

Queensland



Explanatory Notes for SL 2000 No. 180

Environmental Protection Act 1994

ENVIRONMENTAL PROTECTION (WASTE MANAGEMENT) POLICY 2000

Short title

Environmental Protection (Waste Management) Policy 2000.

Authorising law

This explanatory note pertains to the *Environmental Protection (Waste Management) Policy 2000* under the *Environmental Protection Act*. Chapter 2 of the Act provides the head of power to make this policy.

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 policy is, in turn, to provide the basis of effective and efficient administration and enforcement of the object and provisions of the Act for the management of waste.

Achieving the policy objectives of the policy

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

- identification of environmental values to be enhanced or protected;
- a framework for the administering authority to make consistent and fair decisions that ensure waste is managed in a way which—
 - is consistent with ecologically sustainable development;
 - has a minimal impact of the environment and in particular, human health;
 - minimises the amount of waste generated;
 - promotes efficiency in the use of resources;
 - promotes the maximum use of wastes as a resource;
 - achieves continuous improvement in the standard of waste management activities;
- the preparation of waste management programs to minimise the amount of waste and promote efficiency in the use of resources;
- provide for industry waste reduction programs to be developed; and
- provide for government planning for waste management.

Consistency with the policy objectives of other legislation

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

The requirement under the *Statutory Instruments Act* 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) Policy 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 policy 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 principals. These principals require that the legislation have 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 policy

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) Policy 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 policy**” means the *Environmental Protection (Waste Management) Policy 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) Policy 2000*.

Commencement

Section 2 states the commencement date for the policy is 1 July 2000.

Definitions

Section 3, the dictionary in *schedule 2* of the policy clarifies the interpretation of the policy by defining the terms used.

PART 2—APPLICATION AND OBJECT

Application of policy

Section 4 states that the policy applies to the environment generally.

Object of the policy

Section 5 states that the object of the policy is manage waste under the principles of ecologically sustainable development.

How object is achieved

Section 6 describes the way in which the object is to be achieved. The policy objectives are to be met by the policy providing, amongst other

things, for the following—

- identification of environmental values to be enhanced or protected;
- a framework for the administering authority to make consistent and fair decisions that ensure waste is managed in a way which—
 - is consistent with ecologically sustainable development;
 - has a minimal impact of the environment and in particular, human health;
 - minimises the amount of waste generated;
 - promotes efficiency in the use of resources;
 - promotes the maximum use of wastes as a resource;
 - achieves continuous improvement in the standard of waste management activities.
- the preparation of waste management programs to minimise the amount of waste and promote efficiency in the use of resources;
- provide for industry waste reduction programs to be developed; and
- provide for government planning for waste management.

Environmental values to be enhanced or protected

Section 7 describes the environmental values to be enhanced or protected. These environmental values are—

- the life, health and well-being of people;
- the diversity of ecological processes and associated ecosystems; and
- land use capability, having regard to economic considerations.

PART 3—WASTE MANAGEMENT HIERARCHY AND PRINCIPLES

Division 1—Preliminary

Introduction

Section 8 explains the waste management hierarchy and principles for managing waste that best achieve the object of the Act.

Subsection (2) states that the hierarchy and principles are relevant to—

- making certain environmental decisions concerning waste;
- the preparation of waste management programs as a condition of an environmental authority;
- the preparation of an industry waste reduction program; and
- government waste management planning.

Exceptions to application of hierarchy and principles

Section 9 describes the exceptions to the application of the waste management hierarchy and principles. *Subsection (1)* states that the waste management hierarchy does not apply to a person who adopts the practices under the hierarchy in a different order if that way does not cause more environmental harm or create a risk of greater environmental harm.

Subsection 2 states that the product stewardship principle does not apply if the *National Environment Protection (Used Packaging Material) Measure* applies or if the person is a signatory to the *National Packaging Covenant*.

Division 2—Hierarchy and principles

Waste management hierarchy

Section 10 describes the practices under the waste management hierarchy.

These practices are, in order—

- waste avoidance
- waste re-use
- waste recycling
- energy recovery from waste
- waste disposal.

Subsection (2) states that the waste management hierarchy sets out the framework for the prioritisation of waste management practices so that the best environmental outcome is achieved.

Schedule 1 explains the types of practices under the waste management hierarchy and gives examples of how they may be applied.

Polluter pays principle

Section 11 provides a definition for the polluter pays principle. The polluter pays principle states that all costs associated with the management of wastes should, where practicable, be borne by the generator of the waste. Costs associated with management of the waste may include the costs of—

- minimising the amount of waste generated;
- containing, treating and disposing of waste; and
- rectifying environmental harm that has been caused by the waste.

User pays principle

Section 12 provides a definition for the user pays principle. The user pays principle states that all costs associated with the use of a resource should, where practicable, be included in the price of the goods and services that result from that use. This includes government services. An amount received from a government as, for example, a subsidy, grant or similar payment that would reduce the costs, is to be disregarded when deciding a cost associated with the use of a resource.

Product stewardship principle

Section 13 provides a definition for the product stewardship principle. The product stewardship principle states that—

- the producer of a product should plan its design and production in order to minimise the environmental harm that may be caused by waste generated from the production, proper use or disposal of the product; and
- the importer of a product should take all reasonable steps to minimise the environmental harm that may be caused by waste that is generated as a result of the importation, proper use or disposal of the product.

**PART 4—ENVIRONMENTAL MANAGEMENT
DECISIONS CONCERNING WASTE****Decisions to which this part applies**

Section 14, subsection (1) applies to the administering authority in 4 decision processes, namely—

- (a) deciding an application for a *chapter 3, part 4* environmental authority;
- (b) deciding the conditions of a *chapter 3, part 3* environmental authority;
- (c) whether to approve or refuse a draft environmental management program.

Subsection (2) states that this part applies when the administering authority is assessing an application for a development approval mentioned in *section 60Z* of the Act.

Generating waste

Section 15 provides that where there is or may be generation of waste under the authority, program or approval, the administering authority must consider segregation, emission controls, storage and monitoring and reporting. In doing this, the administering authority must have regard to any cleaner production program, the application of the waste management hierarchy and principles to management of the waste and any waste management strategic plan in force for the relevant local government area.

Transporting waste

Section 16 requires the administering authority to consider various issues where waste is or may be transported under the authority, program or approval. These are the type of waste, the transport equipment, waste sampling, monitoring and reporting, emergency response planning and record keeping.

Receiving waste

Section 17 states that where waste is or may be received under the authority, program or approval, the administering authority must consider, the type of waste, its segregation, storage, monitoring and reporting, emergency response planning and record keeping. The administering authority must also have regard to the application of the waste management hierarchy and principles to management of the waste.

PART 5—WASTE MANAGEMENT PROGRAMS**Definitions for pt 5**

Section 18 defines “**authorised activity**” and “**holder**” of an environmental authority.

Program may be required as a condition of an environmental authority

Section 1, subsection (1) gives the administering authority the right to impose a condition on a *chapter 3, part 4* environmental authority holder to prepare a waste management program for the authorised activities.

Under *subsection (2)*, a reasonable time must be allowed to prepare the *program* and *subsection (3)* outlines the particular matters which may be included in the condition. The condition may also provide for reviewing the program and submitting copies or reporting to the administering authority.

Decision about requirement to prepare a program

Section 20 describes the administering authority's decision about the requirement to prepare a program. The administering authority must, in relation to the waste which is generated or is likely to be generated, consider the types and amounts of waste, its likely environmental impact, any hazardous characteristics, the holder's intentions as regards dealing with the waste.

Matters to be considered when preparing a program

Section 21 describes that the holder of an environmental authority to prepare a waste management program, must have regard to the waste management hierarchy and principles and any waste management strategic plan in force for the relevant local government area.

**PART 6—INDUSTRY WASTE REDUCTION
PROGRAMS****Purpose of program**

Section 22 describes the purpose of an industry waste reduction program.

Who may prepare an industry waste reduction program

Section 23, subsection (1) states who may prepare an industry waste reduction program.

Subsection (2) lists the things to be addressed in an industry waste reduction program.

Matters to consider when preparing a program

Section 24 requires an industry waste reduction program to address the waste management hierarchy and principles.

**PART 7—WASTE MANAGEMENT STRATEGIC
PLANNING BY GOVERNMENTS***Division 1—Local governments***Object of division**

Section 25 states the object of this division.

Plan must be prepared and implemented

Section 26 states how a waste management strategic plan must be prepared.

Cooperative plans

Section 27 states that two or more local governments may prepare a joint plan to cover all of their areas.

Matters to be considered when preparing a plan

Section 28 states the matters to be considered when preparing a plan.

Review of plan

Section 29 states the review period for a plan.

Amendment of plan

Section 30 describes the circumstances in which a local government may amend its plan.

Public consultation

Section 31 describes public consultation requirements for plans.

Copy of plan and amendments given to chief executive

Section 32 requires local government to give the chief executive a copy of a new plan or any significant amendments to the plan.

Inspection of plan

Section 33 states the requirements for inspection or purchase of a plan.

Annual report

Section 34 describes those matters that must be addressed in an annual report by the local government to the chief executive.

Division 2—State government departments**Object of this division**

Section 35 states the object of this division.

Plan must be prepared and implemented

Section 36 states how a plan must be prepared and implemented.

Matters to be considered when preparing a plan

Section 37 states matters to be considered when preparing a plan.

Review of plan

Section 38 states the review period for a plan.

Amendment of plan

Section 39 describes the circumstances in which a local government may amend its plan.

Annual report to address waste management

Section 40 states the requirements for annual reports by State government departments.

PART 8—MISCELLANEOUS**Transitional—first annual report about local government waste management**

Section 41 permits local governments two years to prepare their first plan addressing matters for the first two years of operation.

Review of policy

Section 42 state the review procedures for the *Environmental Protection (Waste Management) Policy 2000*.

Schedule 1 Waste management hierarchy describes each of the waste management practices in the waste management hierarchy.

Schedule 2 Dictionary provides a definition for terms used in the *Environmental Protection (Waste Management) Policy 2000*.

ENDNOTES

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