



Western Australia

## **Environmental Protection Regulations 1987**

Compare between:

[01 Jul 2013, 07-c0-00] and [21 Aug 2013, 07-d0-00]



Western Australia

Environmental Protection Act 1986

## Environmental Protection Regulations 1987

### Part 1 — Preliminary

*[Heading inserted in Gazette 13 Sep 1996 p. 4545.]*

**1. Citation**

These regulations may be cited as the *Environmental Protection Regulations 1987*<sup>1</sup>.

**2. Commencement**

These regulations shall come into operation on the day on which section 3 of the *Environmental Protection Act 1986* comes into operation<sup>1</sup>.

**2AA. Terms used**

In these regulations, unless the contrary intention appears —

***Departmental library*** means the Department's library located at The Atrium, 168 St George's Terrace, Perth, Western Australia;

***head office*** means the premises of the Authority at Level 8, The Atrium, 168 St George's Terrace, Perth, Western Australia.

*[Regulation 2AA inserted in Gazette 29 Sep 2006 p. 4261.]*

**Part 2 — Administrative matters**

*[Heading inserted in Gazette 13 Sep 1996 p. 4545.]*

**2A. Draft policies, where and when public may inspect  
(Act s. 26(1)(d))**

For the purposes of section 26(1)(d) of the Act —

- (a) the places at which a draft policy will be available for public inspection are —
  - (i) the Departmental library; and
  - [(ii) deleted]*
  - (iii) the premises of the Department at SGIO Building, Welcome Road, Karratha, Western Australia 6714; and
  - (iv) the premises of the Department at 165 Gilmore Avenue, Kwinana, Western Australia 6167; and
  - (v) the premises of the Department at 10th Floor, Bunbury Tower, 61 Victoria Street, Bunbury, Western Australia, 6231; and
  - (vi) the premises of the Department at 5 Burges Street, Geraldton, Western Australia, 6530;

and

- (b) the period during which a draft policy will be available for public inspection is the period of 21 days commencing on the last day on which a notice is published under that section in respect of the draft policy.

*[Regulation 2A inserted in Gazette 5 May 1989 p. 1379; amended in Gazette 24 Jan 1992 p. 362; 11 Dec 1998 p. 6598; 29 Sep 2006 p. 4261.]*

**2B. Minutes of EPA, public inspection of**

- (1) In this regulation —

*exempt matter* means matter that is exempt under the *Freedom of Information Act 1992* Schedule 1;

*minute* means a minute of proceedings of a meeting of the Authority.

- (2) Subject to subregulation (4), a minute relating to a matter is to be made available for public inspection after the expiration of 6 months from the day on which the minute was made.
- (3) The Authority may determine that a particular minute contains exempt matter.
- (4) No part of a minute that is the subject of a determination referred to in subregulation (3) is to be made available to a person under subregulation (2) unless a decision has been made pursuant to an access application under the *Freedom of Information Act 1992* that the person is to be given access to the minute or part of the minute.
- (5A) The Authority may revoke a determination made under subregulation (3).
- (5) Minutes are to be made available for public inspection during normal office hours at the head office and the Departmental library.

*[Regulation 2B inserted in Gazette 5 May 1995 p. 1701-2; amended in Gazette 11 Dec 1998 p. 6598; 29 Sep 2006 p. 4261; 27 Nov 2012 p. 5738.]*

## **2C. Proposals of prescribed class (Act s. 38)**

For the purposes of section 38(5) and (5c) of the Act, a proposal which involves a significant —

- (a) discharge of waste; or
- (b) emission of noise, odour or electromagnetic radiation,

into the environment is a proposal of a prescribed class.

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*[Regulation 2C inserted in Gazette 11 Oct 1996 p. 5395;  
amended in Gazette 27 Nov 2012 p. 5738.]*

**3. Details prescribed for records of proposals (Act s. 39(1));  
where and when public may inspect records**

- (1) The Authority shall in a public record of a proposal kept by it under section 39(1) of the Act set out —
  - (a) the title or number or other means of identification of the proposal; and
  - (b) the name of, or the office or position held or acted in by, the proponent of the proposal.
- (2) The Authority shall cause each public record kept by it under section 39(1) of the Act to be made available for public inspection at the head office, between the hours of 8 a.m. and 5 p.m. on any day which is not a Saturday, Sunday or public service holiday or a public holiday appointed or declared for the Perth area.

*[Regulation 3 amended in Gazette 24 Jan 1992 p. 362;  
11 Dec 1998 p. 6598.]*

**[3A.** *Deleted in Gazette 27 Nov 2012 p. 5738.]*

### Part 3 — Control of pollution generally

[Heading inserted in Gazette 13 Sep 1996 p. 4545.]

#### 4. Terms used; amounts of units for fees

- (1) In this Part, unless the contrary intention appears —
- best practice criteria** means criteria specified by the Chief Executive Officer that require the establishment and implementation of —
- (a) an environmental policy; and
  - (b) environmental performance objectives; and
  - (c) continual improvement programmes; and
  - (d) environmental management and audit plans; and
  - (e) other measures that the Chief Executive Officer considers necessary for good environmental performance and management;
- category** means a category of premises specified in Schedule 1;
- licence** means a licence under Part V of the Act;
- licence period** means —
- (a) in relation to an application for a licence — the period to which the application relates;
  - (b) in relation to a licence — the period covered by the licence.
- (2) A reference in this Part to a kind of waste is a reference to both the type of waste and the nature of its discharge into the environment.
- (3) A reference in this Part or a Schedule to a category followed by a designation is a reference to the category so designated in the first column of Schedule 1.

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- (4) A reference in Part 3 of Schedule 4 to the Swan Coastal Plain is a reference to the area defined in Schedule 1 to the *Environmental Protection (Swan Coastal Plain Lakes) Policy Approval Order 1992*<sup>2</sup>.
- (5) In regulations 5B, 5C, 5CB, 5D, 5DA and 5F and in Schedule 3 fee amounts are expressed in units or fractions of a unit, one unit being equivalent to the amount specified in column 2 of the Table to this subregulation during the period specified in column 1 of that Table.

**Table**

<b>Column 1 Period</b>	<b>Column 2 \$</b>
Beginning on 1 July 2013 and ending on 30 June 2014	30.40
Beginning on 1 July 2014 and ending on 30 June 2015	31.60
Beginning on 1 July 2015 and ending on 30 June 2016	32.90
Beginning on 1 July 2016 and ending on 30 June 2017	34.20
On and from 1 July 2017	35.60

- (6) In Schedule 4 Part 1 fee amounts are expressed in units or fractions of a unit and, for a financial year, one unit is equivalent to the amount specified in column 2 of the Table to this subregulation for that year.

**Table**

<b>Column 1 Period</b>	<b>Column 2 \$</b>
Beginning on 1 July 2013 and ending on 30 June 2014	30.40
Beginning on 1 July 2014 and ending on 30 June 2015	31.60
Beginning on 1 July 2015 and ending on 30 June 2016	32.90



Beginning on 1 July 2016 and ending on 30 June 2017	34.20
On and from 1 July 2017	35.60

- (7) In Schedule 4 Parts 2 and 3 fee amounts are expressed in units or fractions of a unit and, for a financial year, one unit is equivalent to the amount specified in column 2 of the Table to this subregulation for that year.

**Table**

Column 1 Period	Column 2 \$
Beginning on 1 July 2013 and ending on 30 June 2014	42.60
Beginning on 1 July 2014 and ending on 30 June 2015	44.30
Beginning on 1 July 2015 and ending on 30 June 2016	46.10
Beginning on 1 July 2016 and ending on 30 June 2017	47.90
On and from 1 July 2017	49.80

*[Regulation 4 inserted in Gazette 13 Sep 1996 p. 4546; amended in Gazette 12 Sep 1997 p. 5150; 4 Aug 2000 p. 4199-200; 9 Sep 2003 p. 4053; 22 Jun 2004 p. 2143-4; 12 Oct 2004 p. 4755; 22 Jun 2007 p. 2839-41; 18 Jun 2013 p. 2294-5.]*

**5. Premises prescribed (Act Part V)**

The premises specified in Schedule 1 are prescribed premises for the purposes of Part V of the Act.

*[Regulation 5 inserted in Gazette 13 Sep 1996 p. 4546.]*

**5A. Registration of Sch. 1 Part 2 premises, effect and cancellation of etc.**

- (1) An occupier of premises specified in Part 2 of Schedule 1 may apply for registration of those premises under regulation 5B.

**r. 5A**

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- (2) An occupier who so applies does not commit an offence under section 56 of the Act in respect of those premises while the application is pending.
- (3) If premises specified in Part 2 of Schedule 1 are registered under regulation 5B, section 56 of the Act does not apply to the occupier of those premises.
- (4) If premises specified in Schedule 1 Part 2 are registered under regulation 5B and the Chief Executive Officer is satisfied that the occupier of the premises —
  - (a) has been convicted in any court of an offence —
    - (i) against the Act or regulations made under the Act; and
    - (ii) that relates to the premises;
  - or
  - (b) has operated, conducted, managed, or controlled the premises in a manner which is detrimental to the environment,

the Chief Executive Officer may, by notice in writing served on the occupier of the premises, cancel the registration of the premises.

- (5) If the registration of premises is cancelled under subregulation (4), the occupier of the premises may apply to the Chief Executive Officer in writing in a form approved by the Chief Executive Officer for reinstatement of the registration.
- (6) The Chief Executive Officer may reinstate the registration if the occupier satisfies the Chief Executive Officer that the occupier will not —
  - (a) contravene a provision of the Act or regulations made under the Act that relate to the premises; or
  - (b) operate, conduct, manage, or control the premises in a manner which is detrimental to the environment.

- (7) If the registration of the premises is reinstated under subregulation (6), section 56 of the Act does not apply to the occupier of those premises.

*[Regulation 5A inserted in Gazette 13 Sep 1996 p. 4546;  
amended in Gazette 15 Aug 2000 p. 4711-12.]*

**5B. Registration of premises, application for etc.**

*[(1) deleted]*

- (2) An application for registration of premises is to be —
- (a) in a form approved by the Chief Executive Officer; and
  - (ab) made by the occupier of the premises; and
  - (b) accompanied by a plan showing the boundaries of the land on which the premises are situated and the layout of the premises; and
  - (c) accompanied by a fee of 24 units unless the occupier of the premises holds a licence in respect of the premises.
- (3) The Chief Executive Officer is to grant an application made under subregulation (2) and enter details of the registered premises in a register kept for that purpose.
- (4) A person who becomes the occupier of registered premises and who does not —
- (a) notify the Chief Executive Officer of that fact within 30 days of becoming the occupier; and
  - (b) include with the notification a recording fee of 2 units,
- commits an offence.  
Penalty: \$5 000.

**r. 5C**

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- (5) On receipt of a notification and fee under subregulation (4), the Chief Executive Officer is to make the necessary alterations to the register.

*[Regulation 5B inserted in Gazette 13 Sep 1996 p. 4546-7; amended in Gazette 11 Dec 1998 p. 6599; 15 Aug 2000 p. 4712; 8 May 2012 p. 1893.]*

**5C. Fees prescribed for works approval and transfer of works approval (Act s. 54(1) and 64(1))**

- (1) The fee prescribed for the purposes of section 54(1)(b) of the Act is the appropriate fee specified in Schedule 3 determined on the basis of the cost of the works that are the subject of the application.
- (2) In determining the cost of works for the purposes of this regulation, no account is to be taken of —
- (a) the cost of land; or
  - (b) the cost of buildings to be used for purposes unrelated to the purposes in respect of which the premises are, or will become, prescribed premises; or
  - (c) consultancy fees paid or to be paid in relation to those works.
- (3) For the purpose of section 64(1)(b) of the Act the fee prescribed for the transfer of a works approval is 2 units.

*[Regulation 5C inserted in Gazette 13 Sep 1996 p. 4547; amended in Gazette 15 Aug 2000 p. 4712.]*

**5CA. Fee for works approval, CEO may waive**

If, in respect of an application for a works approval under section 54 of the Act, the Chief Executive Officer is satisfied that the environmental performance and management of the premises to which the application relates conform to best practice criteria, the Chief Executive Officer may waive any amount otherwise payable under regulation 5C(1) in respect of the works approval.

*[Regulation 5CA inserted in Gazette 15 Aug 2000 p. 4713.]*

**5CAA. Manner of advertising prescribed (Act s. 54(2a))**

- (1) For the purposes of section 54(2a) of the Act, the CEO is to advertise the application for a works approval in an advertisement published in a newspaper circulated daily in the State.
- (2) The advertisement is to include —
  - (a) a statement indicating submissions about the application may be sent to the Department of Environment<sup>3</sup> at the address and within the time period specified in the advertisement; and
  - (b) the following particulars —
    - (i) the category of prescribed premises under Schedule 1 that describes the main function of the premises to which the application relates;
    - (ii) the name of the applicant;
    - (iii) the locality of the premises to which the application relates;
    - (iv) the reference number for the application.

*[Regulation 5CAA inserted in Gazette 23 Nov 2004 p. 5222-3.]*

**5CB. Replacement of expiring licence, application for**

- (1) An application for a licence to replace an existing licence on the expiry of the existing licence must be made by the licence holder of the existing licence more than 70 days before the day on which the existing licence expires.
- (2) A licence holder who makes an application described in subregulation (1) 70 days or less than 70 days before the expiry of the existing licence but more than 42 days before the expiry must pay a late application fee of 10 units.

**r. 5D**

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- (3) A licence holder who makes an application described in subregulation (1) 42 days or less than 42 days before the expiry of the existing licence must pay a late application fee of 20 units.

*[Regulation 5CB inserted in Gazette 22 Jun 2004 p. 2144.]*

**5D. Prescribed premises, fee for licence for**

- (1) The total amount of the fee for a licence in respect of prescribed premises is the sum of the following amounts — the amount for each financial year, or part of a financial year, in the licence period worked out under subregulation (1a) (reduced pro rata for a part of a financial year).
- (1a) Subject to subregulations (3) and (4) and regulation 5G (the maximum fee), the amount for a financial year is the sum of the paragraph (a) amount and the larger of the paragraph (b) amount and the paragraph (c) amount —
- (a) the amount specified in the third column of Part 1 of Schedule 4 for the financial year for the relevant category, and the relevant production or design capacity (where applicable), of the premises specified in the first and second columns of that Part;
  - (b) in respect of premises within category 5, 6, 7, 8, 9, 12, 14, 44, 46, 53, 54A, 70, 80 or 85B, where the operation of the premises involves the discharge of Part 2 waste — the amount specified in the second column of Part 2 of Schedule 4 for the financial year for the relevant quantity of such waste specified in the first column of that Part that is permitted to be discharged from the premises;
  - (c) the amount for the financial year is the sum of the following amounts — the amount worked out under regulation 5E for each kind of waste to be discharged from the premises.

- (2) If any premises occupied by the same person, as determined by the Chief Executive Officer, fall within more than one category specified in the first column of Part 1 of Schedule 4, the amount payable in respect of those premises under subregulation (1a)(a) is that appropriate to the category in respect of which the higher or highest amount is payable.
- (3) No amount is payable under subregulation (1a)(c) in respect of bitterns discharges or discharges from category 14 premises.
- (4) No amount is payable under subregulation (1a)(c) in respect of water discharge from category 6 premises.
- (5) For the purpose of section 64(1)(b) of the Act the fee prescribed for the transfer of a licence is 2 units.
- (6) In this regulation and Schedule 4 —  
**Part 2 waste** means waste consisting of —
  - (a) tailings; or
  - (b) bitterns; or
  - (c) water to allow mining of ore; or
  - (d) flyash; or
  - (e) waste water from a desalination plant.

*[Regulation 5D inserted in Gazette 13 Sep 1996 p. 4547; amended in Gazette 10 Dec 1996 p. 6876-7; 15 Aug 2000 p. 4713; 22 Jun 2004 p. 2144-5; 13 Dec 2005 p. 5982-3; 22 Jun 2007 p. 2841.]*

**5DA. Payment of licence fees**

- (1) An application for a licence for a period of one year or less must be accompanied by the total amount of the fee worked out under regulation 5D.
- (2) An application for a licence for a period of more than one year must be accompanied by the fee for the first year of the licence period, worked out under regulation 5D as if the licence period were that first year.

**r. 5E**

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- (3) For a licence for a period of more than one year, the licence holder must, before each anniversary of the grant of the licence, pay the fee for the subsequent period (the shorter of the remainder of the licence period or the next year), worked out under regulation 5D as if the licence period were that subsequent period.
- (4) If the licence holder does not pay a fee under subregulation (3) on time but pays it within one month after the anniversary before which the fee should have been paid, the licence holder must pay, in addition to the fee under subregulation (3), a late payment fee of 10 units.
- (5) If the licence holder does not pay a fee under subregulation (3) within one month after the anniversary before which the fee should have been paid, the licence ceases to have effect.

*[Regulation 5DA inserted in Gazette 22 Jun 2004 p. 2145-6.]*

**5E. Amount in r. 5D(1a)(c), calculation of**

- (1) Subject to this regulation, the amount under regulation 5D(1a)(c) for a financial year for a particular kind of waste is to be worked out under Part 3 of Schedule 4 on the basis of the rate at which the waste is permitted to be discharged from the premises during the licence period — the rate (in the units specified for that kind of waste in Part 3 of Schedule 4) being the quantity of waste permitted to be discharged from the premises during the licence period averaged over the licence period.
- (2) If, in respect of an application for a licence, the Chief Executive Officer is satisfied that the quantity of a particular kind of waste discharged from the premises in the year immediately preceding the licence period has been accurately measured, the rate in subregulation (1) in respect of such waste may, at the discretion of the Chief Executive Officer, be determined on the basis of the quantity so measured averaged over a period of one year.



- (3) If, in respect of an application for a licence, the Chief Executive Officer is satisfied that —
- (a) the applicant has put in place appropriate procedures for the accurate measurement of the quantity of a particular kind of waste to be discharged from the premises; and
  - (b) the quantity of such waste to be discharged from the premises during the licence period has been accurately calculated,

the rate in subregulation (1) in respect of such waste may, at the discretion of the Chief Executive Officer, be determined on the basis of that quantity averaged over the licence period.

- (4) If an approved policy specifies standards for the discharge of a particular kind of waste and those standards apply to premises which are the subject of an application for a licence, the amount for the financial year in respect of such waste, as determined under subregulation (1), (2) or (3), is increased by 50% for those premises.

*[Regulation 5E inserted in Gazette 13 Sep 1996 p. 4548; amended in Gazette 22 Jun 2004 p. 2146-7; 22 Jun 2007 p. 2841.]*

**5EA. Fees under r. 5D(1a)(b) and (c), CEO may waive**

If, in respect of an application for a licence, the Chief Executive Officer is satisfied that the environmental performance and management of the premises to which the application relates conform to best practice criteria, the Chief Executive Officer is to waive any amount otherwise payable under regulation 5D(1a)(b) or (c) in respect of the licence.

*[Regulation 5EA inserted in Gazette 12 Sep 1997 p. 5150; amended in Gazette 22 Jun 2004 p. 2147.]*

**r. 5EB**

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**5EB. Fees under r. 5D, CEO may waive**

If in respect of an application for a licence, the Chief Executive Officer is satisfied that the production or design capacity of the premises is so small that it would be unreasonable to impose a fee, the Chief Executive Officer is to waive any amount otherwise payable under regulation 5D in respect of the licence.

*[Regulation 5EB inserted in Gazette 15 Aug 2000 p. 4713.]*

**5F. Fee under r. 5D(1a)(c) if discharged waste is harmless**

- (1) Despite regulation 5D(1a)(c), an amount of 25 units for the financial year may be paid in respect of waste to be discharged onto land instead of the amount worked out under regulation 5E, if the Chief Executive Officer is satisfied that the method of discharge renders the waste harmless to the environment.

*[(2) deleted]*

*[Regulation 5F inserted in Gazette 13 Sep 1996 p. 4548; amended in Gazette 22 Jun 2004 p. 2147; 22 Jun 2007 p. 2841.]*

**5G. Maximum fees under r. 5D(1a)**

- (1) For the purposes of regulation 5D(1a), the amount for a financial year cannot exceed the maximum amount for the financial year worked out in accordance with this regulation.
- (2) If the amount worked out under regulation 5D(1a)(c) is predominantly attributable to the discharge of waste into air or onto land and the total amount or a component of that total amount is subject to the increase specified in regulation 5E(4) — the maximum fee for the financial year is the amount specified in column 2 of the Table to this subregulation for the financial year.

**Table**

<b>Column 1</b>	<b>Column 2</b>
<b>Financial year</b>	<b>\$</b>
Beginning on 1 July 2007 and ending on 30 June 2008	605 000.00

Beginning on 1 July 2008 and ending on 30 June 2009	705 000.00
Beginning on 1 July 2009 and ending on 30 June 2010	755 000.00
Beginning on 1 July 2010 and ending on 30 June 2011	805 000.00
Beginning on 1 July 2011 and ending on 30 June 2012	855 000.00
On and from 1 July 2012	905 000.00

- (3) If the amount worked out under regulation 5D(1a)(c) is predominantly attributable to the discharge of waste into air or onto land and neither the total amount nor a component of that total amount is subject to the increase specified in regulation 5E(4) — the maximum fee for the financial year is the amount specified in column 2 of the Table to this subregulation for the financial year.

**Table**

<b>Column 1</b> <b>Financial year</b>	<b>Column 2</b> <b>\$</b>
Beginning on 1 July 2007 and ending on 30 June 2008	550 000.00
Beginning on 1 July 2008 and ending on 30 June 2009	650 000.00
Beginning on 1 July 2009 and ending on 30 June 2010	700 000.00
Beginning on 1 July 2010 and ending on 30 June 2011	750 000.00
Beginning on 1 July 2011 and ending on 30 June 2012	800 000.00
On and from 1 July 2012	850 000.00

- (4) If the amount worked out under regulation 5D(1a)(c) is predominantly attributable to the discharge of waste into waters — the maximum fee for the financial year is the amount

**r. 5G**

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specified in column 2 of the Table to this subregulation for the financial year.

**Table**

<b>Column 1</b> <b>Financial year</b>	<b>Column 2</b> <b>\$</b>
Beginning on 1 July 2007 and ending on 30 June 2008	640 000.00
Beginning on 1 July 2008 and ending on 30 June 2009	740 000.00
Beginning on 1 July 2009 and ending on 30 June 2010	790 000.00
Beginning on 1 July 2010 and ending on 30 June 2011	840 000.00
Beginning on 1 July 2011 and ending on 30 June 2012	890 000.00
On and from 1 July 2012	940 000.00

- (5) If the amount worked out under regulation 5D(1a)(c) is equally attributable to the discharge of waste into air or onto land and the discharge of waste into waters — the maximum fee for the financial year is the amount specified in column 2 of the Table to this subregulation for the financial year.

**Table**

<b>Column 1</b> <b>Financial year</b>	<b>Column 2</b> <b>\$</b>
Beginning on 1 July 2007 and ending on 30 June 2008	640 000.00
Beginning on 1 July 2008 and ending on 30 June 2009	740 000.00
Beginning on 1 July 2009 and ending on 30 June 2010	790 000.00
Beginning on 1 July 2010 and ending on 30 June 2011	840 000.00
Beginning on 1 July 2011 and ending on 30 June 2012	890 000.00

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Column 1 Financial year	Column \$
On and from 1 July 2012	940 000.00

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*[Regulation 5G inserted in Gazette 22 Jun 2004 p. 2147-50;  
amended in Gazette 22 Jun 2007 p. 2841-3.]*

**5H. Partial refunds of fees for licences**

- (1) If an application for a licence is refused, the Chief Executive Officer is to —
- (a) deduct from the fee which accompanied the application such amount as the Chief Executive Officer considers reasonable to meet the administrative costs associated with determining the application; and
  - (b) refund the balance of the fee to the applicant.
- (2) If —
- (a) a fee paid in respect of a licence comprised an amount determined under regulation 5E(2) or (3); and
  - (b) the Chief Executive Officer is satisfied that the quantity of waste discharged from the premises during the term of the licence (the *actual discharge*) is less than the quantity used as the basis for determining that amount; and
  - (c) an application for a refund is made in writing in a form approved by the Chief Executive Officer by the person who is the licensee at the end of the term of the licence —
    - (i) on an application for another licence in respect of the same premises made within 3 months of the end of the term of the expired licence; or
    - (ii) within 3 months of the end of the term of the licence,

the Chief Executive Officer is to refund to the licensee the difference between the fee that would have been payable if the

amount under regulation 5E had been determined on the basis of the actual discharge and the fee paid.

- (3) If —
- (a) a fee paid in respect of a licence comprised an amount under regulation 5D(1)(b) or (c); and
  - (b) the Chief Executive Officer determines during the term of that licence that the environmental performance and management of the premises to which the licence relates conform to best practice criteria,

the Chief Executive Officer is to refund to the licensee an amount which bears the same proportion to the amount referred to in paragraph (a) as the unexpired portion of the term of licence (calculated from the day of the determination referred to in paragraph (b)) bears to the term of the licence.

*[Regulation 5H inserted in Gazette 13 Sep 1996 p. 4549; amended in Gazette 12 Sep 1997 p. 5150; 15 Aug 2000 p. 4713-14; 22 Jun 2004 p. 2150.]*

**5I. Certain matters relevant to fees to be determined by CEO**

For the purposes of determining the amount of a fee under this Part, any question relating to the cost of works, the production or design capacity of premises, or the kind or quantity of waste discharged or to be discharged from premises is to be determined by the Chief Executive Officer.

*[Regulation 5I inserted in Gazette 13 Sep 1996 p. 4549.]*

**5IA. Compliance with best practice criteria may be condition of licence (Act s. 62(1)(b))**

For the purposes of section 62(1)(~~b~~2) of the Act the Chief Executive Officer may specify as a condition of a licence that the licensee is to comply with best practice criteria in relation to the environmental performance and management of the premises to which the licence relates.

*[Regulation 5IA inserted in Gazette 12 Sep 1997 p. ~~5151~~5151;  
amended in Gazette 20 Aug 2013 p. 3856.]*

**5J. Manner of advertising prescribed (Act s. 57(2a))**

- (1) For the purposes of section 57(2a) of the Act, the CEO is to advertise the application for a licence in an advertisement published in a newspaper circulated daily in the State.
- (2) The advertisement is to include —
  - (a) a statement indicating submissions about the application may be sent to the Department of Environment<sup>3</sup> at the address and within the time period specified in the advertisement; and
  - (b) the following particulars —
    - (i) the category of prescribed premises under Schedule 1 that describes the main function of the premises to which the application relates;
    - (ii) the name of the applicant;
    - (iii) the locality of the premises to which the application relates;
    - (iv) the reference number for the application.

*[Regulation 5J inserted in Gazette 23 Nov 2004 p. 5223.]*

**5K. Details of discharge prescribed (Act s. 72(1))**

For the purposes of section 72(1) of the Act the prescribed details of a discharge of waste are —

- (a) the time and the address of the premises on or from which the discharge occurred and a map of the premises showing the location of the discharge; and
- (b) if the discharge of the waste was a result of the operation of equipment or otherwise, the name of the person operating the equipment or otherwise responsible for the discharge of the waste; and

**r. 5L**

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- (c) the composition of the waste; and
- (d) the quantity of the waste discharged; and
- (e) whether or not the discharge caused pollution and, if so, the nature and extent of the pollution; and
- (f) the action taken by the occupier of the premises to minimize the effect on the environment of the discharge of waste; and
- (g) whether or not the waste involved in the discharge has been removed, dispersed, destroyed, disposed of or otherwise dealt with, and if so, the manner in which the waste was removed, dispersed, destroyed, disposed of or otherwise dealt with.

*[Regulation 5K inserted in Gazette 11 Dec 1998 p. 6599.]*

**5L. Manner of notifying prescribed (Act s. 72)**

- (1) A notification to the Chief Executive Officer under section 72 of the Act may be given by telephone or facsimile.
- (2) If the notification is given by telephone, notification in writing must be given to the Chief Executive Officer as soon as practicable after the telephone notification.

*[Regulation 5L inserted in Gazette 11 Dec 1998 p. 6600.]*

**5M. Changes in information given to Department, occupier etc. to notify Department of**

- (1) If the occupier of premises registered under regulation 5B becomes aware —
  - (a) of a change in a material particular in the information provided in the application for the registration; or
  - (b) that the operation of the registered premises has changed in a material manner after the registration was granted,

the occupier must promptly notify the Department of the change in a form approved by the Chief Executive Officer.



- (2) If a person to whom a works approval has been granted under section 54 of the Act becomes aware of a change in a material particular in the information provided to the Department in the application for the works approval, or in the course of the processing of the application for the works approval, then the occupier must promptly notify the Department of the change in a form approved by the Chief Executive Officer.
- (3) If a person to whom a licence has been granted under section 57 of the Act becomes aware of a change in a material particular in the information provided to the Department in the application for the licence, or in the course of the processing of the application for the licence, then the occupier must promptly notify the Department of the change in a form approved by the Chief Executive Officer.
- (4) A person who contravenes subregulation (1), (2), or (3) commits an offence.  
Penalty: \$5 000.

*[Regulation 5M inserted in Gazette 15 Aug 2000 p. 4714-15.]*

**5N. Transitional provision (reduced fees)**

If a fee prescribed under this Part is paid by a person (the *payer*) on or after 1 October 1998 but before the *Environmental Protection Amendment Regulations (No. 3) 2000* come into force<sup>1</sup>, the Chief Executive Officer may refund to the payer the portion of the fee that exceeds the fee payable under this Part had those regulations come into force on 1 October 1998.

*[Regulation 5N inserted in Gazette 15 Aug 2000 p. 4715.]*

**5O. Reduction, waiver, or refund of fees, CEO's powers as to**

The Chief Executive Officer may reduce, waive, or refund, in whole or part, any fee referred to in these regulations relating to a works approval, licence, or registration.

*[Regulation 5O inserted in Gazette 15 Aug 2000 p. 4715.]*

## **Part 4 — Audible alarms**

*[Heading inserted in Gazette 13 Sep 1996 p. 4545.]*

**6. Period prescribed for audible alarms (Act s. 99(1)(a))**

For the purposes of section 99(1)(a), the prescribed period is 30 minutes.

## Part 5 — Appeals

*[Heading inserted in Gazette 13 Sep 1996 p. 4545.]*

### 7. Commencing appeals under Act Part VII, manner of

- (1) A person lodging an appeal under Part VII of the Act shall —
- (a) sign the appeal and address it to the Minister; and
  - (b) set out in the appeal —
    - (i) in the case of an appeal lodged under section 100 of the Act, the title or number or other means of identification of the relevant proposal and the name of, or the office or position held or acted in by, the proponent of that proposal; and
    - (ii) in the case of an appeal lodged under section 102 of the Act in respect of a works approval or licence, the name of the applicant or holder of the works approval or licence, as the case requires, and the location of the prescribed premises to which that application relates; and
    - (iii) in the case of an appeal lodged under section 103 of the Act, the name of the person on whom the relevant pollution abatement notice, or notice under section 65(4), was served and the location of the premises to which that pollution abatement notice or notice relates; and
    - (iv) in the case of an appeal lodged under section 104 of the Act, the name of the person on whom the relevant notice was served under section 96(1) or 97(1) of the Act and a description of the vehicle, vessel or equipment to which that notice relates; and
    - (v) the substance of the decision or matter the subject of the appeal; and
    - (vi) the name and address of the appellant for the service of notices;

and

- (c) lodge with the Minister —
  - (i) in the case of an appeal lodged under section 100, a fee of \$10; or
  - (ii) in the case of an appeal lodged under section 102, a fee of \$50; or
  - (iii) in the case of an appeal lodged under section 103 or 104, a fee of \$25.
- (2) The Minister may reduce, waive or refund, in whole or in part, any fee referred to in subregulation (1).
- (3) A person who has lodged an appeal under Part VII of the Act may withdraw the appeal after having given the Minister not less than 7 days' notice in writing of his intention to do so.

**8. Decisions on appeals, Minister to publish**

- (1) The Minister shall cause the details set out in subregulation (2) of his decisions on appeals lodged under Part VII of the Act to be published by causing those details to be made available for public inspection at the head office between the hours of 8 a.m. and 5 p.m. on any day which is not a Saturday, Sunday or public service holiday or a public holiday appointed or declared for the Perth area.
- (2) The details referred to in subregulation (1) are —
  - (a) in the case of an appeal lodged under section 100, the title or number or other means of identification of the relevant proposal and the name, or the office or position held or acted in by, the proponent of that proposal;
  - (b) in the case of an appeal lodged under section 102 of the Act in respect of a works approval or licence, the name of the applicant or holder of the works approval or licence, as the case required, and the location of the prescribed premises to which that application relates;

- (c) in the case of an appeal lodged under section 103 of the Act, the name of the person on whom the relevant pollution abatement notice, or notice under section 65(4), is served and the location of the premises to which that pollution abatement notice or notice relates;
- (d) in the case of an appeal lodged under section 104 of the Act, the name of the person on whom the relevant notice was served under section 96(1) or 97(1) of the Act and a description of the vehicle, vessel or equipment to which that notice relates;
- (e) if the name of the appellant is not a detail referred to in paragraph (a), (b), (c) or (d), that name;
- (f) a summary of the nature and grounds of the relevant appeal;
- (g) the decision of the Minister on the relevant appeal and the date of that decision.

*[Regulation 8 amended in Gazette 24 Jan 1992 p. 362;  
11 Dec 1998 p. 6600.]*

## **9. Decisions on appeals, persons to be notified of**

The Minister shall cause to be notified in writing of his decision on an appeal lodged under Part VII of the Act —

- (a) the appellant; and
- (b) any relevant decision-making authority; and
- (c) the Authority; and
- (d) the Chief Executive Officer; and
- (e) in the case of an appeal lodged under section 100 of the Act, the proponent of the relevant proposal; and
- (f) in the case of an appeal lodged under section 102 of the Act in respect of a works approval or licence, the applicant for or the holder of the works approval or licence, as the case requires; and

- (g) in the case of an appeal lodged under section 103 of the Act, the person on whom the relevant pollution abatement notice, or notice under section 65(4), was served; and
- (h) in the case of an appeal lodged under section 104, the person on whom the relevant notice was served under section 96(1) or 97(1) of the Act.

## Part 6 — Tyres

[Heading inserted in Gazette 13 Sep 1996 p. 4545.]

[10. Deleted in Gazette 31 Dec 1993 p. 6878.]

### 11. Terms used; calculating quantity of used tyres

- (1) In this regulation and regulations 12, 13, 13A, 14 and 15 —

**approved site** means a landfill site —

- (a) set apart by a local government under section 119 of the *Health Act 1911*; or
- (b) licensed under Part V of the Act; or
- (c) approved by the Chief Executive Officer;

**licensed premises** means a place that is prescribed premises under the Act, and in relation to which the licence is in force under the Act;

**storage** includes collection and deposit;

**tyre** means a tyre made whether wholly or partly of natural or synthetic rubber or similar material;

**Tyre Landfill Exclusion Zone** means the area comprising the local government districts specified in Schedule 5;

**tyre retailer** means a person who carries on a business which principally consists of the sale of tyres by retail or the fitting of tyres, or a combination of those activities.

- (2) For the purposes of these regulations, 2 m<sup>3</sup> of shredded, broken or pieces of used tyres shall be deemed to equal 100 used tyres and any multiple of 2 m<sup>3</sup> of shredded, broken or pieces of used tyres shall be deemed to be equal to the corresponding multiple of 100 used tyres and where an intermediate quantity of shredded, broken or pieces of used tyres occurs the equivalent number of used tyres shall be calculated by interpolation.

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- (3) For the purposes of these regulations the size of a tyre shall be disregarded when computing the number of tyres in question.

*[Regulation 11 inserted in Gazette 30 Aug 1991 p. 4554-5; amended in Gazette 12 Nov 1996 p. 6303; 10 Dec 1996 p. 6877.]*

**12. Disposal and storage of tyres prescribed as alteration of environment (Act s. 3(1) *pollution*)**

For the purposes of paragraph (c) of the definition of *pollution* in section 3(1) of the Act —

- (a) the disposal of tyres otherwise than in accordance with regulation 14;
- (b) the storage of used tyres —
  - (i) in any number exceeding 500 on a place used for or in connection with a tyre fitting business;
  - (ii) in any number exceeding 100 on any other place,

is a prescribed alteration of the environment.

*[Regulation 12 inserted in Gazette 30 Aug 1991 p. 4555; amended in Gazette 12 Nov 1996 p. 6303-4.]*

**13. Transport of used tyres for reward etc., when permitted**

- (1) A person shall not —
- (a) for gain or other reward; or
  - (b) in the course of any business carried on by that person, transport used tyres —
  - (c) for the purpose of storage except to a place that is licensed premises for that purpose; or
  - (d) for the purpose of disposal except to a place that is established for that purpose.

Penalty: \$5 000.



- (2) For the purposes of subregulation (1) a person is deemed to transport used tyres in the course of business whether the transport of used tyres is the principal business carried on by that person or is only incidental to any other business carried on by that person.

*[Regulation 13 inserted in Gazette 30 Aug 1991 p. 4555; amended in Gazette 11 Dec 1998 p. 6600.]*

### **13A. Tyre retailer not to damage used tyres**

- (1) A tyre retailer shall not, except in accordance with written approval given by the Chief Executive Officer —
- (a) cut or otherwise damage a used tyre; or
  - (b) cause or permit a used tyre to be cut or otherwise damaged,

in such a manner as to render the tyre unsuitable for retreading.

Penalty: \$5 000.

- (2) For the purposes of subregulation (1) the Chief Executive Officer may give approval subject to such conditions specified in the approval as the Chief Executive Officer thinks fit.

*[Regulation 13A inserted in Gazette 12 Nov 1996 p. 6304; amended in Gazette 11 Dec 1998 p. 6600.]*

### **14. Disposal of tyres, permitted means for**

- (1) Tyres may be disposed of —
- (a) by incineration if —
    - (i) the emissions from the chimney of that incinerator do not exceed the following levels —

particulate matter	50 mg/m <sup>3</sup>
carbon monoxide	1 g/m <sup>3</sup>
zinc	3 mg/m <sup>3</sup>
cadmium	3 mg/m <sup>3</sup>
aluminium	3 mg/m <sup>3</sup>
dioxins	5 parts per thousand

million

or such other levels as are approved by the Chief Executive Officer; and

- (ii) smoke discharged does not exceed a shade of 1 when compared with the Australian Miniature Smoke Chart (AS 3543 1989);

or

- (b) by the method described in subregulation (2) at an approved site located —

- (i) in the Tyre Landfill Exclusion Zone if the written approval of the Chief Executive Officer has first been obtained; or
- (ii) in any local government district outside the Tyre Landfill Exclusion Zone;

or

- (c) by any other method of disposal approved by the Minister on the advice of the Chief Executive Officer.

- (2) For the purposes of subregulation (1)(b) tyres may be disposed of by burial under a final soil cover of not less than 500 mm —
  - (a) in batches separated from each other by at least 100 mm of soil and each consisting of not more than 40 m<sup>3</sup> of tyres reduced to pieces; or
  - (b) in batches separated from each other by at least 100 mm of soil and each consisting of not more than 1 000 whole tyres; or
  - (c) in the case of tyres in any volume or number in a dump existing on 4 December 1992, at the location of that dump,

in accordance with such conditions as are imposed by the Chief Executive Officer in respect of that burial for the purpose of ensuring that drainage, safety, soil erosion and soil stability at,

and in the vicinity of, the site of that burial are adequately controlled.

*[Regulation 14 inserted in Gazette 30 Aug 1991 p. 4555; amended in Gazette 4 Dec 1992 p. 5889; 12 Nov 1996 p. 6304-5.]*

**15. Used tyres, storage of on licensed premises**

Used tyres shall not be stored on licensed premises otherwise than in accordance with the conditions of the licence issued in relation to those premises.

*[Regulation 15 inserted in Gazette 30 Aug 1991 p. 4555.]*

## **Part 7 — Anti-fouling paint**

*[Heading inserted in Gazette 13 Sep 1996 p. 4545.]*

### **16. Organotin anti-fouling paint, restrictions on use, sale etc. of**

- (1) On and from 1 November 1991, a person shall not apply organotin anti-fouling paint to, or cause or permit such paint to be applied to —
- (a) a piling, pier, buoy, mooring or other structure in an enclosed water body or a semi-enclosed water body; or
  - (b) a vessel that is 25 m or less in length; or
  - (c) a vessel that is more than 25 m in length, unless the paint has been formulated so that in respect of each square centimetre of surface to which it is applied —
    - (i) not more than 210 micrograms of organotin are released during the first 14 days after the application of the paint; and
    - (ii) not more than 5 micrograms of organotin are released during each subsequent day.

Penalty: \$5 000.

- (2) On and from 1 September 1991, a person shall not sell organotin anti-fouling paint that is formulated other than as described in subregulation (1)(c).

Penalty: \$5 000.

- (3) On and from 1 September 1991, a person who has a container containing organotin anti-fouling paint shall ensure that it has a clearly readable label with the words “NOT TO BE APPLIED TO VESSELS 25 METRES OR LESS IN LENGTH”.

Penalty: \$5 000.

- (4) In this regulation —

***enclosed water body*** means a body of water, such as a lake, not connected to the sea;

**length** means the hull length of a ship, boat or hovercraft or the overall length of any other vessel;

**organotin anti-fouling paint** means a coating, paint or treatment that contains an organic derivative of tin;

**semi-enclosed water body** means a partially enclosed coastal water, such as an estuary, river, port, harbour, bay, marina or yacht club;

**vessel** means any ship, boat, hovercraft or hulk and any vehicle, whether floating or submersible and whether self-propelled or not, that is capable of being used in or on water.

*[Regulation 16 inserted in Gazette 30 Aug 1991 p. 4553-4; amended in Gazette 11 Dec 1998 p. 6600.]*

## **Part 7A — Burning on development sites**

*[Heading inserted in Gazette 19 Dec 2000 p. 7283.]*

### **16A. Terms used**

In this Part —

**development site** means a lot that is, or contiguous lots that are together, larger than 2 000 m<sup>2</sup> and on which development work is being carried out;

**development work** means work to develop land for use, including —

- (a) the clearing of vegetation or topsoil; or
- (b) recontouring or other bulk earthworks; or
- (c) trench or road construction;

**lot** has the meaning given by the *Planning and Development Act 2005*.

*[Regulation 16A inserted in Gazette 19 Dec 2000 p. 7283; amended in Gazette 29 Sep 2006 p. 4261.]*

### **16B. Burning vegetation etc. on development sites in Sch. 5A areas restricted**

A person who, in an area prescribed in Schedule 5A, burns, or causes or allows to be burned, vegetation or other matter on or from a development site commits an offence unless —

- (a) the person is a public authority and the burning is done in the exercise of a function conferred by a written law; or
- (b) the burning is carried out for agricultural purposes.

Penalty: \$5 000.

*[Regulation 16B inserted in Gazette 19 Dec 2000 p. 7284.]*

## Part 8 — Monitoring

*[Heading inserted in Gazette 5 Jan 2001 p. 115.]*

### 17. Terms used

In this Part, unless the contrary intention appears —

***approved monitoring equipment*** means monitoring equipment that has been approved by the Chief Executive Officer under regulation 20F;

***specified monitoring programme*** means a monitoring programme specified by the Chief Executive Officer in a works approval or a licence.

*[Regulation 17 inserted in Gazette 5 Jan 2001 p. 115.]*

### 18. Conditions prescribed (Act s. 62(1))

There is prescribed for the purposes of section 62(1)(h) of the Act as a condition of a works approval or licence the condition that if the Chief Executive Officer certifies that the results of a specified monitoring programme or measurements taken for the purposes of a specified monitoring programme may be relevant to determining whether or not there has been a breach of the Act or regulations made under the Act —

- (a) then monitoring equipment used for the purposes of a specified monitoring programme is to be approved monitoring equipment; and
- (b) then any measurement taken for the purpose of the specified monitoring programme is to be taken with approved monitoring equipment.

*[Regulation 18 inserted in Gazette 5 Jan 2001 p. 115-16.]*

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**19.      Approved monitoring equipment, to be used in specified monitoring programmes**

A person who —

- (a) is required by a works approval or licence to carry out a specified monitoring programme with approved monitoring equipment; and
- (b) does not use approved monitoring equipment for the purpose of carrying out that monitoring programme,

commits an offence.

Penalty: \$5 000.

*[Regulation 19 inserted in Gazette 7 Jul 2000 p. 3678.]*

**20.      Approved monitoring equipment, duty to ensure accuracy of**

(1) A person who —

- (a) is required by a works approval or licence to carry out a specified monitoring programme with approved monitoring equipment; and
- (b) does not ensure that any approved monitoring equipment used in that monitoring programme is operating so as to give measurements that are accurate,

commits an offence.

Penalty: \$5 000.

(2) It is a defence to proceedings for an offence under subregulation (1) if the person charged with that offence proves that the person took reasonable precautions and exercised due diligence to prevent the commission of the offence.

*[Regulation 20 inserted in Gazette 7 Jul 2000 p. 3678-9.]*



**20A. Approved monitoring equipment, duty to comply with conditions of approval of**

- (1) A person who —
- (a) is required by a works approval or licence to carry out a specified monitoring programme with approved monitoring equipment; and
  - (b) does not comply with a condition imposed under regulation 20G,

commits an offence.

Penalty: \$5 000.

- (2) It is a defence to proceedings for an offence under subregulation (1) if the person charged with that offence proves that the person took reasonable precautions and exercised due diligence to prevent the commission of the offence.

*[Regulation 20A inserted in Gazette 7 Jul 2000 p. 3679.]*

**20B. Approved monitoring equipment, duty to report results of to CEO**

- (1) A person who is required by a works approval or a licence to carry out a specified monitoring programme with approved monitoring equipment must report to the Chief Executive Officer on the matters referred to in subregulation (2) —
- (a) at periods or on dates specified in the works approval or licence; or
  - (b) at such other times as the Chief Executive Officer may require by a written notice which states the reasons for the requirement.
- (2) The report under subregulation (1) is to —
- (a) contain details of the measurements taken using approved monitoring equipment or other equipment in the course of a specified monitoring programme;

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- (b) state whether or not any inaccuracy in those measurements is known to the person making the report;
  - (c) if an inaccuracy in those measurements is known —
    - (i) state the extent of the inaccuracy known to the person making the report;
    - (ii) state any cause of the inaccuracy known to the person making the report.
- (3) A person who does not comply with this regulation commits an offence.

Penalty: \$5 000.

*[Regulation 20B inserted in Gazette 7 Jul 2000 p. 3679-80;  
amended in Gazette 5 Jan 2001 p. 116.]*

**20C. Approved monitoring equipment, presumption of accuracy of**

A measurement taken by approved monitoring equipment is to be taken to be correct in the absence of proof, on the balance of probability, to the contrary.

*[Regulation 20C inserted in Gazette 7 Jul 2000 p. 3680.]*

**20D. Report of specified monitoring programme, presumption of accuracy of measurement in**

A statement in a report as to the results of a specified monitoring programme made under section 62(3) of the Act or regulation 20B detailing the measurements that were taken using approved monitoring equipment is to be taken to be evidence that those measurements were taken by the monitoring equipment in the absence of proof, on the balance of probability, to the contrary.

*[Regulation 20D inserted in Gazette 7 Jul 2000 p. 3680.]*

**20E. Inaccurate measurement in r. 20B report, duty to notify CEO of**

A person who has submitted a report under regulation 20B who becomes aware that a measurement referred to in the report is inaccurate must, as soon as practicable after discovering the inaccuracy, report to the Chief Executive Officer the extent, and cause, of the inaccuracy which is known to the person making the report.

Penalty: \$5 000.

*[Regulation 20E inserted in Gazette 7 Jul 2000 p. 3680.]*

**20F. Monitoring equipment, approval of**

- (1) A person may apply to the Chief Executive Officer for monitoring equipment to be approved.
- (2) Subject to subregulation (3), an application for approval of monitoring equipment is to be in a form approved by the Chief Executive Officer.
- (3) The Chief Executive Officer must allow an application to be made by telephone or other electronic means if the Chief Executive Officer is satisfied that, due to the malfunction of approved monitoring equipment or some other reasonable cause, it is necessary to deal with an application as a matter of urgency.
- (4) A person who makes an application under subregulation (3) must, as soon as practicable, also make the application for approval of the monitoring equipment in the form approved by the Chief Executive Officer under subregulation (2).
- (5) If an application made under subregulation (3) is approved, the approval lapses —
  - (a) if an application is not made under subregulation (2) within 30 days of the day on which the approval was granted; or

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- (b) in any other case, 60 days after the day on which the approval was granted.
- (6) If a person applies to the Chief Executive Officer for monitoring equipment to be approved, the Chief Executive Officer may —
  - (a) require the applicant to provide more information before deciding whether or not to grant the approval; or
  - (b) allow the applicant to provide more information or amend its application before deciding whether or not to grant the approval; or
  - (c) refuse to grant the approval; or
  - (d) grant the approval.
- (7) Within 60 days of —
  - (a) the making of an application under subregulation (1); or
  - (b) the amendment of the application under subregulation (6)(b) or the provision of information under subregulation (6)(a) or (b),whichever is the latter, the Chief Executive Officer is to —
  - (c) determine the application.
- (8) If the application is refused, the Chief Executive Officer is to provide the person who applied for the approval with a statement of the reasons for refusing the application.
- (9) If the application is granted, the Chief Executive Officer is to issue a certificate of approval to the applicant.
- (10) A certificate of the Chief Executive Officer stating that monitoring equipment is or is not approved monitoring equipment is conclusive proof of that fact.

*[Regulation 20F inserted in Gazette 5 Jan 2001 p. 116-17.]*

**20G. Monitoring equipment, conditions of approval of**

If monitoring equipment is approved under regulation 20F, that approval is subject to the following conditions —

- (a) the equipment is to be calibrated in accordance with any of the following standards as the Chief Executive Officer may specify in writing —
  - (i) the standards specified by the manufacturer of the equipment;
  - (ii) an Australian standard;
  - (iii) an international standard;and
- (b) the equipment is to be operated in accordance with such quality assurance programme as the Chief Executive Officer may specify in writing.

*[Regulation 20G inserted in Gazette 7 Jul 2000 p. 3681.]*

**20H. Approval of monitoring equipment, revoking**

- (1) The Chief Executive Officer may revoke an approval under regulation 20F if, in the Chief Executive Officer's opinion —
  - (a) the equipment referred to in the certificate of approval is not considered to be suitable to be used in a specified monitoring programme; or
  - (b) the equipment referred to in the certificate of approval has not provided accurate measurements; or
  - (c) a person has, in relation to an application under regulation 20F(1), provided information in written or oral form that the person knew, or could reasonably be expected to have known, to be —
    - (i) false or misleading in a material particular; or
    - (ii) likely to deceive in a material way.

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- (2) An approval of approved monitoring equipment may be revoked if in the Chief Executive Officer's opinion —
  - (a) that equipment has not been calibrated or operated in accordance with a condition imposed under regulation 20G; and
  - (b) that failure to comply with the condition could have materially affected the accuracy of the equipment or the reliability of the results obtained from that equipment.
- (3) A revocation of an approval under regulation 20F is not effective unless the Chief Executive Officer has caused written notice of the intention to revoke the approval to be served personally or by post on the person who obtained the approval stating the grounds on which, and reasons for which, the revocation is to be made and has allowed the person 21 days to provide reasons as to why the Chief Executive Officer should not revoke the approval.
- (4) If the Chief Executive Officer decides to revoke an approval, the Chief Executive Officer is to give the person who obtained the approval a notice in writing revoking the approval and stating the reasons for the revocation of the approval.

*[Regulation 20H inserted in Gazette 7 Jul 2000 p. 3681-2; amended in Gazette 5 Jan 2001 p. 117-18.]*

**20I. Appeal against r. 20F, 20G or 20H decision**

- (1) A person who is aggrieved by a decision of the Chief Executive Officer under regulation 20F, 20G, or 20H may within 21 days after the day on which the person is notified of the decision lodge with the Minister an appeal in writing setting out the grounds of the appeal.
- (2) An appeal lodged under subregulation (1) is to be treated as if it were an appeal under section 102 of the Act, and for that purpose sections 106 to 110 of the Act apply as if the appeal were an appeal under section 102.

*[Regulation 20I inserted in Gazette 7 Jul 2000 p. 3682.]*

**20J. Revocation of approval, use of monitoring equipment pending determination of appeal against**

- (1) If —
- (a) an appeal has been lodged under regulation 20I(1) in relation to an approval revoked under regulation 20H; and
  - (b) the Chief Executive Officer has entered into an agreement in writing with the licensee as to the interim monitoring measures to be adopted by the licensee pending the determination of the appeal,

until 60 days after the determination of the appeal, or such other time as is agreed in writing by the Chief Executive Officer and the licensee, any monitoring equipment used in accordance with that agreement is to be taken to be approved monitoring equipment.

- (2) A certificate issued by the Chief Executive Officer stating that monitoring equipment specified in the certificate has or has not been used in accordance with an agreement referred to in subregulation (1)(b) is, in the absence of proof on the balance of probability to the contrary, evidence of that fact.
- (3) In this regulation, a reference to the licensee is a reference to a person who is required by a works approval or a licence to carry out a specified monitoring programme with approved monitoring equipment.

*[Regulation 20J inserted in Gazette 7 Jul 2000 p. 3682-3.]*

**20K. CEO's signature, judicial notice of**

Judicial notice is to be taken of the signature of the Chief Executive Officer on a certificate purporting to be issued under regulation 20F(10) or 20J(2).

*[Regulation 20K inserted in Gazette 7 Jul 2000 p. 3683; amended in Gazette 5 Jan 2001 p. 118.]*

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**20KA. Guidelines for performance of CEO's functions, Minister may make etc.**

- (1) The Minister may by notice published in the *Gazette* make, amend, or revoke guidelines relating to the manner in which the Chief Executive Officer is to perform the Chief Executive Officer's functions under this Part.
- (2) The Chief Executive Officer is to have regard to the guidelines in the exercise of his or her functions under this Part.
- (3) A failure to comply with subregulation (2) does not invalidate an approval of monitoring equipment or the issue of a certificate under this Part.

*[Regulation 20KA inserted in Gazette 5 Jan 2001 p. 118.]*

**20L. Review of this Part**

- (1) The Authority is to report to the Minister on the operation and effectiveness of this Part within 5 years after its commencement or such other shorter period as the Minister specifies.
- (2) The report is to be made after —
  - (a) the public has been given an opportunity to make submissions on the operation and effectiveness of the Part; and
  - (b) a reasonable endeavour has been made to obtain the views of public authorities and persons that appear to the Authority to be significantly affected by the Part.
- (3) As soon as is practicable after the preparation of the report the Minister is to cause it to be laid before each House of Parliament.

*[Regulation 20L inserted in Gazette 7 Jul 2000 p. 3683; amended in Gazette 5 Jan 2001 p. 118.]*



## Part 9 — Landfill levy

[Heading inserted in Gazette 26 Jun 1998 p. 3370.]

### 21. Terms used

(1) In this Part —

**approved** means approved in writing by the Chief Executive Officer;

**commencement day** means the day on which the *Environmental Protection (Landfill) Levy Act 1998* comes into operation <sup>4</sup>;

**exemption period** means the period of exemption specified in a notice of exemption under regulation 23(4);

**existing licensee** means a person who is a licensee on commencement day;

**Fund** means the Waste Management and Recycling Fund <sup>5</sup> established under section 110H of the Act;

**levy** means a levy imposed under the *Environmental Protection (Landfill) Levy Act 1998*;

**licensed landfill** means premises specified in category 63, 64 or 65 of Schedule 1;

**licensee** means the holder of a licence in respect of a licensed landfill;

**metropolitan region** has the same meaning as it has in the *Planning and Development Act 2005*;

**return period** means —

- (a) in the case of an existing licensee, the following periods —
- Period 1: July 1 - September 30;
  - Period 2: October 1 - December 31;
  - Period 3: January 1 - March 31;
  - Period 4: April 1 - June 30;

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- (b) in the case of a licensee who is granted a licence after commencement day, the following periods —
- Period 1: the period beginning on the date of the grant of the licence and ending on the September 30, December 31, March 31 or June 30 immediately next following;
  - Each 3 month period next following Period 1.
- (2) A reference in this Part to a category followed by a designation is a reference to the category so designated in the first column of Schedule 1.

*[Regulation 21 inserted in Gazette 26 Jun 1998 p. 3370-1; amended in Gazette 29 Sep 2006 p. 4261.]*

**22. Application of this Part**

- (1) Subject to any exemption granted on application under regulation 23(1), this Part applies to —
- (a) all waste received at licensed landfills in the metropolitan region; and
  - (b) all waste collected within the metropolitan region and received at licensed landfills outside the metropolitan area.
- (2) This Part does not apply to —
- (a) waste received at licensed landfills on or after 1 July 2008; and
  - (b) return periods commencing on or after 1 July 2008.

*[Regulation 22 inserted in Gazette 26 Jun 1998 p. 3371; amended in Gazette 20 Jun 2008 p. 2683.]*

**23. Exemptions from this Part; refunds etc. of levy**

- (1) A licensee may by application in the approved form claim an exemption from regulation 22 for the following waste received at a licensed landfill in any return period —
  - (a) uncontaminated soil or other clean fill that —
    - (i) is, or is to be, used after the completion of landfill operations to cover, to a depth of up to 500 mm, waste disposed of on the premises; and
    - (ii) was accepted by the licensee at no charge;
  - (b) waste that is not disposed of to landfill but is collected and stored at a licensed landfill for recycling;
  - (c) approved waste that has been disposed of in an approved manner.
- (2) A licensee may by application in the approved form claim an exemption from the requirement under regulation 25(1) to weigh waste on a weighbridge.
- (2a) A licensee of a category 63 licensed landfill may by application in the approved form claim an exemption from the requirements of regulation 26(4) and (5) in respect of a return period if no waste has been disposed of to landfill on the licensed landfill.
- (3) The Chief Executive Officer may, by written notice —
  - (a) grant, or refuse to grant, an exemption; or
  - (b) grant an exemption subject to conditions, or limited to circumstances, specified in the notice; or
  - (c) revoke an exemption.
- (4) In any exemption notice for waste referred to in subregulation (1)(b) or (c) the Chief Executive Officer is to specify the period for which the exemption applies.
- (5) If a condition subject to which an exemption is given is breached, the exemption ceases to have effect.

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- (6) If waste referred to in subregulation (1)(b) for which an exemption is granted has not been recycled, or otherwise removed in an approved manner, from the licensed landfill within the exemption period, the licensee is to pay the levy that would have been payable in respect of that waste if the exemption had not been granted not later than 2 weeks after the end of the exemption period.
- (7) If the Chief Executive Officer is satisfied that —
- (a) waste referred to in subregulation (1)(b) for which an exemption is granted has been recycled or otherwise removed from the licensed landfill within 12 months after the exemption period; and
  - (b) the levy has been paid in respect of the waste,

the Chief Executive Officer may refund or rebate to the licensee an amount equal to the amount of levy paid in respect of the waste.

*[Regulation 23 inserted in Gazette 26 Jun 1998 p. 3371; amended in Gazette 29 Sep 2006 p. 4262.]*

**24. Financial assurance, CEO may require from licensee with r. 23(1)(b) exemption**

- (1) In this regulation —  
*licensee* does not include a licensee who is a local government.
- (2) If a licensee is granted an exemption for waste referred to in regulation 23(1)(b), the Chief Executive Officer may require the licensee to provide a financial assurance to the Chief Executive Officer of an amount specified by the Chief Executive Officer that does not exceed the amount of levy that would otherwise be payable in respect of the waste.
- (3) The licensee is to provide the financial assurance —

- (a) not later than 2 weeks after the licensee is notified by the Chief Executive Officer that the financial assurance is required; and
  - (b) in an approved form,and is to maintain the financial assurance in accordance with any requirements of the Chief Executive Officer of which the licensee has been given written notice.
- (4) If the financial assurance is not provided and maintained in accordance with subregulation (3) —
  - (a) the exemption ceases to have effect; and
  - (b) the amount of levy that would have been payable in respect of the waste if the exemption had not been granted becomes due and payable.
- (5) The Chief Executive Officer may call on or use the financial assurance and pay the moneys into the Fund if —
  - (a) the waste in respect of which the financial assurance is paid has not been recycled, or otherwise removed from the licensed landfill in an approved manner, within the exemption period; and
  - (b) the levy in respect of the waste is not paid as required under regulation 23(6).
- (6) If —
  - (a) waste referred to in regulation 23(1)(b) for which an exemption is granted is recycled or otherwise removed from the licensed landfill within the exemption period; or
  - (b) the levy is paid in respect of the waste,the financial assurance in respect of the waste may be terminated by the licensee.

*[Regulation 24 inserted in Gazette 26 Jun 1998 p. 3371-2;  
amended in Gazette 29 Sep 2006 p. 4262.]*

**25. Waste received at category 64 or 65 licensed landfill, calculating amount of**

- (1) Subject to any exemption granted on application under regulation 23(2), waste to which this Part applies that is received at a category 64 or 65 licensed landfill with a weighbridge is to be weighed on the weighbridge at the time of delivery and the weight of the waste as shown at the weighbridge is to be the weight that is used for the purpose of determining the amount of the levy under regulation 27.
- (2) If —
  - (a) the licensee of a category 64 or 65 licensed landfill has been granted an exemption from the requirement to weigh waste received at the licensed landfill; or
  - (b) a category 64 or 65 licensed landfill does not have a weighbridge,

when waste is received at that licensed landfill the licensee is to estimate the weight of that waste in the approved manner, and the estimated weight is to be the weight that is used for the purpose of determining the amount of the levy under regulation 27.

*[Regulation 25 inserted in Gazette 26 Jun 1998 p. 3372; amended in Gazette 29 Sep 2006 p. 4262-3.]*

**26. Waste disposed of in category 63 licensed landfill, calculating amount of**

- (1) The licensee of a category 63 licensed landfill must —
  - (a) cause a survey of the premises to be conducted by a surveyor for the purpose of establishing a base from which the volume of waste subsequently disposed of to landfill on the premises can be measured (the *baseline survey*); and
  - (b) lodge with the Chief Executive Officer a report of that survey prepared by the surveyor (the *baseline report*).

Penalty: \$5 000.

- (2) In the case of an existing landfill —
- (a) the baseline survey must be conducted as soon as practicable after 1 October 2006; and
  - (b) the baseline report must be lodged on or before 14 October 2006.
- (3) In the case of a category 63 licensed landfill other than an existing landfill —
- (a) the baseline survey must be conducted —
    - (i) after the licence is issued; and
    - (ii) not more than 14 days before the licensee commences accepting waste for disposal to landfill on the premises;and
  - (b) the baseline report must be lodged within 14 days after the licensee commences accepting waste for disposal to landfill on the premises.
- (4) Subject to any exemption granted on application under regulation 23(2a), after the end of a return period the licensee of a category 63 licensed landfill must cause a survey of the premises to be conducted by a surveyor for the purpose of calculating the volume of waste disposed of to landfill during that return period (a *quarterly survey*).
- (5) The licensee must lodge a report on a quarterly survey, prepared by the surveyor, with the return lodged under regulation 30 for that return period.

Penalty: \$5 000.

- (6) The report referred to in subregulation (5) must include the surveyor's calculation of the number of cubic metres of waste disposed of to landfill on the premises during the return period based on a comparison of the quarterly survey for that return period and the previous quarterly survey or, if there is no

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previous quarterly survey, the baseline survey for the premises or the estimated base established under regulation 26A(1).

(7) The volume of waste so calculated by the surveyor is to be the volume used for the purposes of determining the amount of the levy under regulation 27.

(8) In this regulation —

**existing landfill** means a category 63 licensed landfill —

- (a) for which the licence was in force on 1 October 2006; and
- (b) at which waste was being accepted for disposal to landfill prior to 1 October 2006;

**surveyor** means —

- (a) a licensed surveyor as defined in the *Licensed Surveyors Act 1909*; or
- (b) a person who is, or is eligible to be, a member of —
  - (i) the Institution of Surveyors, Australia; or
  - (ii) the Spatial Sciences Institute.

*[Regulation 26 inserted in Gazette 29 Sep 2006 p. 4263-4.]*

**26A. Breach of r. 26, CEO may estimate amount in case of etc.**

- (1) If the licensee of a category 63 licensed landfill fails to comply with regulation 26(1) the Chief Executive Officer may establish an estimated base from which the volume of waste subsequently disposed of to landfill on the premises can be measured.
- (2) If the licensee of a category 63 licensed landfill fails to comply with regulation 26(5) in respect of a return period the Chief Executive Officer may estimate the number of cubic metres of waste disposed of to landfill on the premises during the return period.



- (3) For the purposes of this regulation the Chief Executive Officer may cause a survey of the kind referred to in regulation 26(1)(a) or (4) to be conducted in respect of the licensed landfill.
- (4) The Chief Executive Officer must give written notice to the licensee of any estimated base established under subregulation (1) or any estimation made under subregulation (2).
- (5) The Chief Executive Officer may call on or use the financial assurance provided by the licensee under regulation 28 to cover any costs incurred under this regulation.

*[Regulation 26A inserted in Gazette 29 Sep 2006 p. 4264-5.]*

## **27. Levy, determining amount of**

- (1) The amount by way of levy that is payable in respect of waste to which this Part applies that is received at a category 63 licensed landfill during a return period is the amount (in dollars) equal to L in the formula —

$$L = (V \times R) - S$$

where —

V is the number of cubic metres of waste to which this Part applies received at the licensed landfill during the return period determined in accordance with regulation 26 or estimated under regulation 26A(2); and

R is, if the first day of the return period is —

- (a) before 1 July 2008, \$3; or
- (b) on or after 1 July 2008 and before 1 July 2009, \$5; or
- (c) on or after 1 July 2009 and before 1 July 2010, \$7; or
- (d) on or after 1 July 2010, \$9;

and

S is the lesser of —

- (a) the cost incurred by the licensee in complying with regulation 26(4) and (5) in respect of the return period; and
  - (b) \$2 000.
- (2) The amount by way of levy that is payable in respect of waste to which this Part applies that is received at a category 64 or 65 licensed landfill during a return period is the amount (in dollars) equal to L in the formula —

$$L = (W \times 92\%) \times R$$

where —

W is the number of tonnes of waste to which this Part applies received at the licensed landfill during the return period determined in accordance with regulation 25; and

R is, if the first day of the return period is —

- (a) before 1 July 2008, \$6; or
- (b) on or after 1 July 2008 and before 1 July 2009, \$7; or
- (c) on or after 1 July 2009 and before 1 July 2010, \$8; or
- (d) on or after 1 July 2010, \$9.

*[Regulation 27 inserted in Gazette 29 Sep 2006 p. 4265-6.]*

**28. Financial assurance, licensees to pay**

- (1) In this regulation —  
*licensee* does not include a licensee who is a local government.
- (2) Each licensee is to pay to the Chief Executive Officer, in accordance with subsection (3), a financial assurance that —
  - (a) is in an approved form; and

- (b) secures or guarantees payment of an amount determined by the Chief Executive Officer, being an amount that in the opinion of the Chief Executive Officer is equivalent to the average levy to be paid by the licensee in a return period.

Penalty: \$5 000.

- (3) The financial assurance is to be paid to the Chief Executive Officer —
  - (a) in the case of an existing licensee, not later than 2 weeks after commencement day; and
  - (b) in the case of a licensee who is granted a licence after commencement day, not later than 2 weeks after the licence is granted.

- (4) The licensee is to maintain the financial assurance in accordance with any requirements of the Chief Executive Officer of which the licensee has been given written notice.

Penalty: \$5 000.

- (5) The moneys from any financial assurance that is called on or used by the Chief Executive Officer are to be paid into the Fund.
- (6) The Chief Executive Officer is to review the amount of a financial assurance provided under this regulation not later than 2 years after it is provided and thereafter not later than 2 years after each review.
- (7) The Chief Executive Officer may at any time, by written direction, require a licensee to increase the amount of the financial assurance provided by the licensee if the Chief Executive Officer thinks it is appropriate to do so.
- (8) A licensee is to comply with a direction given to the licensee under subregulation (7).

Penalty: \$5 000.

*[Regulation 28 inserted in Gazette 26 Jun 1998 p. 3373;  
amended in Gazette 11 Dec 1998 p. 6601; 29 Sep 2006  
p. 4266.]*

**29. Records of waste received, licensees' duties as to**

- (1) Upon receiving waste at a licensed landfill, the licensee is to make a record in accordance with this regulation.
- (2) The record is to be in an approved form and is to show —
  - (a) the time and date of the delivery; and
  - (b) the name and licence number of the licensee; and
  - (c) in the case of a category 63 licensed landfill, the volume of the waste disposed of to landfill on the premises calculated in accordance with regulation 26; and
  - (ca) in the case of a category 64 or 65 licensed landfill, the weight of the waste as weighed or estimated in accordance with regulation 25; and
  - (d) a description of the type of waste; and
  - (e) the amount of levy payable in respect of the waste; and
  - (f) any other particulars the Chief Executive Officer may, by written notice to the licensee, require the licensee to include.
- (3) Any record made by a licensee under this regulation is to be kept by the licensee in a legible written form, or so as to be readily convertible into such a form, for a period of not less than 5 years from the day on which the record was made.
- (4) A licensee is to make the records available to an authorised person within 24 hours of being requested by the authorised person to do so.
- (5) A licensee who —
  - (a) contravenes subregulation (1) or (4); or

- (b) makes a record under this regulation which is false in any material particular,

commits an offence.

Penalty: \$5 000.

*[Regulation 29 inserted in Gazette 26 Jun 1998 p. 3373-4; amended in Gazette 11 Dec 1998 p. 6601; 29 Sep 2006 p. 4266.]*

**30. Levy, payment of; returns to be lodged**

- (1) The levy is payable not later than 14 days after the end of each return period.
- (2) A licensee, from the details entered in the records referred to in regulation 29 and any estimate made under regulation 26A, is to —
  - (a) make a return in the approved form in respect of each return period setting out details of waste received; and
  - (b) lodge the return with the Chief Executive Officer.
- (3) The return is to be accompanied by a remittance for the amount of the levy payable on the waste to which that return relates.

*[Regulation 30 inserted in Gazette 26 Jun 1998 p. 3374; amended in Gazette 29 Sep 2006 p. 4266.]*

**31. Audits, CEO's powers to direct etc.**

- (1) The Chief Executive Officer may at any time, by notice in writing, direct a licensee to cause —
    - (a) an audit of —
      - (i) the amount of waste received at the licensed landfill within the specified period; and
      - (ii) the amount of levy payable in respect of that waste,
- to be carried out by a person from the specified class of persons; and

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- (b) a report to be prepared on the audit by the person who carried out the audit.
- (2) The licensee is to provide the copy of the report of the audit, certified as correct by the person who carried out the audit, to the Chief Executive Officer within the specified period.

Penalty: \$5 000.

- (3) In this regulation —  
*specified* means specified in the notice.

*[Regulation 31 inserted in Gazette 26 Jun 1998 p. 3374;  
amended in Gazette 11 Dec 1998 p. 6601.]*

**32. CEO's decisions, review of and appeal against**

- (1) If the Chief Executive Officer —
  - (a) refuses to grant an exemption, or imposes conditions or limitations upon the grant of an exemption, under regulation 23; or
  - (b) requires the provision of a financial assurance under regulation 24; or
  - (c) gives a direction under regulation 31,the applicant may, within 14 days of notice of the decision, apply to the Chief Executive Officer for a review of the decision.
- (2) When a request is made under subregulation (1), the Chief Executive Officer is to review the decision and make a fresh decision.
- (3) If the applicant is dissatisfied with a decision under subregulation (2), the applicant may, within 14 days of notice of the decision, institute an appeal against the decision to the Minister.
- (4) An appeal is instituted by giving notice in writing of the appeal, setting out the grounds and facts on which the appellant is relies.

- (5) The Minister may affirm or vary the decision, or set aside the decision and substitute another decision, as the Minister thinks fit and the decision of the Minister is final.
- (6) The making of an application for review or the institution of an appeal in respect of a decision under regulation 23 or 24 does not operate to stay the decision.

*[Regulation 32 inserted in Gazette 26 Jun 1998 p. 3374.]*

**33. Payment of levies is condition of licence**

It is a condition of a licence in respect of a licensed landfill that the licensee is to pay the following —

- (a) any levy imposed under the *Environmental Protection (Landfill) Levy Act 1998* in respect of waste to which this Part applies that is received at those premises;
- (b) any levy imposed under the *Waste Avoidance and Resource Recovery Levy Act 2007* in respect of waste to which the *Waste Avoidance and Resource Recovery Regulations 2008* Part 3 applies that is received at those premises.

*[Regulation 33 inserted in Gazette 20 Jun 2008 p. 2683-4.]*

## **Part 10 — Things seized or forfeited**

*[Heading inserted in Gazette 11 Dec 1998 p. 6601.]*

### **34. Ways prescribed of dealing with seized things (Act s. 92B(1))**

- (1) For the purposes of section 92B(1) of the Act, the following ways are prescribed as a way of dealing with any thing seized under section 92A of the Act —
  - (a) sale at public auction, by tender or by private contract, as specified by the Chief Executive Officer; or
  - (b) destruction or treatment at a site licensed under Part V of the Act, as specified by the Chief Executive Officer; or
  - (c) preservation, as specified by the Chief Executive Officer; or
  - (d) disposal at a site licensed under Part V of the Act, as specified by the Chief Executive Officer; or
  - (e) storage at a site, as specified by the Chief Executive Officer.
- (2) The Chief Executive Officer is to specify which method referred to in regulation (1) is to apply in respect of a particular thing seized.

*[Regulation 34 inserted in Gazette 11 Dec 1998 p. 6601-2.]*

### **35. Manner of giving notice prescribed (Act s. 92D)**

If —

- (a) a thing has been seized under the Act; and
- (b) a person to whom the thing can be returned under section 92C of the Act cannot be found,

the Chief Executive Officer is to give notice that the thing is being held by the Department and may be claimed by its owner by publishing a notice once in a newspaper circulating throughout the State —

- (c) setting out a description of the thing seized; and



- (d) stating the place where the thing was seized; and
- (e) stating the place where the thing may be claimed; and
- (f) setting out the manner in which ownership of the thing may be proved; and
- (g) to the effect that if, after the expiration of 3 months from the day on which the notice has been given in the newspaper, the thing has not been claimed by its owner, the thing is forfeited to the Crown.

*[Regulation 35 inserted in Gazette 11 Dec 1998 p. 6602.]*

**36. Ways prescribed of disposing of thing forfeited to Crown (Act s. 99W(1))**

- (1) For the purposes of section 99W(1) of the Act, the following ways are prescribed for disposing of any thing forfeited to the Crown under the Act —
  - (a) transfer to the Department for its use or transfer, with or without charge, to another public authority or to a department of the Commonwealth; or
  - (b) sale at public auction, by tender or by private contract; or
  - (c) treatment at a site licensed under Part V of the Act, as specified by the Chief Executive Officer; or
  - (d) destruction or disposal at a site licensed under Part V of the Act, as specified by the Chief Executive Officer.
- (2) The Chief Executive Officer is to specify which method referred to in subregulation (1) is to apply in respect of a particular thing forfeited to the Crown.

*[Regulation 36 inserted in Gazette 11 Dec 1998 p. 6602-3.]*

## **Part 11 — Modified penalties and Tier 2 offences**

*[Heading inserted in Gazette 11 Dec 1998 p. 6603.]*

### **37. Form of modified penalty notice prescribed (Act s. 99B(1))**

Form 1 in Schedule 7 is prescribed, under section 99B(1) of the Act, as the form of modified penalty notice.

*[Regulation 37 inserted in Gazette 11 Dec 1998 p. 6603.]*

### **38. Form of notice of withdrawal prescribed (Act s. 99D(1))**

Form 2 in Schedule 7 is prescribed, under section 99D(1) of the Act, as the form of withdrawal of modified penalty notice.

*[Regulation 38 inserted in Gazette 11 Dec 1998 p. 6603.]*

### **39. Particulars prescribed (Act s. 99E(3))**

For the purposes of section 99E(3) of the Act, the following particulars are prescribed —

- (a) the name of the person who paid the modified penalty;
- (b) the section of the Act contravened in respect of which the modified penalty was paid;
- (c) a description of the offence;
- (d) the penalty paid;
- (e) the place where the register of certificates issued under section 99A of the Act and modified penalty notices may be inspected.

*[Regulation 39 inserted in Gazette 11 Dec 1998 p. 6603.]*

### **40. Where and when public may inspect register (Act s. 99F(2))**

The register that the Chief Executive Officer is required to maintain under section 99F(1) of the Act is to be available for public inspection during normal office hours at the Departmental library.

*[Regulation 40 inserted in Gazette 11 Dec 1998 p. 6603;  
amended in Gazette 29 Sep 2006 p. 4261.]*

## **Part 12 — Infringement notices and offences**

*[Heading inserted in Gazette 11 Dec 1998 p. 6603.]*

### **41. Infringement notice offences and modified penalties prescribed (Act s. 99H and 99K)**

- (1) The offences described in the first column of Schedule 6 are prescribed for the purpose of the definition of *infringement notice offence* in section 99H of the Act and —
  - (a) the amount appearing in the second column of that Schedule, directly opposite an offence, is the modified penalty prescribed in respect of that offence if the alleged offender has not previously been convicted of an offence of that kind and has not previously paid a modified penalty under Division 2 of Part VIA of the Act in respect of an alleged offence of that kind; and
  - (b) the amount appearing in the third column of that Schedule, directly opposite an offence, is the modified penalty prescribed in respect of that offence if the alleged offender has previously been convicted of an offence of that kind, or has previously paid a modified penalty under Division 2 of Part VIA of the Act in respect of an alleged offence of that kind.
- (2) For the purposes of subregulation (1), a prior conviction or payment of a modified penalty in respect of an alleged offence against the regulations is not to be taken into account for the purposes of determining whether the alleged offender has previously been convicted of an offence or has previously paid a modified penalty notice unless —
  - (a) the prior conviction was recorded within the period of 5 years immediately prior to the giving of an infringement notice in respect of the present alleged offence; or
  - (b) the modified penalty was paid in respect of the prior alleged offence within the period of 5 years immediately

prior to the giving of an infringement notice in respect of  
the present alleged offence.

*[Regulation 41 inserted in Gazette 11 Dec 1998 p. 6603-4.]*

**42. Form of infringement notice prescribed (Act s. 99K(1))**

Form 3 in Schedule 7 is prescribed, under section 99K(1) of the Act, as the form of infringement notice.

*[Regulation 42 inserted in Gazette 11 Dec 1998 p. 6604.]*

**43. Form of notice of withdrawal prescribed (Act s. 99N(1))**

Form 4 in Schedule 7 is prescribed, under section 99N(1) of the Act, as the form of withdrawal of infringement notice.

*[Regulation 43 inserted in Gazette 11 Dec 1998 p. 6604.]*

### **Part 13 — Miscellaneous**

*[Heading inserted in Gazette 11 Dec 1998 p. 6604.]*

**44. Maximum amount prescribed (Act s. 99Y(1))**

- (1) For the purposes of section 99Y(1)(a) of the Act —
  - (a) \$2 million is prescribed as the maximum amount that the offender may be ordered to pay to the Chief Executive Officer for reasonable costs and expenses incurred; and
  - (b) \$2 million is prescribed as the maximum amount that the offender may be ordered to pay to a public authority for reasonable costs and expenses incurred.
  
- (2) For the purposes of section 99Y(1)(b) of the Act —
  - (a) \$100 000 is prescribed as the maximum amount that the offender may be ordered to pay a person (other than the Chief Executive Officer or a public authority) for reasonably incurred costs and expenses; and
  - (b) \$500 000 is prescribed as the maximum amount that an offender may be ordered to pay to the Chief Executive Officer or a public authority as compensation for loss or damage suffered to property; and
  - (c) \$50 000 is prescribed as the maximum amount that an offender may be ordered to pay to a person (other than the Chief Executive Officer or a public authority) as compensation for loss or damage suffered to property.

*[Regulation 44 inserted in Gazette 11 Dec 1998 p. 6604-5.]*

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## Schedule 1 — Prescribed premises

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[Heading inserted in Gazette 13 Sep 1996 p. 4549.]

### Part 1

Category number	Description of category	Production or design capacity
1	Cattle feedlot: premises on which the watering and feeding of cattle occurs, being premises — (a) situated less than 100 m from a watercourse; and (b) on which the number of cattle per hectare exceeds 50.	500 animals or more
2	Intensive piggery: premises on which pigs are fed, watered and housed in pens.	1 000 animals or more
[3, 4	<i>deleted</i>	
5	Processing or beneficiation of metallic or non-metallic ore: premises on which — (a) metallic or non-metallic ore is crushed, ground, milled or otherwise processed; or (b) tailings from metallic or non-metallic ore are reprocessed; or (c) tailings or residue from metallic or non-metallic ore are discharged into a containment cell or dam.	50 000 tonnes or more per year
6	Mine dewatering: premises on which water is extracted and discharged into the environment to allow mining of ore.	50 000 tonnes or more per year
7	Vat or in situ leaching of metal: premises on which metal is extracted from ore with a chemical solution.	5 000 tonnes or more per year
8	Mineral sands mining or processing: premises on which mineral sands ore is mined, screened, separated or otherwise processed.	5 000 tonnes or more per year

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**Schedule 1** Prescribed premises

**Part 1**

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<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
9	Coal mining: premises on which — (a) water is extracted and discharged into the environment to allow coal mining; or (b) coal mining or processing occurs and tailings are discharged.	5 000 tonnes or more per year
10	Oil or gas production from wells: premises, whether on land or offshore, on which crude oil, natural gas or condensate is extracted from below the surface of the land or the seabed, as the case requires, and is treated or separated to produce stabilized crude oil, purified natural gas or liquefied hydrocarbon gases.	5 000 tonnes or more per year
11	Oil or gas production (other): premises (other than premises within category 10) on which the commercial production of oil or gas occurs (including the reforming of hydrocarbon gas).	5 000 tonnes or more per year
12	Screening, etc. of material: premises (other than premises within category 5 or 8) on which material extracted from the ground is screened, washed, crushed, ground, milled, sized or separated.	50 000 tonnes or more per year
13	Crushing of building material: premises on which waste building or demolition material (for example, bricks, stones or concrete) is crushed or cleaned.	1 000 tonnes or more per year
14	Solar salt manufacturing: premises on which salt is produced by solar evaporation.	Not applicable
15	Abattoir: premises on which animals are slaughtered.	1 000 tonnes or more per year
16	Rendering operations: premises on which substances from animal material are processed or extracted.	100 tonnes or more per year
17	Milk processing: premises on which — (a) milk is separated or evaporated (other than a farm); or	100 tonnes or more per year



<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
	(b) evaporated or condensed milk, butter, ice cream, cheese or any other dairy product is manufactured, and from which liquid waste is or is to be discharged onto land or into waters.	
18	Food processing: premises (other than premises within category 24) — (a) on which vegetables are, or fruit or meat is, preserved, cooked, dried, canned, bottled or processed; and (b) from which liquid waste is or is to be discharged onto land or into waters.	200 tonnes or more per year
19	Edible oil or fat processing: premises on which vegetable oil or oil seed or animal fat is processed and from which liquid waste is or is to be discharged onto land or into waters.	200 tonnes or more per year
20	Starch manufacturing: premises on which starch or gluten is manufactured and from which liquid waste is or is to be discharged onto land or into waters.	200 tonnes or more per year
21	Sugar milling or refining: premises on which sugar cane is crushed or sugar is refined.	1 000 tonnes or more per year
22	Seafood processing: premises (other than a fish wholesaler) on which fish or other seafood is processed and from which liquid waste is or is to be discharged onto land or into waters.	200 tonnes or more per year
23	Animal feed manufacturing: premises (other than premises within category 15 or 16) on which animal food is manufactured or processed.	1 000 tonnes or more per year
24	Non-alcoholic beverage manufacturing: premises on which a non-alcoholic beverage is manufactured and from which liquid waste is or is to be discharged onto land or into waters.	200 kL or more per year

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<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
25	Alcoholic beverage manufacturing: premises on which an alcoholic beverage is manufactured and from which liquid waste is or is to be discharged onto land or into waters.	350 kL or more per year
26	Textile operations: premises on which — (a) carpet or yarn is manufactured; or (b) cotton ginning or milling occurs; or (c) textiles are bleached, dyed or finished.	1 000 tonnes or more per year
27	Woolscouring: premises on which wool is scoured or cleaned.	1 000 tonnes or more per year
28	Wood board manufacturing: premises on which particleboard or chipboard is fabricated or manufactured.	500 tonnes or more per year
29	Timber preserving: premises on which timber is preserved for commercial purposes by the use of chemicals.	Not applicable
30	Pulp, paper or paperboard manufacturing: premises on which paper pulp, wood pulp, kraft paper, kraft paperboard, cardboard, paper or paperboard is manufactured.	5 000 tonnes or more per year
31	Chemical manufacturing: premises (other than premises within category 32) on which chemical products are manufactured by a chemical process.	100 tonnes or more per year
32	Pesticides manufacturing: premises on which herbicides, insecticides or pesticides are manufactured by a chemical process.	Not applicable
33	Chemical blending or mixing: premises on which chemicals or chemical products are mixed, blended or packaged in a manner that causes or is likely to cause a discharge of waste into the environment.	500 tonnes or more per year
34	Oil or gas refining: premises on which crude oil, condensate or gas is refined or processed.	Not applicable

<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
35	Asphalt manufacturing: premises on which hot or cold mix asphalt is produced using crushed or ground rock aggregates mixed with bituminous or asphaltic materials for use at places or premises other than those premises.	Not applicable
36	Bitumen manufacturing: premises on which bitumen is mixed or prepared for use at places or premises other than those premises.	Not applicable
37	Char manufacturing: premises on which wood, carbon material or coal is charred to produce a fuel or material of a carbonaceous nature or of enriched carbon content.	10 tonnes or more per year
38	Coke production: premises on which coke is produced, quenched, cut, crushed or graded from coal or petroleum.	100 tonnes or more per year
39	Chemical or oil recycling: premises on which waste liquid hydrocarbons or chemicals are refined, purified, reformed, separated or processed.	Not applicable
40	Glass or glass fibre manufacturing: premises on which glass or glass fibre is manufactured.	200 tonnes or more per year
41	Clay bricks or ceramic products manufacturing: premises on which refractory products, tiles, pipes or pottery are manufactured.	1 000 tonnes or more per year
42	Mineral wool or ceramic fibre manufacturing: premises on which mineral wool or ceramic fibre is manufactured.	Not applicable
43	Cement or lime manufacturing: premises on which — (a) clay, limesand or limestone material is used in a furnace or kiln in the production of cement clinker or lime; or (b) cement clinker, clay, limestone or similar material is ground.	Not applicable

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<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
44	Metal smelting or refining: premises on which metal ore, metal ore concentrate or metal waste is smelted, fused, roasted, refined or processed.	1 000 tonnes or more per year
45	Metal melting or casting: premises on which metal or scrap metal is melted in furnaces or cast.	100 tonnes or more per year
46	Bauxite refining: premises (other than premises within paragraph (b) of category 5) on which alumina is produced from bauxite refining.	Not applicable
47	Scrap metal recovery: premises (other than premises within category 45) on which metal scrap is fragmented or melted, including premises on which lead acid batteries are reprocessed.	100 tonnes or more per year
48	Metal finishing: premises on which metals are chemically cleaned or metals, plastics or metal or plastic products are plated, electroplated, anodized, coloured or otherwise coated or finished.	Not applicable
48A	Metal finishing: premises on which iron or steel is galvanized.	Not applicable
49	Boat building and maintenance: premises on which — (a) vessels are commercially built or maintained; and (b) organotin compounds are used or removed from vessels.	Not applicable
50	Tannery: premises on which animal skins or hides are tanned, dressed, finished or dyed and from which liquid waste is or is to be discharged onto land or into waters.	1 000 skins or hides or more per year

<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
51	Foam products manufacturing: premises on which resin is used to prepare or manufacture plastic foam or plastic foam products using MDI (diphenylmethane di-iso-cyanate) or TDI (toluene-2, 4-di-iso-cyanate).	1 tonne or more per year
52	Electric power generation: premises (other than premises within category 53 or an emergency or standby power generating plant) on which electrical power is generated using a fuel.	20 MW or more in aggregate (using natural gas) 10 MW or more in aggregate (using a fuel other than natural gas)
53	Flyash disposal: premises on which flyash is disposed of.	1 000 tonnes or more per year
54	Sewage facility: premises — (a) on which sewage is treated (excluding septic tanks); or (b) from which treated sewage is discharged onto land or into waters.	100 m <sup>3</sup> or more per day
54A	Water desalination plant: premises at which salt is extracted from water if — (a) waste water is discharged into marine waters; and (b) the discharged waste water has a density greater than the average ambient density of the marine water at the discharge site.	10 GL or more per year
55	Livestock saleyard or holding pen: premises on which live animals are held pending their sale, shipment or slaughter.	10 000 animals or more per year
56	Used tyre storage (tyre fitting business): premises on which used tyres are stored in connection with a tyre fitting business.	500 tyres or more

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<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
57	Used tyre storage (general): premises (other than premises within category 56) on which used tyres are stored.	100 tyres or more
58	Bulk material loading or unloading: premises on which clinker, coal, ore, ore concentrate or any other bulk granular material (other than salt) is loaded onto or unloaded from vessels by an open materials loading system.	100 tonnes or more per day
58A	Bulk material loading or unloading: premises on which salt is loaded onto or unloaded from vessels by an open materials loading system.	100 tonnes or more per day
59	Biomedical waste incineration: premises on which — (a) infectious or potentially infectious waste produced by health care establishments, or by pathology, dental, or veterinary practices, or by laboratories, is incinerated; or (b) quarantine waste is incinerated; or (c) cytotoxic waste is destroyed, but not including premises on which there are only facilities used exclusively for human or animal cremation.	Not applicable
60	Incineration: premises (other than premises within category 59) on which waste, excluding clean paper and cardboard, is incinerated.	100 kg or more per hour
61	Liquid waste facility: premises on which liquid waste produced on other premises (other than sewerage waste) is stored, reprocessed, treated or irrigated.	100 tonnes or more per year
61A	Solid waste facility: premises (other than premises within category 67A) on which solid waste produced on other premises is stored, reprocessed, treated, or discharged onto land.	1 000 tonnes or more per year

<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
62	Solid waste depot: premises on which waste is stored, or sorted, pending final disposal or re-use.	500 tonnes or more per year
63	Class I inert landfill site: premises on which waste (as determined by reference to the waste type set out in the document entitled "Landfill Waste Classification and Waste Definitions 1996" published by the Chief Executive Officer and as amended from time to time) is accepted for burial.	500 tonnes or more per year
64	Class II or III putrescible landfill site: premises on which waste (as determined by reference to the waste type set out in the document entitled "Landfill Waste Classification and Waste Definitions 1996" published by the Chief Executive Officer and as amended from time to time) is accepted for burial.	20 tonnes or more per year
65	Class IV secure landfill site: premises on which waste (as determined by reference to the waste type set out in the document entitled "Landfill Waste Classification and Waste Definitions 1996" published by the Chief Executive Officer and as amended from time to time) is accepted for burial.	Not applicable
66	Class V intractable landfill site: premises on which waste (as determined by reference to the waste type set out in the document entitled "Landfill Waste Classification and Waste Definitions 1996" published by the Chief Executive Officer and as amended from time to time) is accepted for burial.	Not applicable

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<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
67	Fuel burning: premises on which gaseous, liquid or solid fuel is burnt in a boiler for the supply of steam or in power generation equipment.	In aggregate 500 kg or more per hour (fuel with a sulphur content of 0.25% or more) or In aggregate 2 000 kg or more per hour (fuel with a sulphur content of less than 0.25%)
67A	Compost manufacturing and soil blending: premises on which organic material (excluding silage) or waste is stored pending processing, mixing, drying or composting to produce commercial quantities of compost or blended soils.	1 000 tonnes or more per year

*[Part 1 amended in Gazette 22 Jun 2007 p. 2843, 30 Oct 2007 p. 5877; 23 Jul 2010 p. 3401.]*

**Part 2**

<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
68	Cattle feedlot: premises on which the watering and feeding of cattle occurs, being premises — (a) situated 100 m or more from a watercourse; and (b) on which the number of cattle per hectare exceeds 50.	500 animals or more



<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
69	Intensive piggery: premises on which pigs are fed, watered and housed in pens.	More than 500 but less than 1 000 animals
70	Screening, etc. of material: premises on which material extracted from the ground is screened, washed, crushed, ground, milled, sized or separated.	More than 5 000 but less than 50 000 tonnes per year
[71	<i>deleted]</i>	
72	Chemical manufacturing: premises on which chemical products are manufactured by a chemical process.	Not more than 100 tonnes per year
73	Bulk storage of chemicals, etc.: premises on which acids, alkalis or chemicals that — (a) contain at least one carbon to carbon bond; and (b) are liquid at STP (standard temperature and pressure), are stored.	1 000 m <sup>3</sup> in aggregate
74	Chemical blending or mixing causing discharge: premises on which chemicals or chemical products are mixed, blended or packaged in a manner that causes or is likely to cause a discharge of waste into the environment.	More than 50 but less than 500 tonnes per year
75	Chemical blending or mixing not causing discharge: premises on which chemicals or chemical products are mixed, blended or packaged in a manner that does not cause or is not likely to cause a discharge of waste into the environment.	5 000 tonnes or more per year
76	Ceramic goods manufacturing: premises on which ceramic kitchen or table ware or other non-refractory ceramic products are manufactured.	200 tonnes or more per year

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<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
77	Concrete batching or cement products manufacturing: premises on which cement products or concrete are manufactured for use at places or premises other than those premises.	100 tonnes or more per year
78	Plaster manufacturing: premises on which plaster, plaster board, gyprock or other products comprised wholly or primarily of gypsum are manufactured.	500 tonnes or more per year
79	Carbon stripping: premises on which carbon granules from a gold extraction process located at another place or on other premises are reprocessed.	100 tonnes or more per year
80	Non-metallic mineral processing: premises on which non-metallic minerals are crushed, ground, milled or separated.	100 tonnes or more per year
81	Metal coating: premises on which metal products (excluding vehicles) are spray painted, powder coated or enamelled.	1 000 L or more per year (paint or powder)
82	Boat building and maintenance: premises on which — (a) vessels are commercially built or maintained; and (b) organotin compounds are not used or removed from vessels.	Not applicable
83	Fellmongering: premises on which animal skins or hides are dried, cured or stored.	1 000 skins or hides or more per year
84	Electric power generation: premises (other than premises within category 53 or an emergency or standby power generating plant) on which electrical power is commercially generated using natural gas as a fuel.	More than 10 but less than 20 MW in aggregate

<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
85	Sewage facility: premises — (a) on which sewage is treated (excluding septic tanks); or (b) from which treated sewage is discharged onto land or into waters.	More than 20 but less than 100 m <sup>3</sup> per day
85A	Sewage pumping station: premises on which sewage is pumped (other than to or from septic tanks) and where a discharge of waste from the station may enter the Swan River or the Canning River.	Not applicable
85B	Water desalination plant: premises at which salt is extracted from water if waste water is discharged onto land or into waters (other than marine waters).	0.50 GL or more per year
86	Bulk material loading or unloading: premises on which clinker, coal, ore, ore concentrate or any other bulk granular material is loaded onto or unloaded from vessels by a closed materials loading system.	100 tonnes or more per day
87	Fuel burning: premises on which gaseous, liquid or solid fuel with a sulphur content of less than 0.25% is burnt in a boiler for the supply of steam or in power generation equipment.	More than 500 but less than 2 000 kg per hour in aggregate
88	Metal finishing: premises on which — (a) metals are chemically cleaned or metals, plastics or metal or plastic products are plated, electroplated, anodised, coloured or otherwise coated or finished; and (b) from which liquid waste is discharged into a sewer.	Not applicable

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<b>Category number</b>	<b>Description of category</b>	<b>Production or design capacity</b>
89	Putrescible landfill site: premises on which waste (as determined by reference to the waste type set out in the document entitled "Landfill Waste Classification and Waste Definitions 1996" published by the Chief Executive Officer, as amended from time to time) is accepted for burial.	More than 20 but less than 5 000 tonnes per year

*[Schedule 1 inserted in Gazette 13 Sep 1996 p. 4549-59; amended in Gazette 10 Dec 1996 p. 6877; 12 Sep 1997 p. 5151; 15 Aug 2000 p. 4715-17; 14 Jun 2002 p. 2793-4; 13 Dec 2005 p. 5983; 22 Jun 2007 p. 2843; 23 Jul 2010 p. 3401; [20 Aug 2013 p. 3856-7.](#)]*

*[Schedule 2 deleted in Gazette 8 May 2012 p. 1893.]*

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**Schedule 3 — Works approval fee**

[r. 5C]

<b>Cost of works</b>	<b>Fee units</b>
Not more than \$10 000	15
More than \$10 000 but not more than \$50 000	15 plus 5 for every \$10 000 above \$10 000
More than \$50 000 but not more than \$500 000	35 plus 10 for every \$50 000 above \$50 000
More than \$500 000 but not more than \$5 000 000	125 plus 20 for every \$500 000 above \$500 000
More than \$5 000 000 but not more than \$25 000 000	305 plus 100 for every \$5 000 000 above \$5 000 000
More than \$25 000 000 but not more than \$100 000 000	705 plus 50 for every \$5 000 000 above \$25 000 000
More than \$100 000 000	1405

*[Schedule 3 inserted in Gazette 13 Sep 1996 p. 4559-60.]*

**Schedule 4 — Licence fee**

[r. 5D]

*[Heading inserted in Gazette 13 Sep 1996 p. 4560.]*

**Part 1 — Premises component**

*[Heading inserted in Gazette 13 Sep 1996 p. 4560.]*

<b>Category</b>	<b>Production or design capacity</b>	<b>Fee units</b>
Categories 1 and 2	Not more than 2 000 animals	25
	More than 2 000 animals but not more than 5 000 animals	50
	More than 5 000 animals	100
<i>[Categories 3 and 4 deleted]</i>		
Categories 5, 7, 8, 9, 12, 13, and 14	Not more than 50 000 tonnes per year	50
	More than 50 000 but not more than 100 000 tonnes per year	100
	More than 100 000 but not more than 500 000 tonnes per year	200
	More than 500 000 but not more than 5 000 000 tonnes per year	300
	More than 5 000 000 tonnes per year	450
Categories 6 and 53	Not more than 100 000 tonnes per year	30
	More than 100 000 but not more than 500 000 tonnes per year	50
	More than 500 000 tonnes per year	100
Categories 10, 11 and 34	Not more than 50 000 tonnes per year	75
	More than 50 000 but not more than 100 000 tonnes per year	150
	More than 100 000 but not more than 500 000 tonnes per year	250

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<b>Category</b>	<b>Production or design capacity</b>	<b>Fee units</b>
	More than 500 000 but not more than 2 000 000 tonnes per year	400
	More than 2 000 000 tonnes per year	600
Category 15	Not more than 5 000 tonnes per year	75
	More than 5 000 but not more than 50 000 tonnes per year	150
	50 000 tonnes or more per year	200
Category 16	Not more than 2 000 tonnes per year	100
	More than 2 000 but not more than 10 000 tonnes per year	200
	More than 10 000 tonnes per year	300
Categories 17, 18, 19, 20, 22, 23, 24, 25 and 27	Not more than 2 000 tonnes per year	50
	More than 2 000 but not more than 10 000 tonnes per year	75
	More than 10 000 but not more than 100 000 tonnes per year	150
	More than 100 000 tonnes per year	200
Category 21	Not more than 10 000 tonnes per year	75
	More than 10 000 but not more than 100 000 tonnes per year	150
	More than 100 000 tonnes per year	250
Category 26	Not more than 10 000 tonnes per year	50
	More than 10 000 but not more than 100 000 tonnes per year	100
	More than 100 000 tonnes per year	150

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<b>Category</b>	<b>Production or design capacity</b>	<b>Fee units</b>
Categories 28 and 29	Not more than 5 000 tonnes per year	50
	More than 5 000 but not more than 50 000 tonnes per year	150
	More than 50 000 tonnes per year	200
Category 30	Not more than 50 000 tonnes per year	100
	More than 50 000 but not more than 250 000 tonnes per year	150
	More than 250 000 but not more than 1 000 000 tonnes per year	200
	More than 1 000 000 tonnes per year	400
Categories 31 and 32	Not more than 2 000 tonnes per year	50
	More than 2 000 but not more than 10 000 tonnes per year	150
	More than 10 000 but not more than 50 000 tonnes per year	250
	More than 50 000 but not more than 100 000 tonnes per year	400
	More than 100 000 tonnes per year	600
Categories 33, 35, 36, 37 and 38	Not more than 2 000 tonnes per year	50
	More than 2 000 but not more than 10 000 tonnes per year	100
	More than 10 000 but not more than 50 000 tonnes per year	200
	More than 50 000 tonnes per year	300
Category 39	Not more than 500 tonnes per year	20
	More than 500 tonnes but not more than 2 000 tonnes per year	50



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<b>Category</b>	<b>Production or design capacity</b>	<b>Fee units</b>
	More than 2 000 but not more than 10 000 tonnes per year	100
	More than 10 000 but not more than 50 000 tonnes per year	200
	More than 50 000 tonnes per year	300
Categories 40, 42 and 43	Not more than 10 000 tonnes per year	100
	More than 10 000 but not more than 100 000 tonnes per year	200
	More than 100 000 tonnes per year	400
Category 41	Not more than 5 000 tonnes per year	150
	More than 5 000 but not more than 50 000 tonnes per year	300
	More than 50 000 but not more than 500 000 tonnes per year	750
	More than 500 000 tonnes per year	1 050
Category 44	Not more than 10 000 tonnes per year	75
	More than 10 000 but not more than 50 000 tonnes per year	150
	More than 50 000 but not more than 500 000 tonnes per year	300
	More than 500 000 tonnes per year	600
Category 45	Not more than 1 000 tonnes per year	50
	More than 1 000 but not more than 10 000 tonnes per year	100
	More than 10 000 but not more than 100 000 tonnes per year	200
	More than 100 000 tonnes per year	400

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<b>Category</b>	<b>Production or design capacity</b>	<b>Fee units</b>
Category 46	Not more than 1 000 000 tonnes per year	1 250
	More than 1 000 000 tonnes per year	3 000
Category 47	Not more than 2 000 tonnes per year	20
	More than 2 000 but not more than 10 000 tonnes per year	50
	More than 10 000 tonnes per year	100
Category 48	Not more than 100 tonnes per year	25
	More than 100 tonnes but not more than 1 000 tonnes per year	50
	More than 1 000 tonnes but not more than 20 000 tonnes per year	100
	More than 20 000 tonnes per year	200
Category 48A	Not more than 1 000 tonnes per year	50
	More than 1 000 tonnes but not more than 10 000 tonnes per year	100
	More than 10 000 tonnes per year	200
Category 49	Not applicable	50
Categories 50 and 51	Not applicable	50
Category 52	Not more than 20 MW	50
	More than 20 but not more than 100 MW	100
	More than 100 but not more than 200 MW	200
	More than 200 MW	500
Category 54	Not more than 200 m <sup>3</sup> per day	20
	More than 200 but not more than 2 000 m <sup>3</sup> per day	50
	More than 2 000 m <sup>3</sup> per day	100

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<b>Category</b>	<b>Production or design capacity</b>	<b>Fee units</b>
Category 54A	Not more than 20 GL per year	20
	More than 20 but not more than 40 GL per year	50
	More than 40 GL per year	100
Category 55	Not more than 50 000 animals per year	20
	More than 50 000 animals per year	50
Categories 56 and 57	Not applicable	20
Category 58	Not more than 5 000 tonnes per day	500
	More than 5 000 but not more than 10 000 tonnes per day	625
	More than 10 000 but not more than 50 000 tonnes per day	750
	More than 50 000 tonnes per day	1 400
Category 58A	No applicable	500
Category 59	Not more than 100 kg per hour	50
	More than 100 kg per hour	100
Category 60	Not more than 500 kg per hour	50
	More than 500 kg per hour	100
Categories 61 and 61A	Not more than 100 tonnes per year	15
	More than 100 but not more than 10 000 tonnes per year	30
	More than 10 000 but not more than 100 000 tonnes per year	45
	More than 100 000 tonnes per year	60
Category 62	More than 500 but not more than 5 000 tonnes per year	8
	More than 5 000 tonnes per year	40

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<b>Category</b>	<b>Production or design capacity</b>	<b>Fee units</b>
Category 63	Not more than 500 tonnes per year	Nil
	More than 500 but not more than 5 000 tonnes per year	8
	More than 5 000 but not more than 50 000 tonnes per year	40
	More than 50 000 but not more than 500 000 tonnes per year	80
	More than 500 000 tonnes per year	160
Category 64	Not more than 5 000 tonnes per year	24
	More than 5 000 but not more than 50 000 tonnes per year	160
	More than 50 000 but not more than 100 000 tonnes per year	320
	More than 100 000 tonnes per year	640
Category 65	Not applicable	655
Category 66	Not applicable	655
Category 67	Not applicable	15
Category 67A	Not more than 500 tonnes per year	Nil
	More than 500 but not more than 5 000 tonnes per year	40
	More than 5 000 but not more than 50 000 tonnes per year	160
	More than 50 000 but not more than 100 000 tonnes per year	320
	More than 100 000 tonnes per year	640
Categories 68 to 85	Not applicable	24
Category 86	Not applicable	500
Categories 87 to 89	Not applicable	24

*[Part 1 inserted in Gazette 13 Sep 1996 p. 4560-7; amended in Gazette 10 Dec 1996 p. 6878; 15 Aug 2000 p. 4717-18; 14 Jun 2002 p. 2794; 13 Dec 2005 p. 5983; 22 Jun 2007 p. 2844; 30 Oct 2007 p. 5878; 23 Jul 2010 p. 3401.]*

### **Part 2 — Part 2 waste**

*[Heading inserted in Gazette 13 Dec 2005 p. 5984.]*

<b>Discharge quantity</b>	<b>Fee units</b>
Not more than 10 000 tonnes per year	30
More than 10 000 but not more than 100 000 tonnes per year	70
More than 100 000 but not more than 500 000 tonnes per year	150
More than 500 000 but not more than 1 000 000 tonnes per year	200
More than 1 000 000 tonnes per year	400

*[Part 2 inserted in Gazette 13 Sep 1996 p. 4565.]*

### **Part 3 — Discharge component**

*[Heading inserted in Gazette 13 Sep 1996 p. 4565.]*

**Table 1 — Discharges into air**

<b>Kind of waste</b>	<b>Fee units (for each gram per minute)</b>
1. Carbon monoxide	0.01
2. Oxides of nitrogen, sulphur oxides and particulates —	
(a) discharged from premises in the metropolitan region (as defined in the <i>Planning and Development Act 2005</i> ) or the Swan Coastal Plain	1
(b) discharged from premises in any other part of the State	0.1
3. Volatile organic compounds (being compounds not specified elsewhere in this Table that participate in atmospheric photochemical reactions) —	

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<b>Kind of waste</b>	<b>Fee units (for each gram per minute)</b>
(a) discharged from premises in the metropolitan region (as defined in the <i>Planning and Development Act 2005</i> ) or the Swan Coastal Plain	1
(b) discharged from premises in any other part of the State	0.1
4. Inorganic fluoride	2.5
5. Pesticides	2.5
6. Aluminium, arsenic, chromium, cobalt, copper, lead, manganese, molybdenum, nickel, vanadium and zinc	2.5
7. Vinyl chloride, hydrogen sulphide, benzene carbon oxysulphide, carbon disulphide and acrylates	10
8. Beryllium, cadmium, mercury, TDI (toluene-2, 4-di-iso-cyanate), MDI (diphenyl-methane di-iso-cyanate)	100
9. Other waste	1

**Table 2 — Discharges onto land or into waters**

<b>Kind of waste</b>	<b>Fee units</b>
1. Liquid waste that can potentially deprive receiving waters of oxygen (for each kilogram discharged per day) —	
(a) biochemical oxygen demand (in the absence of chemical oxygen demand limit)	0.5
(b) chemical oxygen demand (in the absence of total organic carbon limit)	1
(c) total organic carbon	0.5
2. Biostimulants (for each kilogram discharged per day) —	
(a) phosphorus —	
(i) Swan Coastal Plain	10
(ii) elsewhere	2

<b>Kind of waste</b>	<b>Fee units</b>
(b) total nitrogen —	
(i) Swan Coastal Plain	10
(ii) elsewhere	2
3. Liquid waste that physically alters the characteristics of naturally occurring waters —	
(a) total suspended solids (for each kilogram discharged per day)	0.5
(b) surfactants (for each kilogram discharged per day)	10
(c) colour alteration (for each platinum cobalt unit of colour above the ambient colour of the waters in each megalitre discharged per day)	0.05
(d) temperature alteration (for each 1°C above the ambient temperature of the waters in each megalitre discharged per day) —	
(i) in the sea south of the Tropic of Capricorn	0.05
(ii) in other waters	0.25
4. Waste that can potentially accumulate in the environment or living tissue (for each kilogram discharged per day) —	
(a) aluminium, arsenic, cadmium, chromium, cobalt, copper, lead, mercury, molybdenum, nickel, vanadium and zinc	100
(b) pesticides	100
(c) fish tainting wastes	100
(d) manganese	10
5. <i>E coli</i> bacteria as indicator species (in each megalitre discharged per day) —	
(a) 1 000 to 5 000 organisms per 100 ml	5
(b) 5 000 to 20 000 organisms per 100 ml	10
(c) more than 20 000 organisms per 100 ml	15
6. Other waste (per kilogram discharged per day) —	
(a) oil and grease	0.05

**Environmental Protection Regulations 1987**

**Schedule 4** Licence fee

**Part 3** Discharge component

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<b>Kind of waste</b>	<b>Fee units</b>
(b) total dissolved solids	0.05
(c) fluoride	1
(d) iron	1
(e) total residual chlorine	10
(f) other	1

*[Part 3 inserted in Gazette 13 Sep 1996 p. 4565-7; amended in Gazette 10 Dec 1996 p. 6878; 15 Aug 2000 p. 4718; 29 Sep 2006 p. 4266; 22 Jun 2007 p. 2844.]*



**Schedule 5 — Tyre landfill exclusion zone**

[r. 11(1)]

*[Heading inserted in Gazette 10 Dec 1996 p. 6879.]*

**Part 1 — Metropolitan**

Armadale	Fremantle	Rockingham
Bassendean	Gosnells	Serpentine-
Bayswater	Kalamunda	Jarrahdale
Belmont	Kwinana	South Perth
Cambridge	Melville	Stirling
Canning	Mosman Park	Subiaco
Claremont	Mundaring	Swan
Cockburn	Nedlands	Victoria Park
Cottesloe	Peppermint Grove	Vincent
East Fremantle	Perth	Wanneroo

*[Part 1 inserted in Gazette 10 Dec 1996 p. 6879.]*

**Part 2 — Country**

Beverley	Gingin	Northam (Shire)
Boddington	Mandurah	Toodyay
Brookton	Murray	Wandering
Chittering	Northam (Town)	York

*[Part 2 inserted in Gazette 10 Dec 1996 p. 6879.]*

**Schedule 5A — Areas where burning matter on or from development sites is prohibited**

[r. 16B]

*[Heading inserted in Gazette 19 Dec 2000 p. 7284.]*

**1. Perth metropolitan area**

The area comprising the area bound by the coastline and the local government district boundaries of the City of Wanneroo, the City of Swan, the Shire of Mundaring, the Shire of Kalamunda, the City of Armadale, the Shire of Serpentine-Jarrahdale and the City of Rockingham.

*[Clause 1 inserted in Gazette 19 Dec 2000 p. 7284.]*

**2. Mandurah area**

The area comprising the local government district of the City of Mandurah.

*[Clause 2 inserted in Gazette 19 Dec 2000 p. 7284.]*

**Schedule 6 — Infringement notice offences**

[r. 41]

<b>Infringement notice offence</b>	<b>Modified penalty for first offence</b>	<b>Modified penalty for subsequent offence</b>
	<b>\$</b>	<b>\$</b>
<i>Environmental Protection Act 1986</i>		
1. section 77(1), (2) or (3)	250	500
2. section 78(1) or (3)	250	500
3. section 79(1)	250	500
4. section 80	250	500
5. section 84(1)	250	500
6. section 85(1)	250	500
7. section 97(2)	250	500
8. section 110H(6)	250	500
<i>Environmental Protection Regulations 1987</i>		
1. regulation 5B(4)	250	500
2. regulation 5M(4)	250	500
3. regulation 13(1)	250	500
4. regulation 13A(1)	250	500
5. regulation 16(1)	250	500
6. regulation 16(2)	250	500
7. regulation 16(3)	250	500
8. regulation 16B	500	1 000
9. regulation 26(1)	250	500

<b>Infringement notice offence</b>	<b>Modified penalty for first offence</b>	<b>Modified penalty for subsequent offence</b>
	\$	\$
9A. regulation 26(5)	250	500
10. regulation 28(2)	250	500
11. regulation 28(4)	250	500
12. regulation 28(8)	250	500
13. regulation 29(5)	250	500
14. regulation 31(2)	250	500
<i>Environmental Protection (Recovery of Vapours from the Transfer of Organic Liquids) Regulations 1995</i>		
1. regulation 7(1)	250	500
2. regulation 8(1)	250	500
3. regulation 8(5)	250	500
4. regulation 9(1)	250	500
5. regulation 9(5)	250	500
6. regulation 10	250	500
7. regulation 11	250	500
8. regulation 12	250	500
9. regulation 13(1)	250	500
10. regulation 13(2)	250	500
<i>Environmental Protection (Noise) Regulations 1997</i>		
1. regulation 6(2)	250	500
2. regulation 23	250	500

<b>Infringement notice offence</b>	<b>Modified penalty for first offence</b>	<b>Modified penalty for subsequent offence</b>
	\$	\$
<i>Environmental Protection (Fibre Reinforced Plastics) Regulations 1998</i>		
1. regulation 3(1)	250	500
2. regulation 3(2)	250	500
3. regulation 3(3)	250	500
4. regulation 4(1)	250	500
5. regulation 5	250	500
6. regulation 6	250	500
<i>Environmental Protection (Abrasive Blasting) Regulations 1998</i>		
1. regulation 3	250	500
2. regulation 4	250	500
3. regulation 5(1)	250	500
4. regulation 5(2)	250	500
5. regulation 6	250	500
6. regulation 7(2)	250	500
7. regulation 7(3)	250	500
8. regulation 7(4)	250	500
9. regulation 8	250	500
<i>Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998</i>		

**Environmental Protection Regulations 1987**  
**Schedule 6**      Infringement notice offences

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<b>Infringement notice offence</b>	<b>Modified penalty for first offence</b>	<b>Modified penalty for subsequent offence</b>
	<b>\$</b>	<b>\$</b>
1. regulation 3(1)	250	500
2. regulation 3(2)	250	500
3. regulation 4(1)	250	500
4. regulation 4(2)	250	500
5. regulation 5(1)	250	500
6. regulation 5(2)	250	500
7. regulation 5(3)	250	500
8. regulation 5(4)	250	500
9. regulation 6(1)	250	500
10. regulation 6(3)	250	500
11. regulation 6(4)	250	500
12. regulation 7(2)	250	500
13. regulation 7(3)	250	500
14. regulation 7(4)	250	500
15. regulation 8(2)	250	500
16. regulation 9(1)	250	500
17. regulation 9(2)	250	500
18. regulation 10(1)	250	500
19. regulation 10(2)	250	500
20. regulation 11(1)	250	500
21. regulation 11(2)	250	500
22. regulation 12(1)	250	500
23. regulation 12(2)	250	500
24. regulation 12(3)	250	500

<b>Infringement notice offence</b>	<b>Modified penalty for first offence</b>	<b>Modified penalty for subsequent offence</b>
	\$	\$
25. regulation 13	250	500
<i>Environmental Protection (Domestic Solid Fuel Burning Appliances and Firewood Supply) Regulations 1998</i>		
1. regulation 1B(1)	250	500
2. regulation 1C	250	500
3. regulation 1D(3)	250	500
4. regulation 3	250	500
5. regulation 4	250	500
6. regulation 5(5)	250	500
7. regulation 8	250	500
<i>Environmental Protection (Abattoirs) Regulations 2001</i>		
1. regulation 4(1)	250	500
2. regulation 4(2)	250	500
3. regulation 5	250	500
4. regulation 7(1)	250	500
5. regulation 9	250	500
6. regulation 12	250	500
7. regulation 13	250	500
8. regulation 14	250	500
<i>Environmental Protection (Metal Coating) Regulations 2001</i>		
1. regulation 4	250	500

**Environmental Protection Regulations 1987**  
**Schedule 6**      Infringement notice offences

<b>Infringement notice offence</b>	<b>Modified penalty for first offence</b>	<b>Modified penalty for subsequent offence</b>
	\$	\$
2. regulation 5	250	500
3. regulation 6	250	500
4. regulation 7	250	500
5. regulation 8	250	500
6. regulation 9	250	500
7. regulation 10(1)	250	500
8. regulation 10(2)	250	500
9. regulation 11(1)	250	500
10. regulation 11(2)	250	500
11. regulation 12	250	500
<i>Environmental Protection (Rural Landfill) Regulations 2002</i>		
1. regulation 5	250	500
2. regulation 6(1)	250	500
3. regulation 6(3)	250	500
4. regulation 7	250	500
5. regulation 8	250	500
6. regulation 9	250	500
7. regulation 10	250	500
8. regulation 11	250	500
9. regulation 12	250	500
10. regulation 13(1)	250	500
11. regulation 14	250	500
12. regulation 15	250	500
13. regulation 16	250	500



<b>Infringement notice offence</b>	<b>Modified penalty for first offence</b>	<b>Modified penalty for subsequent offence</b>
	\$	\$
14. regulation 17(1)	250	500
<i>Environmental Protection (Unauthorised Discharges) Regulations 2004</i>		
1. regulation 3(1)	250	500
2. regulation 4(1)	250	500
3. regulation 4(2)	250	500
<i>Environmental Protection (Controlled Waste) Regulations 2004</i>		
1. regulation 6(4)	250	500
2. regulation 11(1)	250	500
3. regulation 13(2)	250	500
4. regulation 14	250	500
5. regulation 15(1)	250	500
6. regulation 15(2)	250	500
7. regulation 17	250	500
8. regulation 19(2)	250	500
9. regulation 21	250	500
10. regulation 22(5)	250	500
11. regulation 25(1)	250	500
12. regulation 25(2)	250	500
13. regulation 25(3)	250	500
14. regulation 25(4)	250	500
15. regulation 25(6)	250	500

**Environmental Protection Regulations 1987**  
**Schedule 6**      Infringement notice offences

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<b>Infringement notice offence</b>	<b>Modified penalty for first offence</b>	<b>Modified penalty for subsequent offence</b>
	<b>\$</b>	<b>\$</b>
16. regulation 26(2)	250	500
17. regulation 27(3)	250	500
18. regulation 28(1)	250	500
19. regulation 29(1)	250	500
20. regulation 30(1)	250	500
21. regulation 31(1)	250	500
22. regulation 32(1)	250	500
23. regulation 33	250	500
24. regulation 34	250	500
25. regulation 35(1)	250	500
26. regulation 35(2)	250	500
27. regulation 38(1)	250	500
28. regulation 38(2)	250	500
29. regulation 38(3)	250	500
30. regulation 38(4)	250	500
31. regulation 39(7)	250	500
32. regulation 40(2)	250	500
33. regulation 41(7)	250	500
34. regulation 43	250	500
35. regulation 44	250	500
36. regulation 45	250	500
38. regulation 47	250	500
39. regulation 50	250	500
40. regulation 51(2)	250	500

<b>Infringement notice offence</b>	<b>Modified penalty for first offence</b>	<b>Modified penalty for subsequent offence</b>
	\$	\$
<i>Environmental Protection (NEPM-NPI) Regulations 1998</i>		
1. regulation 5(2)(a)	250	500
2. regulation 6(2)	250	500
<i>Environmental Protection (NEPM-UPM) Regulations 2007<sup>6</sup></i>		
1. regulation 5(1)(a)	250	500
2. regulation 5(1)(b)	250	500
3. regulation 8(1)	250	500
4. regulation 8(2)	250	500
5. regulation 9(1)	250	500
6. regulation 9(2)	250	500
<i>Environmental Protection (Packaged Fertiliser) Regulations 2010</i>		
1. regulation 7(5)	250	500
2. regulation 7(6)	250	500
3. regulation 8(3)	250	500
4. regulation 8(4)	250	500
5. regulation 9(5)	250	500
6. regulation 9(6)	250	500
7. regulation 10(3)	250	500
8. regulation 10(4)	250	500
9. regulation 11(3)	250	500

**Environmental Protection Regulations 1987**  
**Schedule 6**      Infringement notice offences

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10.	regulation 11(4)	250	500
11.	regulation 12(3)	250	500
12.	regulation 12(4)	250	500
13.	regulation 16(1)	250	500
14.	regulation 16(2)	250	500
15.	regulation 17(4)	250	500
16.	regulation 17(5)	250	500

*[Schedule 6 inserted in Gazette 11 Dec 1998 p. 6605-8; amended in Gazette 15 Aug 2000 p. 4718; 19 Dec 2000 p. 7284; 5 Jan 2001 p. 119; 30 Mar 2001 p. 1809, p. 1828 and 1867-8; 12 Apr 2001 p. 2097; 30 Nov 2001 p. 6071; 14 Jun 2002 p. 2794-5; 20 Dec 2002 p. 6020; 23 Jul 2003 p. 3173; 12 Mar 2004 p. 748-9; 1 Jul 2004 p. 2664-6; 29 Sep 2006 p. 4267; 27 Apr 2007 p. 1812; 31 Dec 2010 p. 6883-4; 2 Mar 2012 p. 855; 8 May 2012 p. 1893.]*

**Schedule 7 — Forms**

[r. 37, 38, 42, 43]

[Heading inserted in Gazette 11 Dec 1998 p. 6608.]

**Form 1**

**Environmental Protection Act 1986 (Section 99B)**

**Modified penalty notice**

No. of Notice:

Certificate (s. 99A(2)(a)) No.:

To: ..... Sex: M/F  
..... DoB: ..... / ..... / .....  
..... Postcode: ..... or ACN: .....

It is alleged that you committed an offence:

When and Where: ..... a.m./p.m. on the ..... day of  
where Where:

Details of the offence and modified penalty:

<b>Section of the Act</b>	<b>Description of the offence</b>	<b>Modified penalty</b>
		\$

Information about this notice:

Date: .....  
Issued at: .....  
By: .....  
Signature: .....

**\* At the discretion of the Department of Environmental Protection<sup>3</sup>, this Modified Penalty Notice may be withdrawn and other action taken.**

WHAT YOU MUST DO:

1. You may dispose of this matter by paying the modified penalty within a period of 28 days after the service of this notice:

PAY THE MODIFIED PENALTY TO:

The Accountant  
Department of Environmental Protection<sup>3</sup>  
GPO Box K822  
PERTH WA 6842

If you wish to do so but are unable to make payment within 28 days you may apply to the Chief Executive Officer of the Department of Environmental Protection<sup>3</sup> for an extension of time within which the modified penalty may be paid.

OR

2.      Elect to have the matter dealt with by a COURT.

If you do not take one of the above options within the time specified above, this matter will be dealt with before a COURT.

*[Form 1 inserted in Gazette 11 Dec 1998 p. 6608-9.]*

**Form 2**  
**Environmental Protection Act 1986 (Section 99D)**  
**Withdrawal of modified penalty notice**

To: ..... Sex: M/F  
..... DoB: ..... / ..... / .....  
..... Postcode: ..... or ACN: .....

A MODIFIED PENALTY NOTICE SERVED ON YOU HAS BEEN WITHDRAWN  
AND NO FURTHER ACTION WILL BE TAKEN\*/A SUMMONS WILL BE  
ISSUED\*

Details of the withdrawn notice:

Date of issue: .....  
Alleged offence. ....  
Notice No.: .....

Information about this notice:

Date: .....  
Issued at: .....  
by: .....  
Signature: .....

\* Delete where not applicable.

*[Form 2 inserted in Gazette 11 Dec 1998 p. 6609.]*

**Form 3**  
**Environmental Protection Act 1986 (Section 99K)**  
**Infringement notice**

No. of Notice:

To: ..... Sex: M/F  
..... DoB: ..... / ..... / .....  
..... Postcode: ..... or ACN: .....

It is alleged that you committed an offence:

**When and where**      When: ..... a.m./p.m. on the ..... day of .....  
Where: .....

Details of the offence and modified penalty:

<b>Section or regulation</b>	<b>Description of the offence</b>	<b>Modified penalty \$</b>
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Information about this notice:

Date: .....  
Issued at: .....  
by: .....  
Inspector No.: .....  
Signature: .....

**\*At the discretion of the Department of Environmental Protection <sup>3</sup>,  
this Infringement Notice may be withdrawn and other action taken.**

**WHAT YOU MUST DO:**

If you do not wish to have a complaint of the alleged offence heard and determined by a court, you may dispose of this matter by paying the modified penalty within a period of 28 days after the service of this notice:

**PAY THE MODIFIED PENALTY TO:**

The Accountant  
Department of Environmental Protection <sup>3</sup>  
GPO Box K822  
PERTH WA 6842



If you wish to do so but are unable to make payment within 28 days you may apply to the Chief Executive Officer of the Department of Environmental Protection<sup>3</sup> for an extension of time within which the modified penalty may be paid.

**WHAT MIGHT HAPPEN IF YOU DO NOT PAY THE MODIFIED PENALTY**

If you do not pay the modified penalty, a complaint may be issued against you for the alleged offence, in which case the matter will be dealt with by a COURT.

OR

The modified penalty may be recovered by the Fines Enforcement Registry, in which case —

- (a) additional administrative charges may be incurred;
- (b) some or all of the following action may be taken ~~to suspend~~ your ~~Motor Driver's Licence or Vehicle Licence until you~~ driver's licence may be suspended; your vehicle licence may be suspended or cancelled; your details may be published on a website; your vehicle may be immobilised or have ~~paid in full the modified penalty~~ its number plates removed; and ~~any additional charges~~ your property may be seized and sold; and
- (c) you will be given an opportunity to elect to have a complaint for the alleged offence dealt with by a COURT.

PAYMENTS AFTER THE DUE DATE CAN ONLY BE MADE WITH A FINAL DEMAND LETTER WHICH INCURS AN ADDITIONAL ENFORCEMENT FEE.

*[Form 3 inserted in Gazette 11 Dec 1998 p. 6610-11; [amended in Gazette 20 Aug 2013 p. 3857.](#)]*

**Form 4**  
**Environmental Protection Act 1986 (Section 99N)**  
**Withdrawal of infringement notice**

To: ..... Sex: M/F  
..... DoB: ..... / ..... / .....  
..... Postcode: ..... or ACN: .....

AN INFRINGEMENT NOTICE SERVED ON YOU HAS BEEN WITHDRAWN  
AND NO FURTHER ACTION WILL BE TAKEN\*/A SUMMONS WILL BE  
ISSUED\*

Details of the withdrawn notice:

Date of issue: .....  
Alleged offence: .....  
Notice No.: .....

Information about this notice:

Date: .....  
Issued at: .....  
by: .....  
Signature: .....

\* Delete where not applicable.

*[Form 4 inserted in Gazette 11 Dec 1998 p. 6611.]*



### Notes

- <sup>1</sup> This is a compilation of the *Environmental Protection Regulations 1987* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

### Compilation table

Citation	Gazettal	Commencement
<i>Environmental Protection Regulations 1987</i>	20 Feb 1987 p. 444-9	20 Feb 1987 (see r. 2 and <i>Gazette</i> 20 Feb 1987 p. 440)
<i>Environmental Protection Amendment Regulations 1988</i>	14 Jun 1988 p. 1945-6 (as amended 24 Jun 1988 p. 2006)	1 Aug 1988 (see r. 2)
<i>Environmental Protection Amendment Regulations 1989</i>	5 May 1989 p. 1379	5 May 1989
<i>Environmental Protection Amendment Regulations (No. 2) 1989</i>	18 Aug 1989 p. 2752	17 Oct 1989 (see r. 2)
<i>Environmental Protection Amendment Regulations (No. 2) 1991</i>	30 Aug 1991 p. 4553-4	30 Aug 1991
<i>Environmental Protection Amendment Regulations (No. 3) 1991</i>	30 Aug 1991 p. 4554-6	30 Aug 1991 (see r. 2)
<i>Environmental Protection Amendment Regulations 1992</i>	24 Jan 1992 p. 362	28 Jan 1992 (see r. 2)
<i>Environmental Protection Amendment Regulations (No. 2) 1992</i>	10 Apr 1992 p. 1588-9	10 Apr 1992
<i>Environmental Protection Amendment Regulations (No. 3) 1992</i>	4 Dec 1992 p. 5889	4 Dec 1992
<i>Environmental Protection Amendment Regulations 1993</i>	13 Jul 1993 p. 3705	13 Jul 1993
<i>Environmental Protection Amendment Regulations (No. 2) 1993</i>	24 Sep 1993 p. 5252-8	24 Sep 1993
<i>Environmental Protection Amendment Regulations (No. 3) 1993</i>	19 Nov 1993 p. 6259-60	19 Nov 1993
<i>Environmental Protection Amendment Regulations (No. 4) 1993</i>	31 Dec 1993 p. 6878	31 Dec 1993
<i>Environmental Protection Amendment Regulations (No. 5) 1993</i>	31 Dec 1993 p. 6878-9	1 Jan 1994 (see r. 2)

## Environmental Protection Regulations 1987

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Citation	Gazettal	Commencement
<i>Environmental Protection Amendment Regulations 1994</i>	10 Jun 1994 p. 2374-6	10 Jun 1994
<i>Environmental Protection Amendment Regulations 1995</i>	5 May 1995 p. 1701-2	5 May 1995
<b>Reprint of the <i>Environmental Protection Regulations 1987</i> as at 4 Dec 1995</b> (includes amendments listed above)		
<i>Environmental Protection Amendment Regulations (No. 3) 1996</i> <sup>7</sup>	13 Sep 1996 p. 4545-67 (as amended 10 Dec 1996 p. 6879)	1 Oct 1996 (see r. 2)
<i>Environmental Protection Amendment Regulations (No. 5) 1996</i>	11 Oct 1996 p. 5395	4 Aug 1996 (see r. 2 and <i>Gazette</i> 2 Aug 1996 p. 3615)
<i>Environmental Protection Amendment Regulations (No. 4) 1996</i>	12 Nov 1996 p. 6303-5	12 Nov 1996
<i>Environmental Protection Amendment Regulations (No. 6) 1996</i>	10 Dec 1996 p. 6876-9	10 Dec 1996
<i>Environmental Protection Amendment Regulations (No. 2) 1997</i>	12 Sep 1997 p. 5149-51	12 Sep 1997
<i>Environmental Protection Amendment Regulations 1998</i>	3 Apr 1998 p. 1972-3	25 Jul 1998 (see r. 2 and <i>Gazette</i> 24 Jul 1998 p. 3887)
<i>Environmental Protection Amendment Regulations (No. 2) 1998</i>	26 Jun 1998 p. 3370-4	1 Jul 1998 (see r. 2 and <i>Gazette</i> 26 Jun 1998 p. 3369)
<i>Environmental Protection (Miscellaneous Amendments) Regulations 1998 Pt. 2</i>	11 Dec 1998 p. 6597-614	8 Jan 1999 (see r. 2)
<b>Reprint of the <i>Environmental Protection Regulations 1987</i> as at 2 Apr 1999</b> (includes amendments listed above)		
<i>Environmental Protection (Diesel and Petrol) Regulations 1999 r. 22</i>	17 Dec 1999 p. 6305-25	1 Jan 2000 (see r. 2)
<i>Environmental Protection Amendment Regulations 2000</i>	7 Jul 2000 p. 3677-83	7 Jul 2000
<i>Environmental Protection Amendment Regulations (No. 4) 2000</i>	4 Aug 2000 p. 4199-202	1 Oct 2000 (see r. 2)
<i>Environmental Protection Amendment Regulations (No. 3) 2000</i>	15 Aug 2000 p. 4711-19	15 Aug 2000
<i>Environmental Protection Amendment Regulations (No. 2) 2000</i>	19 Dec 2000 p. 7283-4	19 Dec 2000

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Environmental Protection Amendment Regulations (No. 5) 2000</i> <sup>8</sup>	5 Jan 2001 p. 114-19	5 Jan 2001
<b>Reprint of the <i>Environmental Protection Regulations 1987</i> as at 9 Feb 2001</b> (includes amendments listed above)		
<i>Environmental Protection (Abattoirs) Regulations 2001</i> r. 17	30 Mar 2001 p. 1797-810	30 Mar 2001
<i>Environmental Protection (Liquid Waste) Amendment Regulations 2001</i> r. 34	30 Mar 2001 p. 1811-30	1 Apr 2001 (see r. 2)
<i>Environmental Protection (Controlled Waste) Regulations 2001</i> r. 55	30 Mar 2001 p. 1831-79	1 Apr 2001 (see r. 2)
<i>Environmental Protection Amendment Regulations 2001</i>	12 Apr 2001 p. 2097-8	12 Apr 2001
<i>Environmental Protection (Metal Coating) Regulations 2001</i> r. 14	30 Nov 2001 p. 6068-71	30 Nov 2001
<i>Environmental Protection Amendment Regulations 2002</i>	14 Jun 2002 p. 2793-5	1 Jul 2002 (see r. 2 and <i>Gazette</i> 14 Jun 2002 p. 2781)
<b>Reprint of the <i>Environmental Protection Regulations 1987</i> as at 29 Nov 2002</b> (includes amendments listed above)		
<i>Environmental Protection Amendment Regulations (No. 3) 2001</i>	20 Dec 2002 p. 6019-20	20 Dec 2002
<i>Environmental Protection (NEPM - UPM) Regulations 2003</i> Pt. 6	23 Jul 2003 p. 3157-73	23 Jul 2003
<i>Environmental Protection Amendment Regulations 2003</i>	9 Sep 2003 p. 4052-6	9 Sep 2003
<i>Environmental Protection (Unauthorised Discharges) Regulations 2004</i> r. 6	12 Mar 2004 p. 747-50	12 Mar 2004
<i>Environmental Protection Amendment Regulations 2004</i>	22 Jun 2004 p. 2143-50	22 Jun 2004
<i>Environmental Protection (Controlled Waste) Regulations 2004</i> r. 57	1 Jul 2004 p. 2627-73	1 Jul 2004
<i>Environmental Protection Amendment Regulations (No. 3) 2004</i>	12 Oct 2004 p. 4754-5	12 Oct 2004

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<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Environmental Protection Amendment Regulations (No. 2) 2004</i>	23 Nov 2004 p. 5222-3	23 Nov 2004
<b>Reprint 5: The Environmental Protection Regulations 1987 as at 11 Mar 2005</b> (includes amendments listed above)		
<i>Environmental Protection Amendment Regulations 2005</i>	13 Dec 2005 p. 5982-4	13 Dec 2005
<i>Environmental Protection Amendment Regulations 2006</i>	29 Sep 2006 p. 4260-7	1 Oct 2006 (see r. 2)
<i>Environmental Protection (NEPM-UPM) Regulations 2007 Pt. 6</i>	27 Apr 2007 p. 1793-812	27 Apr 2007
<i>Environmental Protection Amendment Regulations 2007</i>	22 Jun 2007 p. 2839-44	r. 1 and 2: 22 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))
<b>Reprint 6: The Environmental Protection Regulations 1987 as at 17 Aug 2007</b> (includes amendments listed above)		
<i>Environmental Protection Amendment Regulations (No. 2) 2007</i>	30 Oct 2007 p. 5877-8	r. 1 and 2: 30 Oct 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Nov 2007 (see r. 2(b))
<i>Waste Avoidance and Resource Recovery Regulations 2008 r. 22</i>	20 Jun 2008 p. 2665-84	1 Jul 2008 (see r. 2(b))
<i>Environmental Protection Amendment Regulations 2010</i>	23 Jul 2010 p. 3401	r. 1 and 2: 23 Jul 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Jul 2010 (see r. 2(b))
<i>Environmental Protection (Packaged Fertiliser) Regulations 2010 r. 18</i>	31 Dec 2010 p. 6869-84	1 Jan 2011 (see r. 2(c))
<i>Environmental Protection Amendment Regulations 2012</i>	2 Mar 2012 p. 855	r. 1 and 2: 2 Mar 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 3 Mar 2012 (see r. 2(b))
<i>Environmental Protection Amendment Regulations (No. 2) 2012</i>	8 May 2012 p. 1892-3	r. 1 and 2: 8 May 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 9 May 2012 (see r. 2(b))
<b>Reprint 7: The Environmental Protection Regulations 1987 as at 21 Sep 2012</b> (includes amendments listed above)		

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Environmental Protection Amendment Regulations (No. 3) 2012</i>	27 Nov 2012 p. 5737-8	r. 1 and 2: 27 Nov 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 28 Nov 2012 (see r. 2(b))
<i>Environmental Protection Amendment Regulations (No. 3) 2013</i>	18 Jun 2013 p. 2293-5	r. 1 and 2: 18 Jun 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2013 (see r. 2(b))
<a href="#"><u><i>Environmental Protection Amendment Regulations 2013</i></u></a>	<a href="#"><u>20 Aug 2013</u></a> <a href="#"><u>p. 3856-7</u></a>	<a href="#"><u>r. 1 and 2: 20 Aug 2013</u></a> <a href="#"><u>(see r. 2(a));</u></a> <a href="#"><u>Regulations other than r. 1 and 2:</u></a> <a href="#"><u>21 Aug 2013 (see r. 2(b) and</u></a> <a href="#"><u>Gazette 20 Aug 2013 p. 3815)</u></a>

<sup>2</sup> Published in *Gazette* 18 December 1992 p. 6099.

<sup>3</sup> Under the *Alteration of Statutory Designations Order (No. 2) 2006* a reference in a written law to the Department of Environment or the Department of Environmental Protection is, unless the contrary is intended, to be read and construed as a reference to the Department of Environment and Conservation.

<sup>4</sup> Proclaimed 1 July 1988 in *Gazette* 26 June 1998 p. 3369.

<sup>5</sup> At the time of this compilation the Waste Management and Recycling Fund is the Waste Management and Recycling Account.

<sup>6</sup> Expired 30 June 2012.

<sup>7</sup> The *Environmental Protection Amendment Regulations (No. 3) 1996* r. 7 (as amended by the *Environmental Protection Amendment Regulations (No. 6) 1996* r. 10) is a transitional provision that is of no further effect.

<sup>8</sup> The amendment in the *Environmental Protection Amendment Regulations (No. 5) 2000* r. 12 referring to items 8 and 9 of Schedule 6 is not included because these items were previously deleted in *Gazette* 19 December 2000 p. 7284.