

Subsection (1) states that a person must not dilute, disaggregate or treat PCB material in any way at any place other than a licensed facility.

Subsection (2) provides for exemptions from treatment requirement. If PCB material is removed from equipment or equipment containing PCBs is retrofilled for the purpose of continued operation of the equipment, then these activities are not considered as treatment of PCB material.

Division 3—Disposal of PCB waste

Scheduled PCB waste must be sent for treatment

Section 58 requires a person generating scheduled PCB material to send it for treatment.

Subsection (1) requires that a person who generates scheduled PCB waste must arrange for treatment of the waste at a licensed facility within 1 year after the waste is generated.

Subsection (2) provides a defence for a person having a reasonable excuse for not complying with *subsection (1)*. It is a reasonable excuse that there is no licensed treatment facility in Queensland or in Australia, to which the waste can be given within 1 year after it is generated.

Subsection (3) requires that a person who generates scheduled PCB waste and has a reasonable excuse for not complying *subsection (1)* must arrange for treatment of the waste at a licensed treatment facility as soon as practicable.

Disposal of PCB waste to a landfill

Section 59 prohibits disposal of concentrated PCB waste, scheduled PCB waste or liquid PCB waste into a landfill.

Division 4—Duties of occupier of place with scheduled PCB material

Application

Section 60 explains that the provision for notification applies to a person who occupies a place where more than 10 kg of PCBs in scheduled PCB material are held.

Notice to administering authority

Section 61 provides for a person to give a notice to the administering authority.

Subsection (1) details information to be provided to the administering authority.

Subsection (2) states that a person must give further notice to the administering authority if there is a change in the information given by the person under this section.

Subsection (3) requires that the administering authority must record on the register the information notified under this section.

Subsection (4) provides a definition for “**prescribed information**” under this section.

Emergency plan

Section 62 provides for the preparation of an emergency plan.

Subsection (1) requires that a person must prepare an emergency plan and keep it up to date.

Subsection (2) provides a definition for “**emergency plan**” and “**relevant incident**” and details the contents of an emergency plan.

Division 5—Equipment containing PCB material

Chief executive must prepare guidelines for identifying prohibited equipment

Section 63 requires that the chief executive prepare guidelines for identifying equipment containing concentrated or scheduled PCB material and ensure that the guidelines are adequately publicised among relevant people who may in the course of a business, use or otherwise deal with equipment containing PCB material.

Use of equipment containing concentrated PCB material

Section 64, subsection (1) prohibits the use of equipment containing concentrated PCB material.

Subsections (3) to (11) specify under what conditions exemption may be given and the process of giving an exemption.

Use of equipment containing scheduled PCB material

Section 65 prohibits the use of equipment containing scheduled PCB material that is not concentrated. Use of equipment containing concentrated PCB material is prohibited under *section 64, subsection (1)*.

Dealing with equipment that is no longer used

Section 66 describes how equipment that is no longer used is to be dealt with.

Subsection (1) is applicable to the owner of equipment containing PCB material.

Subsection (2) details responsibilities of the owner of equipment containing PCB material after the equipment is taken permanently out of service. Depending on the types of PCB material within the equipment, the owner must deal with the equipment according to the prescribed way.

Subsection (3) provides a defence for a person having a reasonable excuse for not complying with *subsection (2)*.

Subsection (4) requires that if a person has a reasonable excuse for not complying with *subsection (2)*, the person must deal with equipment containing PCB material in the way required by *subsection (2)* as soon as practicable.

PART 7—MISCELLANEOUS

Prohibition on use of non-complying waste equipment

Section 67 provides restrictions on the use of non-complying waste equipment.

Subsection (1) states that this section applies to a person who holds an environmental authority for an ERA for waste management under the *Environmental Protection Regulation 1998* (items 75-85) or a person who performs waste management works under *section 118B* of the *Environmental Protection Act 1994*.

Subsection (2) states that the person must not use waste equipment, for which design rules are specified in *schedule 8*, to carry out the activity, unless the equipment complies with the design rules.

Requirements for transporting waste

Section 68 states that a person who transports waste in a vehicle must ensure that the waste is loaded in such a manner that prevents its release from the vehicle into the environment. For instance, waste loaded onto a trailer must be covered or prevented from blowing or falling off the trailer in some other manner.

PART 8—TRANSITIONAL PROVISIONS

Transitional—definition “trackable waste” for intrastate transportation

Section 69 provides a transitional provision for trackable wastes for the purposes of intrastate transportation.

Subsection (1) states that this section applies to *part 4, division 3, subdivision 1* of this regulation.

Subsection (2) provides a list of trackable wastes that will not be tracked until 1 July 2002 if they are transported within Queensland. If these wastes are transported interstate, the tracking provisions for interstate transport apply.

Subsection (3) provides the expiry date for this transition section. After the 30 June 2002 movement within Queensland of waste exempted in *subsection (2)* will be subject to the tracking requirements of the regulation.

Transitional—clinical and related waste management plans

Section 70 relates to the preparation of clinical and related waste management plans.

Subsection (1) applies to a person operating a facility that is listed in *part 5, section 43* of this regulation.

Subsection (2) states that a clinical and related waste management plan does not have to be prepared for 12 months after the commencement of this regulation.

Transitional—waste equipment

Section 71 relates to waste equipment approvals given under the *Environmental Protection (Interim Waste) Regulation 1996*.

Subsection (1) states that this section applies if a person mentioned in *section 67* (ie. the person holds an environmental authority to undertake an ERA under items 75–85, or the person performs waste management works under *section 118B* of the Act), holds an approval given under the *Environmental Protection (Interim Waste) Regulation 1996* for waste equipment, and design rules for that equipment are stated in *schedule 8*.

Subsection (2) states that this waste equipment is taken to comply with the design rules.

Transitional—scheduled PCB waste in storage

Section 72 applies to scheduled PCB waste in storage.

Subsection (1) states that this section applies to a person who is storing scheduled PCB waste when *section 58* commences.

Subsection (2) states that *section 58* applies to the person as if the person generated the waste on the day that *section 58* commenced.

Transitional—dealing with equipment that is no longer used

Section 73 applies to equipment that is no longer used.

Subsection (1) states that this section applies to a person who owns

equipment that contained PCB material and has permanently removed that equipment from operational use, on the commencement of *section 66*.

Subsection (2) states that *section 66* applies to the person as if the equipment were permanently removed from operational use on the day that *section 66* commenced.

PART 9—AMENDMENT OF ENVIRONMENTAL PROTECTION REGULATION 1998

Regulation amended in pt 9

Section 74 states *part 9* amends the *Environmental Protection Regulation 1998*.

Amendment of s 6A (Environmentally relevant activity—waste disposal)

Section 75 requires the person who carries out the environmentally relevant activity mentioned in *schedule 1, item 75(c)* must supervise a burial of untreated clinical waste. The National Health and Medical Research Council Guidelines on Clinical and Related Waste approve of the supervised burial of such wastes. It also states that a person must not take untreated clinical waste to a facility mentioned in *schedule 1, item 75(c)* unless the waste has been generated in a scheduled area. For instance, the generating premise and landfill may be in the same scheduled area or the generating premise may be in one scheduled area and the landfill in another scheduled area. This makes allowance for premises in neighbouring scheduled areas who may wish to share storage facilities and costs associated with transport and disposal. However, a generating premise can not be in a non-scheduled area and dispose of waste to a landfill in a scheduled area.

Amendment of 6F (General definition)

Section 76 amends the general definition of unlawful environmental

nuisance to exclude environmental nuisance permitted under a condition of a development approval. A condition of a development approval refers to a condition imposed on a development approval under the *Integrated Planning Act 1997* by an administering authority under the *Environmental Protection Act 1994* acting as an assessment manager or concurrence agency.

Insertion of new pt 5, div 6A

Section 77 this section deems existing approvals for environmentally relevant activity 75(a) in scheduled areas to also have approval for environmentally relevant activity 75(c). This provision means that persons operating a facility for environmentally relevant activity 75(a) do not have to apply for a new approval to operate the facility for the purposes of environmentally relevant activity 75(c).

Amendment of sch 1 (Levels 1 and 2 environmentally relevant activities and licence fees)

Section 78 this section amends *schedule 1* of the *Environmental Protection Regulation 1998*.

Subsection (1) inserts a new environmentally relevant activity for the disposal of untreated clinical waste in scheduled areas.

Subsection (2) amends terminology under *schedule 1, item 76(d)*. Where “infectious substances” appear, the term “clinical waste” is substituted.

Amendment of sch 7 (Regulated wastes)

Section 79 amends *schedule 7 (Regulated wastes)* of the *Environmental Protection Regulation 1998*.

Insertion of new sch 8B

Section 80 inserts a schedule of local governments areas defined as “scheduled areas”.

Amendment of sch 9 (Dictionary)

Section 81 amends definitions in the *Environmental Protection Regulation 1998*.

**PART 10—ENVIRONMENTAL PROTECTION
(INTERIM WASTE) REGULATION 1996****Regulation amended in pt 10**

Section 82 states *part 10* amends the *Environmental Protection (Interim Waste) Regulation 1996* (interim waste regulation).

Amendment of s 6 (Requirements for waste containers etc.)

Section 83 omits *sections 6(2A) and (2B)* of the interim waste regulation.

Omission of ss 9–11

Section 84 omits *sections 9 to 11* of the interim waste regulation.

Omission of ss 14 and 15

Section 85 omits *sections 14 and 15* of the interim waste regulation.

Replacement of pt 2, div 4, hdg

Section 86 inserts a new heading of the interim waste regulation.

Omission of ss 17–18

Section 87 omits *sections 17 and 18* of the interim waste regulation.

Omission of s 21 (Requirements for disposal of industrial waste)

Section 88 omits section 21 of the interim waste regulation.

Omission of pt 2, divs 5 and 6

Section 89 omits divisions 5 and 6 of part 2 of the interim waste regulation.

Amendment of s 56 (Use of sanitary conveniences)

Section 90 omits section 56(4) of the interim waste regulation.

**PART 11—AMENDMENT OF JUSTICES
REGULATION 1993****Regulation amended in pt 11**

Section 91 states part 11 amends the Justices Regulation 1993.

Amendment of sch 1 (Nominated laws for infringement notice offences)

Section 92 lists nominated laws for “infringement notice offences” and the associated “infringement notice penalty”.

**PART 12—AMENDMENT OF STANDARD
SEWERAGE LAW****Law amended in pt 12**

Section 93 states part 12 amends the Standard Sewerage Law.

Amendment of s 73 (limitations on local government approval)

Section 94 enables local government to issue an approval under the *Standard Sewerage Law* for sewerage facilities (chemical, composting and incinerating toilets) that comply with the design rules in the *Environmental Protection (Waste Management) Regulation 2000*.

Amendment of s 74 (Standard for on-site sewage facilities)

Section 95 amends *section 74(1)(a)* to make it an offence to build, install, or operate a sewerage facility (chemical, composting or an incinerating toilet) that does not comply with the design rules in the *Environmental Protection (Waste Management) Regulation 2000*.

Schedule 1: is a list of trackable wastes and assigns a waste code for each waste.

Schedule 2: prescribes the information, the generator, transporter and receiver must record at each stage of waste tracking.

Schedule 3: is a list of characteristics of controlled wastes from the *National Environment Protection (Movement of Controlled Waste between States and Territories) Measure*.

Schedule 4: states the design requirements for waste containers used in premises generating clinical and related waste.

Schedule 5: states the treatment and disposal methods for the various categories of clinical and related waste

Schedule 6: is a list of disposal and treatment codes for waste tracking.

Schedule 7: is a list of waste origin codes for waste tracking.

Schedule 8: states the design rules for waste equipment.

Schedule 9: contains the definitions for terms used throughout the regulation.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Environmental Protection Agency.