

14. Grant of permit

- (1) Subject to this section, the Minister may, in his discretion, grant, or refuse to grant, a permit to a person who has made an application in accordance with section 13.
- (2) The Minister shall give a decision under subsection (1) on an application for a permit within 90 days after the application is made.
- (3) A permit for dumping or loading shall not be granted in respect of any wastes or other matter to which Annex I to the Convention applies except where, in the opinion of the Minister, there is an emergency posing an unacceptable risk relating to human health and admitting of no other feasible solution.
- (4) In considering the granting of a permit for dumping or loading, the Minister shall have regard to —
 - (a) the factors set forth in Annex III to the Convention;
 - (b) in a case to which Section B of Annex II to the Convention applies, the matters set out in that Section; and
 - (c) in a case to which Section D of Annex II to the Convention applies, any recommendations referred to in that Section.
- (5) A permit for incineration at sea of wastes or other matter listed in Annex I to the Convention shall not be granted except in accordance with the Regulations for the Control of Incineration of Wastes and Other Matter at Sea set forth in the Addendum to that Annex and, in considering the granting of such a permit, the Minister shall take full account of the Technical Guidelines on the Control of Incineration of Wastes and Other Matter at Sea adopted by the Contracting Parties to the Convention in consultation.
- (6) A permit for incineration at sea of wastes or other matter listed in Annex II to the Convention shall not be granted except in accordance with the Regulations for the Control of Incineration of Wastes and Other Matter at Sea set forth in the Addendum to Annex I to the Convention, to the extent that those regulations are applicable, and, in considering the granting of such a permit, the Minister shall take full account of the Technical Guidelines on the Control of Incineration of Wastes and Other Matter at Sea adopted by the Contracting Parties to the Convention in consultation, to the extent that those guidelines are applicable.
- (7) Before granting a permit for dumping, the Minister may require the applicant to enter into an agreement with the State that includes provisions of any, or all, of the following kinds —
 - (a) a provision that the applicant will, at his own expense, undertake such research and monitoring as is specified in the agreement, being research and monitoring relating to the consequences of the release into the marine environment through the proposed dumping operation of any contaminants;
 - (b) a provision that the applicant will investigate, as specified in the agreement, the possibility of avoiding or reducing the need for further dumping by him;
 - (c) a provision that the applicant will reimburse the State the amount, as ascertained by the Minister, of any expense incurred by the State in

undertaking research, monitoring or investigation of a kind referred to in a preceding paragraph;

- (d) a provision that the applicant will reimburse the State the amount, as ascertained by the Minister, of any expense incurred by the State in supervising any research, monitoring or investigation undertaken by the applicant in accordance with the agreement;
 - (e) a provision that, if the applicant fails, or neglects, to carry out any research, monitoring or investigation as required by the agreement —
 - (i) the State may undertake the necessary research, monitoring or investigation, as the case may be; and
 - (ii) in that event, the applicant will reimburse the State the amount, as ascertained by the Minister, of the expense incurred by the State in connection with such undertaking;
 - (f) a provision that the applicant is to give a security to the State for the payment of any amount that he may become liable to pay to the State under the agreement;
 - (g) a provision that the applicant will report to the Minister the results of any research, monitoring or investigation undertaken by him in accordance with the agreement.
- (8) Before granting a permit, the Minister shall —
- (a) ensure that section 55 of the *Environmental Protection Act 1971*³ is complied with as if —
 - (i) the Minister were the responsible Minister within the meaning of that section; and
 - (ii) the application for that permit were a proposed development, project, industry or other thing which may have a detrimental effect on the environment and which comes to the notice of the Minister,and shall consider any report communicated to him under subsection (3) of that section;
 - (b) in the case of a permit for dumping into port waters, obtain the consent in writing of —
 - (i) if the port waters concerned are those of a port as defined by the *Shipping and Pilotage Act 1967*, the department of the Public Service principally assisting the Minister in the administration of that Act; or
 - (ii) if the port waters concerned are those of a port under the control of a port authority constituted or established by an Act, that port authority;
 - (c) in the case of a permit for dumping into that part of the territorial sea of Australia that is within coastal waters, consult —
 - (i) the Department of Fisheries and Wildlife in relation to fisheries matters; and
 - (ii) the Department of Mines⁴ in relation to mining matters;

- (d) if he considers it necessary to do so, consult the Public Works Department⁵ or any other Government Department with hydrographic or bathymetric expertise; and
 - (e) if he considers it necessary to do so when considering the suitability of alternative methods of disposal of any wastes or other matter or of any vessel, aircraft or platform, consult one or more local governments.
- (9) A permit granted under this section shall be expressed, in accordance with the Convention, to be either a general permit or a special permit.

[Section 14 amended by No. 47 of 1993 s. 34; No. 14 of 1996 s. 4.]