



Western Australia

Contaminated Sites Regulations 2006

Compare between:

[08 Aug 2006, 00-a0-03] and [01 Dec 2006, 00-b0-11]

Western Australia

Contaminated Sites Act 2003

Contaminated Sites Regulations 2006

Part 1 — Preliminary

1. Citation

These regulations are the *Contaminated Sites Regulations 2006*.

2. Commencement

These regulations come into operation on the day on which the *Contaminated Sites Act 2003* comes into operation.

~~{3-5. — Have not come into operation².}~~

~~{Parts 2-10 have not come into operation².}~~

~~{Schedules 1-3 have not come into operation².}~~

Notes

[†]—This is a compilation of the *Contaminated Sites Regulations 2006*. The following table contains information about those regulations.

Compilation table

Citation	Gazettal	Commencement
<i>Contaminated Sites Regulations 2006</i> r. 1 and 2	8 Aug 2006 p. 2913-74	8 Aug 2006

^{†a}—On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Citation	Gazettal	Commencement
<i>Contaminated Sites Regulations 2006</i> r. 3-5, Pt. 2-10 and Sch. 1-3 ²	8 Aug 2006 p. 2913-74	1 Dec 2006 (see r. 2 and <i>Gazette</i> 8 Aug 2006 p. 2899)

²—On the date as at which this compilation was prepared, the *Contaminated Sites Regulations 2006* r. 3-5, Pt. 2-10 and Sch. 1-3 had not come into operation. They read as follows:

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3. Interpretation

In these regulations —

“*audit*”,² in relation to a site, means to carry out a review of the investigation or remediation of a site to determine one or more of the following —

- (a) the nature and extent of any contamination of the site;
- (b) the nature and extent of the investigation or remediation of the site;
- (c) whether any restrictions on the use of the site are required;
- (d) the suitability of the land for a specific use, or a specific range of uses;

- (e) whether any further investigation of the site is required, recommended or necessary;
- (f) whether any further remediation of the site is required, recommended or necessary so that the site is suitable for all uses, or for a specific use, or a specific range of uses;
- (g) the suitability or appropriateness of a management plan;

“**basic summary of records**” means a summary of the information and documents from the records referred to in regulation 9;

“**detailed summary of records**” means a summary, or copies, of the information and documents from the records referred to in regulation 10;

“**Form**”, followed by a number, means the form so numbered in Schedule 1;

“**panel of names**” means a panel of names referred to in regulation 13(2)(a);

“**summary of records**” means a basic summary of records or a detailed summary of records.

4. Fees

In these regulations fee amounts are expressed in units or fractions of a unit, one unit being equivalent to \$15.

5. Land, water and sites that are not contaminated — section 4(2)

- (1) Surface water that is affected by eutrophication is not contaminated only because of the eutrophication.
- (2) Land, water or a site is not contaminated where the only substance that is present in or on that land, water or site at above background concentrations that presents, or has the potential to present, a risk of harm to human health, the environment or any environmental value is —
 - (a) part of a building or other structure; or

-
- (b) wholly contained within a building; or
 - (c) sewage, effluent or liquid waste that is being treated, or has been treated, by a domestic sewage apparatus operated in compliance with regulations 15 to 19 of the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*; or
 - (d) total soluble salts, present in a diffuse manner, as a result of salinisation, whether natural, anthropogenic or both; or
 - (e) an explosive substance contained within an unexploded ordnance; or
 - (f) a substance that is present as a direct result of the correct application of a fertiliser, herbicide or pesticide to land, subject to subregulation (3).
- (3) Subregulation (2)(f) does not apply in respect of land, water or a site if there has been a change to the use to which the land is put since the application of the fertiliser, herbicide or pesticide.
- (4) In this regulation —
- “correct application”**, in relation to a fertiliser, herbicide or pesticide means application in accordance with —
- (a) any written law regarding the application of the fertiliser, herbicide or pesticide which was in force at the time of the application; or
 - (b) if no such written law was in force at that time, any relevant recommendation of the manufacturer or distributor of the fertiliser, herbicide or pesticide;
- “domestic sewage apparatus”** means an apparatus for the treatment of sewage (within the meaning of the *Health Act 1911* section 3) that treats less than 540 litres of sewage per day.

**Part 2 — Reporting of known, or suspected,
contaminated sites**

6. Report of known, or suspected, contaminated site — Form 1

A report, under the Act section 11, of a site that a person knows, or suspects, is contaminated is to be made in the form of Form-1.

Part 3 — Public access to information and documents

7. Interpretation

In this Part, unless the contrary intention appears —

“*land*” includes —

- (a) underground water under that land; and
- (b) surface water on that land.

8. Request for access to a summary of records — Form 2

- (1) For the purposes of the Act section 21(1), a request for access to a summary of records is to —
 - (a) be made to the CEO in the form of Form 2; and
 - (b) specify whether a basic or a detailed summary of records is requested; and
 - (c) be accompanied by —
 - (i) if the request is for a basic summary of records, the fee set out in Schedule 2 item 1; and
 - (ii) if the request is for a detailed summary of records, the fee set out in Schedule 2 item 2.
- (2) The CEO may reduce, waive or refund, in whole or in part, the fee referred to in subregulation (1)(c)(ii) if it considers it appropriate to do so in the circumstances of the case.
- (3) The fee applicable under subregulation (1)(c) where the land does not comprise all, or part, of a site that is classified, is the fee applicable to a request for access to a basic summary of records, regardless of whether the application made was for access to a basic or a detailed summary of records.

9. Basic summary of records

- (1) For the purposes of the Act section 21(2), a basic summary of records in respect of the land specified in a request for access to

r. 10

a summary of records is a summary of the following information and documents —

- (a) the category of classification of any site that comprises all, or part, of the land at the date the summary is compiled;
 - (b) any notice given under the Act Part 4 that applies in respect of the land.
- (2) A basic summary of records in respect of land is to be accompanied by a summary of —
- (a) the nature and extent of the known contamination, and any restrictions on the use, of any site classified as —
 - (i) *contaminated — restricted use*; or
 - (ii) *remediated for restricted use*; or
 - (iii) *contaminated — remediation required*,that comprises all, or part, of the land that the summary is given in respect of; and
 - (b) the reasons for the classification of any site that comprises all, or part, of the land that the summary is given in respect of, with reference to any guidelines, standards and other information taken into account under the Act section 13(4).

10. Detailed summary of records

- (1) For the purposes of the Act section 21(2), a detailed summary of records in respect of the land specified in a request for access to a summary of records is a summary, or copies, of the following information and documents —
- (a) the category of classification of any site that comprises all, or part, of the land at the date the summary is compiled;
 - (b) any notice given under the Act Part 4 that applies in respect of the land;

- (c) any certificate of contamination audit given in respect of the land;
 - (d) the author, date and title of the following records, if any, about the land —
 - (i) management plans submitted to the CEO;
 - (ii) sampling and analysis programmes given to the CEO under the Act section 49(4)(d);
 - (e) any other information or documents from the records that the CEO considers appropriate.
- (2) A detailed summary of records in respect of land is to be accompanied by a summary of —
- (a) the nature and extent of the known contamination, and any restrictions on the use, of any site classified as —
 - (i) *contaminated — restricted use*; or
 - (ii) *remediated for restricted use*; or
 - (iii) *contaminated — remediation required*,that comprises all, or part, of the land that the summary is given in respect of; and
 - (b) the reasons for the classification of any site that comprises all, or part, of the land that the summary is given in respect of, with reference to any guidelines, standards and other information taken into account under the Act section 13(4).

11. Inspection of records referred to in detailed summary of records

The CEO is to ensure that, where copies of records referred to in a detailed summary of records are not provided as part of that summary of records, the person given the summary of records is given the opportunity to inspect those records at a mutually convenient time.

12. Land not part of classified site

If a person requests a summary of records in respect of land that does not comprise all, or part, of a site that is classified then the person is to be advised of that fact in writing.

Part 4 — Contaminated Sites Committee

13. Establishment of committee or replacement of member

- (1) The Minister, when —
 - (a) establishing a committee under the Act section 33(1); or
 - (b) wishing to appoint a member to the committee to fill a vacancy arising due to —
 - (i) the death, resignation or removal of a member of the committee; or
 - (ii) any other reason,

is to request the CEO to submit to the Minister a panel of names.

- (2) As soon as is practicable after being requested to do so by the Minister, the CEO is to submit to the Minister in writing —
 - (a) a panel of names, chosen in accordance with regulation 16, from which the committee may be selected, or from which a member may be appointed to the committee, as is relevant; and
 - (b) any recommendation the CEO has as to membership of the committee or appointment of a member.

14. Term of office of members of the committee

- (1) A member of the committee holds office for such period, not exceeding 3 years, as is specified in the instrument of his or her appointment.
- (2) A member of the committee is eligible for re-appointment.
- (3) A member of the committee, unless he or she sooner resigns or is removed from office, continues in office until his or her successor comes into office, even if the period for which he or she was appointed has expired.

15. Committee meetings

The committee may hold ordinary meetings at an interval to be determined by the committee and special meetings as required for the performance of the committee's functions.

16. Panel of names — section 33(3)

- (1) From time to time, as the CEO considers necessary, the CEO is to cause to be published in a daily newspaper circulating throughout the State a notice calling for expressions of interest from persons interested in being selected to be a member of the committee.
- (2) In compiling a panel of names, the CEO is to consider any expressions of interest lodged in accordance with a notice published under subregulation (1) but may include a person's name on a panel whether or not the person has lodged an expression of interest if, in the opinion of the CEO, the person is suitable to be a member of the committee.
- (3) A panel of names is to include the names of at least 10 people of whom —
 - (a) at least 6 have expertise in contaminated site management or environmental management; and
 - (b) at least 2 are legal practitioners.

17. Provisions about panel of names

- (1) A person's name is to be removed from a panel of names after a period of 3 years, but may, in accordance with regulation 16, be re-included on a panel immediately.
- (2) A person's name is to be removed from a panel of names if the person —
 - (a) makes a written request to that effect to the CEO; or
 - (b) is not eligible to be appointed to the committee in accordance with regulation 19.

- (3) If a person's name is removed from the panel of names the CEO is to ensure that the person is informed in writing of that removal as soon as is practicable.

18. Chairperson of committee

The Minister is to appoint one of the members of the committee to be the chairperson of the committee.

19. Persons not eligible to be appointed to committee

A person is not eligible to be appointed to the committee if the person —

- (a) is an insolvent under administration within the meaning of that term in the *Corporations Act 2001* of the Commonwealth; or
- (b) has been convicted of an offence under this Act or the EP Act.

20. Removal or resignation of member from committee

- (1) A member of the committee may resign by written notice.
- (2) The Minister may remove from office a member of the committee if —
 - (a) the Minister is satisfied that regulation 19 paragraph (a) or (b) applies in relation to the member; or
 - (b) the member is persistently absent without leave or reasonable excuse from committee meetings of which the member has had notice; or
 - (c) the member ceases to hold the office or qualifications by virtue of which the member was appointed to the committee; or
 - (d) the member is suffering from a permanent physical or mental incapacity that impairs the performance of the member's functions; or

- (e) the Minister is satisfied that extraordinary circumstances render inappropriate the continuation of the person's membership of the committee.

21. Conflict of interest

- (1) A member of the committee who has or acquires a conflict of interest in relation to a matter in respect of which the committee is to make a decision under the Act is to —
 - (a) resolve the conflict of interest in relation to the matter;
or
 - (b) disqualify himself or herself from taking any further part in the proceedings of the committee in relation to the matter.
- (2) A member of a committee to which subregulation (1)(a) applies is to inform the Minister in writing of the conflict and the resolution of the conflict, and if the conflict has not been resolved to the Minister's satisfaction, the Minister is to disqualify the member from taking any further part in the proceedings of the committee in relation to the matter.
- (3) For the purposes of this regulation, a member of a committee has a conflict of interest in relation to a matter if the person has any financial or other interest, either directly or indirectly, in the matter that conflicts or could conflict with the proper performance of the person's functions in relation to that matter.

Part 5 — Decisions as to responsibility for remediation

22. Interpretation

In this Part —

“*applicant*” means a person making a request referred to in regulation 24.

23. Interested person — section 36(3)

For the purposes of the Act section 36(3) the following are prescribed as interested persons in relation to a site —

- (a) a person who is an owner or occupier of land that comprises all, or part, of the site;
- (b) a person who was an owner or occupier of land that comprises all, or part, of the site and in respect of whom there are reasonable grounds to suspect may have caused, or contributed to, the contamination of the site;
- (c) a person who is, or was, an owner or occupier of land adjoining land that comprises all, or part, of the site and in respect of whom there are grounds to suspect may have caused, or contributed to, the contamination of the site;
- (d) a person who is a mortgagee of land that comprises all, or part, of the site;
- (e) a person given a notice under the Act section 42(1) in relation to the site;
- (f) the CEO;
- (g) a person who, in the opinion of the CEO, has a particular interest in the site and has been approved in writing by the CEO for the purposes of this paragraph.

24. Request for decision as to responsibility for remediation

- (1) A request to the committee to make a decision as to responsibility for remediation of a site under the Act

section 36(2)(a) is to be made in writing in a form approved by the committee.

- (2) A request referred to in subregulation (1) is to set out —
 - (a) the name and address of the applicant; and
 - (b) a description of the location and extent of the site sufficient to identify it; and
 - (c) a description of the applicant's interest in the site; and
 - (d) reasons why the applicant is of the opinion that he or she —
 - (i) is, or may be; or
 - (ii) is not, or may not be,responsible for remediation of the site; and
 - (e) any other information that the person believes may be relevant to responsibility for remediation of the site, or any part of the site, in the possession of, or available to, the applicant.
- (3) A request referred to in subregulation (1) is to be accompanied by —
 - (a) a certified copy of, the certificate, or certificates, of title for all of the land that comprises all, or part, of the site; and
 - (b) any documents or other information relevant to the information the applicant has provided in the request.

25. Requirement to provide information to committee

- (1) The committee may require an applicant to provide further information to the committee relevant to the decision as to responsibility for remediation of the site to which the application relates.
- (2) The committee may require a person who, in the opinion of the committee may —
 - (a) be responsible for remediation of a site; or

- (b) have access to information relevant to the decision as to responsibility for remediation of a site,

to provide further information to the committee relevant to the decision as to responsibility for remediation of the site.

- (3) A requirement under this regulation is to be in writing and is to specify —
 - (a) the person to whom the requirement applies; and
 - (b) the information to be provided by that person; and
 - (c) the period within which the person is to provide the information.
- (4) A requirement made under this regulation is to be given to the person to whom the requirement applies.
- (5) The period specified in a requirement under subregulation (3)(c) is not to be less than 14 days from the day the requirement was given to the person to whom it applies.
- (6) The person who provides information as a result of a requirement under this regulation is to bear the cost of doing so, whether the committee decides that the person is responsible for remediation or not.
- (7) A person who, without reasonable excuse, refuses or fails to comply with a requirement made under this regulation commits an offence.
Penalty: a fine of \$1 000.

26. Facts and circumstances to be taken into account by the committee in making a decision as to responsibility for remediation

The following facts and circumstances are, where relevant, to be taken into account by the committee in making a decision as to responsibility for remediation —

- (a) all available information on the nature and extent of known contamination of the site, currently and historically;
- (b) the use to which the site has been, and is being, put and the activities which have been carried out at the site which may have caused or contributed to the contamination;
- (c) information provided under regulation 24 or 25;
- (d) any previous decision made by the committee as to responsibility for remediation of the site, or any part of the site or any other site, or a part of any other site;
- (e) other facts and circumstances relevant to responsibility for remediation provided to the committee by an inspector, authorised person or analyst appointed under the EP Act for the purposes of the Act.

27. Time within which decision to be made

The committee is to make a decision as to responsibility for remediation of a site when requested to do so under the Act section 36(2)(a) —

- (a) within 6 months after the day on which the request is made; or
- (b) if, in the opinion of the committee, there are particular circumstances which make it difficult to make a decision as to responsibility for remediation within that time, such further time as the committee decides is necessary to make the decision.

28. Land owner's responsibility for remediation — section 27(3)

- (1) In making a decision under the Act section 27(3) the committee is to take into account the following matters —
 - (a) whether or not the contamination was caused, or contributed to, by an action of the owner;

- (b) whether or not the owner failed to prevent the contamination of the land, as far as it was reasonably within the owner's control to prevent that contamination;
 - (c) whether or not the owner has derived a benefit or advantage from any act that caused, or contributed to, the contamination.
- (2) In this regulation —
- “owner”** means an owner within the meaning of the Act section 5(1)(b)(i) or (ii).

Part 6 — Certificates of contamination audit

29. Request for certificate of contamination audit — Form 3

- (1) For the purposes of the Act section 62(1), a request for a certificate of contamination audit is to be made in the form of Form 3.
- (2) For the purposes of the Act section 62(3), a request for a certificate of contamination audit in respect of land is to be accompanied by —
 - (a) a certified copy of the certificate, or certificates, of title for the land; and
 - (b) any reports or other documents on investigations or assessments regarding the nature or extent of any contamination of the land in the possession of, or available to, the person who made the request; and
 - (c) details of any remediation of the land, including any reports or documents on that remediation in the possession of, or available to, the person who made the request; and
 - (d) a mandatory auditor's report on the land; and
 - (e) any reports or findings as to the effectiveness of any remediation of the land in the possession of, or available to, the person who made the request; and
 - (f) the fee set out in Schedule 2 item 3.

30. Certificate of contamination audit — Form 4

For the purposes of the Act section 63, a certificate of contamination audit is to be in the form of Form 4.

Part 7 — Mandatory auditor's reports

31. When mandatory auditor's reports are required

- (1) A mandatory auditor's report is to be provided to the CEO —
 - (a) in accordance with regulation 29(2)(d), when a request for a certificate of contamination audit is made in respect of land; or
 - (b) with every report provided to the CEO containing information as to, or which will be relevant to, the investigation, assessment, monitoring or remediation of a source site; or
 - (c) with every report containing information as to, or which will be relevant to, the investigation, assessment, monitoring or remediation of a site provided to the CEO for the purpose of —
 - (i) complying, or attempting to comply, with another written law; or
 - (ii) a requirement or condition (by whatever name called) imposed under another written law, or taking a necessary step towards doing so; or
 - (d) at the written request of the CEO, in respect of a site —
 - (i) which, in the opinion of the CEO, presents particularly complex technical issues; or
 - (ii) in respect of which, in the opinion of the CEO, inadequate information or reports have been provided; or
 - (iii) in respect of which, in the opinion of the CEO, a mandatory auditor's report is required to enable the site to be properly dealt with for the purposes of the Act.
- (2) Despite subregulation (1), the CEO may waive a requirement to provide a mandatory auditor's report (other than under

subregulation (1)(a)) during the period of 6 months after the commencement of the Act in respect of —

- (a) a particular report; or
- (b) reports of a particular class or type; or
- (c) reports regarding sites of a particular class or type.

32. Mandatory auditor's report — section 73

(1) A mandatory auditor's report is to —

- (a) report on the audit of a site undertaken by the auditor; and
- (b) report the findings of the auditor's critical review of the site investigation, remediation, management or monitoring, as is relevant; and
- (c) state the conclusions made by the auditor and give reasons for the conclusions; and
- (d) where relevant, make —
 - (i) a recommendation as to the classification of the site; and
 - (ii) where the classification recommended is *contaminated — restricted use, remediated for restricted use* or *contaminated — remediation required*, make a recommendation as to the restrictions on the use of the site;

_____and

- (e) contain any other information that the auditor considers relevant, taking into account any relevant guidelines.

(2) Where part of a mandatory auditor's report has been prepared, and is based on work undertaken by a person other than the auditor, or a person employed by the auditor, the report is to be accompanied by a statement identifying, and signed by, that person to the effect that that part of the report is accurate and that the person —

- (a) has not provided information in that part of the report that the person knows is false or misleading in a material particular; and
- (b) has not provided information in that part of the report with reckless disregard as to whether or not the information is false or misleading in a material particular; and
- (c) has disclosed in that part of the report all information that the person knows is materially relevant to that part of the report.

Part 8 — Disclosure statements

33. Disclosure statement under section 64 — Form 5

- (1) For the purposes of the Act section 64, a disclosure statement is to be in the form of Form 5.
- (2) A disclosure statement is to be accompanied by —
 - (a) a certified copy of the certificate, or certificates, of title for the owner's land; and
 - (b) a report, prepared in accordance with the relevant guidelines, regarding the nature and extent of contamination of the owner's land; and
 - (c) all available information in the possession of, or available to, the person who made the statement that the person believes may be relevant to —
 - (i) the nature and extent of known contamination of the owner's land, currently and historically; or
 - (ii) the use to which the owner's land has been, and is being, put and the activities which have been carried out on that land which may have caused or contributed to the contamination;and
 - (d) relevant details of the transaction, or transactions, which resulted in the owner of the land becoming an owner of the owner's land, including the reason why the person became an owner of the land; and
 - (e) any documents in the possession of, or available to, the person who made the statement supporting the reasons set out in the statement as to why the person believes that he or she is entitled to an exemption certificate.
- (3) If the disclosure statement is also made in respect of the contamination of land that comprises all, or part of an affected site on which contamination is caused, or contributed to —
 - (a) by contamination; or

- (b) by a substance,
which has migrated to that land from the owner's land (as referred to in the Act section 64(5)) then the disclosure statement is also to be accompanied by —
- (c) a certified copy of the certificate, or certificates, of title for the land; and
- (d) a report, prepared in accordance with the relevant guidelines, regarding the nature and extent of contamination of the land; and
- (e) all available information in the possession of, or available to, the person who made the statement that the person believes may be relevant to —
- (i) the nature and extent of known contamination of that land, currently and historically; or
- (ii) the use to which that land has been, and is being, put and the activities which have been carried out on that land which may have caused or contributed to the contamination;
- and
- (f) any documents in the possession of, or available to, the person who made the statement supporting the reasons set out in the statement as to why the person believes that he or she is entitled to an exemption certificate.
- (4) In determining whether the grounds set out in the Act section 65(1)(a) or (d) are satisfied for the purpose of giving an exemption certificate, the committee is to seek, and take into account, the advice of the CEO as to the contamination of the land.
- (5) In this regulation —
- “owner's land”**, in respect of a disclosure statement, means the land described in the disclosure statement under the heading “The Owner's Land”.

34. Disclosure to potential owners — Form 6

For the purposes of the Act section 68, a written disclosure is to be in the form of Form 6.

Part 9 — Auditors

Division 1 — Accreditation of auditors

35. CEO to call for applications

- (1) The CEO is to call for applications from persons seeking accreditation as contaminated sites auditors from time to time as the CEO considers necessary.
- (2) The CEO is to call for applications by advertising in such manner as the CEO considers appropriate.

36. Application for accreditation as a contaminated sites auditor

- (1) An application for accreditation as an auditor is to —
 - (a) be made in writing in a form approved by the CEO; and
 - (b) be accompanied by such information and documents in support of the application as are requested in the form referred to in paragraph (a); and
 - (c) be accompanied by the application fee set out in Schedule 2 item 4, unless regulation 37 applies.
- (2) An applicant is to provide the CEO with any further information the CEO requests, by written notice given to the applicant, to properly consider the application.
- (3) An application fee is not refundable regardless of whether the application is successful or unsuccessful.

37. No application fee for person entitled to accreditation under the *Mutual Recognition (Western Australia) Act 2001*

The application fee referred to in regulation 36(1)(c) is not payable in respect of a person entitled under the *Mutual Recognition Act 1992* of the Commonwealth, as adopted by the *Mutual Recognition (Western Australia) Act 2001*, to be registered (as defined in that Commonwealth Act) in this State as an auditor.

38. Auditors to be individuals

A person cannot be accredited as an auditor unless the person is an individual.

39. Accreditation

The CEO may accredit a person as an auditor if satisfied that the person —

- (a) has adequate theoretical and practical knowledge and adequate skills, to carry out the functions of an auditor; and
- (b) where necessary, has access to persons with complementary theoretical and practical knowledge and skills which would assist the person to carry out the functions of an auditor; and
- (c) has an adequate knowledge and understanding of relevant laws and currently accepted industrial standards including —
 - (i) the Act; and
 - (ii) these regulations; and
 - (iii) the guidelines; and
 - (iv) any relevant national policies or guidelines approved in writing by the CEO for the purpose of this subparagraph; and
 - (v) the EP Act and any relevant regulations under that Act;and
- (d) holds a policy of professional indemnity insurance considered appropriate by the CEO, or the CEO is satisfied that such a policy is held in respect of that person; and
- (e) is otherwise a fit and proper person to carry out the functions of an auditor.

40. Accreditation fee to be paid before a person can be accredited as an auditor

A person may not be accredited as an auditor unless the person has paid the relevant fee set out in Schedule 2 item 5 to the CEO.

41. Selection panel

- (1) To assist in the assessment of persons who have applied for accreditation as an auditor, the CEO may establish a selection panel comprising of at least 2 persons chosen by the CEO.
- (2) The CEO may seek advice from such other sources as the CEO considers relevant and may invite such other persons as the CEO thinks fit to assist in making a decision on the person or persons suitable for accreditation as an auditor, and any person so invited may sit on the selection panel when it is examining applicants and may take part in the deliberations of the CEO on the matter.

42. Conditions on accreditation

The CEO may, by notice in writing given to an auditor from time to time, vary the specifications in the authority given to the auditor under the Act section 70(1).

43. Term of accreditation or renewal

Subject to regulations 47 and 48, the accreditation of a person as an auditor, or the renewal of that accreditation, is to be for such term, not exceeding 5 years, as is specified in the authority given to the auditor under the Act section 70(1).

44. Application for renewal of accreditation

- (1) An application for renewal of accreditation is to be made by an auditor between 35 and 70 days before the auditor's accreditation expires.
- (2) An application for renewal of accreditation is to —

- (a) be made in writing in a form approved by the CEO; and
 - (b) be accompanied by such information and documents in support of the application as are requested in the form referred to in paragraph (a); and
 - (c) specify the term of renewal sought.
- (3) An applicant for renewal must provide the CEO with any further information the CEO requests, by written notice given to the applicant, to properly consider the application.

45. Accreditation fee to be paid before accreditation can be renewed

The accreditation of an auditor is not to be renewed unless the applicant for renewal has paid the relevant fee set out in Schedule 2 item 5 to the CEO.

46. Refusal to renew accreditation in certain circumstances

- (1) The CEO must refuse to renew the accreditation of an applicant —
- (a) if the CEO is no longer satisfied that the applicant complies with the requirements of regulation 39; or
 - (b) if the applicant been convicted of an offence under the Act section 11(3), 70, 71 or 74(2).
- (2) The CEO may refuse to renew the accreditation of an applicant if the applicant has failed to produce at least one report which —
- (a) is a mandatory auditor's report or a report undertaken in another jurisdiction which is of a similar status in that jurisdiction to a mandatory auditor's report; and
 - (b) has been completed and submitted under the Act, or the relevant legislation of the other jurisdiction, since the auditor was accredited, or the accreditation was last renewed, whichever is the later in time.

- (3) Nothing in this regulation limits or otherwise affects the exercise of the discretion of the CEO to refuse to renew the accreditation of an auditor on other grounds.
- (4) This regulation is subject to regulation 49 and 50.

47. Cancellation of accreditation in certain circumstances

- (1) The CEO must cancel the accreditation of an auditor if the auditor has been convicted of an offence under the Act section 11(3), 70, 71 or 74(2).
- (2) The CEO may cancel the accreditation of an auditor if —
 - (a) the terms of the professional indemnity insurance policy in respect of which the CEO was satisfied under regulation 39(d) has been changed in a material particular; or
 - (b) the auditor no longer holds a professional indemnity insurance policy that the CEO considers appropriate, or such a policy is no longer held in respect of the auditor.
- (3) Nothing in this regulation limits or otherwise affects the exercise of discretion of the CEO to cancel the accreditation of an auditor on other grounds.
- (4) This regulation is subject to regulation 49 and 50.

48. Accreditation may be cancelled, suspended or not renewed in other circumstances

- (1) The CEO may —
 - (a) suspend the accreditation of an auditor for a fixed period specified in the notice; or
 - (b) cancel the accreditation of an auditor; or
 - (c) refuse to renew the accreditation of an auditor,if any of the grounds for doing so referred to in subregulation (2) applies in respect of the auditor.
- (2) The grounds referred to in subregulation (1) are as follows —

- (a) the auditor has contravened the Act or these regulations;
 - (b) the auditor has contravened a condition, or failed to act in accordance with a limitation, specified in the authority given to the auditor under the Act section 70(1);
 - (c) the auditor has contravened the EP Act or any regulations made under that Act;
 - (d) the auditor has failed to take into account any relevant guideline;
 - (e) the CEO is no longer satisfied that the auditor meets the requirements of regulation 39.
- (3) Nothing in this regulation limits or otherwise affects the exercise of the discretion of the CEO to suspend, cancel or refuse to renew the accreditation of an auditor on other grounds.
- (4) This regulation is subject to regulations 49 and 50.

49. Notice of proposed cancellation, suspension or refusal to renew accreditation

- (1) Before the CEO cancels, suspends or refuses to renew the accreditation of an auditor under regulation 46, 47 or 48, the CEO must give the auditor written notice informing the auditor of the proposed action.
- (2) Notice under subregulation (1) must —
- (a) specify the ground, or grounds, for the proposed action; and
 - (b) invite the auditor to make submissions in relation to the proposed action; and
 - (c) specify that representation concerning the proposed action may be made in writing to the CEO within 14 days after the notice is given; and
 - (d) specify the address where submissions are to be lodged.

- (3) The CEO is not to cancel, suspend or refuse to renew the accreditation of an auditor under regulation 46, 47 or 48 without considering any representations received within the period referred to in subregulation (2)(c).
- (4) If the CEO cancels, suspends or refuses to renew the accreditation of an auditor the CEO must give notice in writing of that decision to the auditor.
- (5) This regulation is subject to regulation 50.

50. Suspension of accreditation while decision is made

- (1) When giving notice to an auditor under regulation 49(1) of a proposal to cancel or refuse to renew the accreditation of an auditor, the CEO may by that notice, suspend the auditor's accreditation for a period not exceeding 14 days after the day on which the notice is given while a decision on the proposal is being made.
- (2) Accreditation may be suspended under subregulation (1) only where —
 - (a) the auditor has been convicted of an offence under the Act section 11(3), 70, 71 or 74(2); or
 - (b) the terms of the professional indemnity insurance policy in respect of which the CEO was satisfied under regulation 39(d) has been changed in a material particular; or
 - (c) the auditor no longer holds a professional indemnity insurance policy that the CEO considers appropriate, or such a policy is no longer held in respect of the auditor; or
 - (d) the CEO is of the opinion that the reason for the cancellation or the refusal to renew the accreditation is of such a serious nature that immediate suspension of the accreditation is necessary.

51. Effect of suspension

- (1) A person whose accreditation is suspended is to be taken not to be accredited as an auditor during the period of the suspension.
- (2) If the CEO is satisfied that the grounds for the suspension do not or no longer exist, the CEO must lift the suspension immediately by giving written notice to the auditor.

52. Application for re-accreditation not to be made until after 3 years from cancellation or refusal of renewal

A person whose accreditation as an auditor —

- (a) is not renewed under regulation 46(1)(b); or
- (b) is cancelled under regulation 47(1),

cannot apply for accreditation for 3 years after the accreditation was cancelled or not renewed.

53. Identity card to be returned if person ceases to be accredited

On ceasing to be accredited as an auditor, the person is to return to the CEO the authority given under the Act section 70(1).

Penalty: a fine of \$1 000.

54. No refund of accreditation fee on cancellation or suspension

An accreditation fee, referred to in Schedule 2 item 5, is not refundable if the accreditation is cancelled or suspended.

55. Auditor to notify CEO in certain circumstances

- (1) An auditor is to notify the CEO in writing —
 - (a) of any change in circumstance which may affect the auditor's eligibility for accreditation as set out in regulation 39; or
 - (b) if any substantially similar accreditation held by the auditor under a written law of another State or Territory about the contamination of land is cancelled, suspended or not renewed; or

- (c) if the auditor becomes —
 - (i) unemployed; or
 - (ii) self-employed; or
 - (iii) employed by an employer other than the employer that the auditor was employed by when the auditor became accredited;or
- (d) if the auditor no longer has access to persons with complementary theoretical and practical knowledge and skills which would assist the person to carry out the functions of an auditor,

within 7 days after the day on which the change occurs.

- (2) An auditor is to notify the CEO if the auditor becomes aware of any information that is materially relevant to the person's accreditation as an auditor that the person has not disclosed to the CEO, within 7 days after the day on which the auditor became so aware.
- (3) An auditor is to notify the CEO in writing within 7 days after the day on which the auditor is engaged to provide a mandatory auditor's report.
- (4) Notification under subregulation (3) is to contain —
 - (a) a description of the location and extent of the site in respect of which the auditor has been engaged to provide a report, sufficient to identify it; and
 - (b) the name of the person who engaged the auditor to provide the report.

Penalty: a fine of \$1 000.

56. Auditor to notify CEO if professional indemnity insurance not maintained

- (1) An auditor is to give written notice to the CEO if —

- (a) any term of the professional indemnity insurance policy in respect of which the CEO was satisfied under regulation 39(d) is changed in a material particular; or
- (b) the auditor no longer holds that policy, or such a policy is no longer held in respect of the auditor,

as soon as is possible after the auditor becomes aware that the situation has occurred.

- (2) If an auditor becomes aware that a situation referred to in subregulation (1)(a) or (b) is likely to occur the auditor is to give written notice to the CEO.
- (3) Notice to the CEO under this regulation is to give details, as is relevant, of —
 - (a) the change, or possible change, to the policy; or
 - (b) the date from which the policy ceased, or will cease, to have effect and details of any new policy of professional indemnity insurance held by the auditor.

Penalty: a fine of \$1 000.

Division 2 — Functions of auditors

57. Mandatory auditor's reports to be provided to CEO

An auditor is to give a copy of each mandatory auditor's report produced by the auditor to the CEO not later than 7 days after the auditor gives the report to the person who engaged the auditor to produce the report.

Penalty: a fine of \$1 000.

58. Functions of auditors

The functions of an auditor are to produce —

- (a) mandatory auditor's reports; or
- (b) other reports on audits of sites,

and carrying out, or coordinating, any work for, or related to, those reports.

59. Title of auditor to be used only when carrying out functions of an auditor

An auditor may not use —

- (a) the title “contaminated sites auditor”; or
- (b) the title “accredited contaminated sites auditor”; or
- (c) any other phrase tending to import the meaning that the person is accredited as an auditor under the Act,

other than in relation to carrying out a function of an auditor.

Penalty: a fine of \$1 000.

60. Auditors to take guidelines into account

An auditor is to take into account the guidelines when carrying out any function of an auditor.

61. Code of conduct — Schedule 3

When carrying out any function as an auditor, an auditor is to comply with the code of conduct set out in Schedule 3.

62. Conflict of interest

- (1) If, when carrying out any function as an auditor, a potential or actual conflict of interest, whether or not in a situation set out in subregulation (2) or the code of conduct, comes to the auditor’s knowledge, the auditor is to notify the CEO, and each person who has engaged the auditor to perform the function, as soon as is practicable after the conflict, or potential conflict, comes to the auditor’s knowledge.

Penalty: a fine of \$1 000.

- (2) In assessing if a conflict of interest has arisen, an auditor is to take into account, amongst other things, the likelihood that a person employed or engaged by the auditor has a particular

Contaminated Sites Regulations 2006

Part 9 Auditors

Division 2 Functions of auditors

r. 62

interest and could be influenced, or might appear to be influenced, in performing the work the person is employed or engaged to perform.

Part 10 — Miscellaneous

63. Transfer of responsibility for remediation to the State — section 30(1)(b)

For the purposes of the Act section 30(1)(b), the circumstances prescribed under which a person responsible for remediation of a site may transfer responsibility for remediation to the State are that —

- (a) land comprising all, or part, of the relevant site is to be transferred to the State, or a public authority nominated by the Minister; and
- (b) the person who is responsible for remediation is the owner of the land that is to be transferred under paragraph (a).

64. Prescribed rates of interest — sections 54(3), 55(1) and (2) and 56(1)

The rate of interest for the purposes of the Act sections 54(3), 55(1) and (2) and 56(1) is —

- (a) the rate of interest prescribed under the *Civil Judgments Enforcement Act 2004* section 8(1)(a); or
- (b) 6% per annum,

whichever is the higher rate.

65. Appeal to the committee referred to in section 79(1)

- (1) A person lodging written notice of an appeal referred to in the Act section 79(1) is to pay to the committee the fee set out in Schedule 2 item 6.
- (2) The committee may reduce, waive or refund, in whole or in part, the fee referred to in subregulation (1) if it considers it appropriate to do so in the circumstances of the case.

- (3) A person who has lodged an appeal referred to in the Act section 79(1) may withdraw the appeal by giving written notice to that effect to the committee.

**66. Publication of a decision of an appeal under the Act
Part 8 — section 83(2)**

- (1) The CEO is to cause details of a decision by the committee under the Act Part 8 to be published by causing those details to be made available for public inspection at the head office during office hours.
- (2) In subregulation (1) —
“head office” has the same meaning as in the *Environmental Protection Regulations 1987*.

67. Public notice of decisions of an appeal under Part 8

The committee may make available for public inspection on an internet website maintained by the committee such details of decisions by the committee under the Act Part 8 as the committee sees fit.

Schedule 1 — Forms

Form 1

[r. 6]

Contaminated Sites Act 2003, section 11

REPORT OF A KNOWN OR SUSPECTED CONTAMINATED SITE

PERSON REPORTING THE SITE

Name

.....
.....
=

Address

.....
..... Postcode

Phone

Fax

Are you* —

- (a) an owner of the site;
- (b) an occupier of the site;
- (c) an auditor of the site;
- (d) a person who knows, or suspects, that he or she has caused, or contributed to, the contamination of the site.

If not, specify your relationship with the site

.....

(*Delete as appropriate.)

DETAILS ABOUT THE SITE

Lot No.and/or Street No. Street name

.....

Suburb

.....
..... Postcode

Local Government

.....
.....

Description of land (including copy of certificate of title¹)

.....

.....

Complete **either** Part A or Part B:

PART A:

SUSPECTED CONTAMINATION

Date on which you first suspected that the site was contaminated

.....

Type of contamination you suspect

.....

.....

.....

.....

Suspected source of contamination

.....

.....

.....

.....

Where is the suspected contamination? (i.e. soil, groundwater, surface water)

.....

.....

.....

.....

Reasons why contamination is suspected

.....

.....

.....

.....

Previous activity, or activities and/or land use, or uses (if known)

.....

.....

Current activity, or activities and/or land use, or uses (if known)

.....

.....

Future activity, or activities and/or land use, or uses (if known)

.....

.....
Is a licence under the *Environmental Protection Act 1986* Part V in force, or ever been in force, in respect of any part of the site?
.....

OR

PART B:

KNOWN CONTAMINATION

Known contaminants

.....
.....

Date on which you first knew that the site was contaminated

.....

Suspected source of contamination

.....
.....
.....
.....

Where is the contamination? (i.e. soil, groundwater, surface water)

.....
.....
.....
.....

Previous activity, or activities and/or land use, or uses (if known)

.....
.....

Current activity, or activities and/or land use, or uses (if known)

.....
.....

Future activity, or activities and/or land use, or uses (if known)

.....
.....

Is a licence under the *Environmental Protection Act 1986* Part V in force, or ever been in force, in respect of any part of the site?
.....

Details of investigations undertaken to confirm the presence of contamination (where investigations have been reported, list report title, author and date, and attach copies to this form)

.....
.....
.....
.....

Details of any remediation undertaken or planned

.....
.....
.....
.....
.....
.....

Note:

Under the Contaminated Sites Act 2003, it is an offence to —

- *report a site maliciously and without reasonable grounds to believe or suspect that the site is contaminated (section 11(9)); or*
- *make a statement in making this report which you know is false or misleading in a material particular (section 94); or*
- *make a statement in making this report which is false or misleading in a material particular, with reckless disregard as to whether the statement is false or misleading in a material particular (section 94); or*
- *provide, or cause to be provided, in making this report information that you know is false or misleading in a material particular (section 94); or*
- *provide, or cause to be provided, in making this report information that is false or misleading in a material particular, with reckless disregard as to whether or not the information is false or misleading in a material particular (section 94); or*
- *fail to disclose, or cause a failure to disclose, all information which you know is materially relevant in making this report (section 94).*

If this report is being made by an individual:

Signature of person making the report Date
..... Date

Full name and title

.....
.....

Address and phone numbers

.....
.....

If this report is being made by a body corporate, it may be signed on behalf of the body corporate by an authorised officer and need not be made under its seal:

I,

.....
.....(name)(position)

— am authorised by [*insert name of body corporate*] to make this report on behalf of that body corporate.

Signature of person

Date

Full name and title

.....
.....

Address and phone numbers

.....
.....

Footnote:

¹— *Not required unless this form is submitted by a person under a duty to report the site under the Contaminated Sites Act 2003 section 11(4).*

.....
.....
.....

Form 2

[r. 8]

Contaminated Sites Act 2003, section 21

REQUEST FOR A SUMMARY OF RECORDS IN RESPECT OF LAND

PERSON REQUESTING SUMMARY OF RECORDS

Full name

.....
.....

Address Postcode

Phone Fax

Email

Address Postcode

Phone Fax

Email

DESCRIPTION OF LAND TO WHICH THE REQUEST RELATES

Lot No. and/or Street No. Street name

.....

Suburb

.....
..... Postcode

Description of land (including the certificate of title reference number)

.....

Local Government

Local Government

Type of facility currently occupying site

.....

Name by which site is known locally

.....

TYPE OF SUMMARY OF RECORDS REQUESTED

Basic summary of records (r. 9)

Includes —

- the
classification and reasons for the classification;
- any

restrictions on the use of a site that comprises all, or part of the land; and

- _____ details of notices given under the Act Part 4.

Detailed summary of records (r. 10)

Includes —

- _____ basic summary of records;
- _____ copies of any current certificate of contamination audit; and
- _____ titles, authors and dates of any reports.

Form 3

[r. 29]

Contaminated Sites Act 2003, section 62

REQUEST FOR A CERTIFICATE OF CONTAMINATION AUDIT

PERSON REQUESTING CERTIFICATE OF CONTAMINATION AUDIT

Person's full name

_____ ABN

Address

_____ Postcode

Phone Fax

Email

Phone Fax

Email

Contact person's name and position (if the person making the request is not a natural person)

Is the person making this request —

- ~~the~~ owner of the land;
- ~~the~~ occupier of the land;
- ~~a~~ person responsible for remediation of a site of which the land comprises all, or part;
- ~~a~~ person on whom a notice under the *Contaminated Sites Act 2003* Part 4 in respect of the land is binding.*

(* Delete as appropriate.)

Note:

If the person making this request for a certificate of contamination audit is not the owner of the land to which the request relates then that person is to give a copy of this form to the owner (or owners) within 14 days after making the request (Contaminated Sites Act 2003 section 62(2)).

OWNER

Owner's full name

..... ABN

Address

.....
..... Postcode

Phone

..... Fax

~~Email~~

Email

Contact person's name and position (if owner is not a natural person)

.....
.....

OCCUPIER

Occupier's full name

..... ABN

Address

.....
..... Postcode

Phone

..... Fax

~~Email~~

Email

Contact person's name and position (if occupier is not a natural person)

.....

DESCRIPTION OF LAND TO WHICH THE REQUEST RELATES

Lot No. *and/or* Street No. Street name

.....

Suburb

.....
..... Postcode

Description of land (including copy of certificate of title)

.....
.....

Local Government

Land co-ordinates

.....

Local Government

Land co-ordinates

Current zoning under a written law

.....
.....

Department of Environment reference number (if known)

.....

ASSESSMENT OF LAND

Contaminants of concern

.....
.....

Extent of contamination.....

.....

Details of reports on investigations undertaken on the land

(List report title, author and date, and attach copies to this form, unless copies have been provided previously)

.....
.....

.....

.....
Details of remediation works undertaken (List report title, author and date, and attach
copies to this form, unless copies have been provided previously)
.....
.....
.....

OTHER RELEVANT INFORMATION

List any additional information or documents attached to this form

.....
.....

Note:

..... Under the Contaminated Sites Act 2003 section 94, it is an offence to —

- make a statement in connection with this request which you know is false or misleading in a material particular; or
- make a statement in connection with this request which is false or misleading in a material particular, with reckless disregard as to whether the statement is false or misleading in a material particular; or
- provide, or cause to be provided, in connection with this request information that you know is false or misleading in a material particular; or
- provide, or cause to be provided, in connection with this request information that is false or misleading in a material particular, with reckless disregard as to whether or not the information is false or misleading in a material particular; or
- fail to disclose, or cause a failure to disclose, all information which you know is materially relevant in connection with this request.

If this request is being made by an individual:

Signature of person making the request ~~Date~~
..... Date

Full name and title
.....
.....

Address and phone numbers

.....
.....

If this request is being made by a body corporate, it may be signed on behalf of the body corporate by an authorised officer and need not be made under its seal:

I,

..... (name) (position)

am authorised by [insert name of body corporate] to make this request on behalf of that body corporate.

Signature of person

Date

Full name and title

.....
.....

Address and phone numbers

.....
.....

Form 4

[r. 30]

Contaminated Sites Act 2003, section 63(5)

CERTIFICATE OF CONTAMINATION AUDIT

PERSON WHO HOLDS THIS CERTIFICATE

This certificate of contamination audit is given to

.....
.....
(name of person who requested certificate)

of

.....

.....
.....
(address of person who requested certificate)

on the day of

..... 20..... .

LAND THIS CERTIFICATE IS GIVEN IN RESPECT OF

The certificate is given in respect of the following land —

.....
.....

The classification of the site(s), in accordance with the *Contaminated Sites Act 2003* section 15(3), of which the land comprises all, or part, is as follows —

.....
.....

and the reasons for such classification(s) are as follows —

.....
.....

The nature and extent of all identified contamination of the land is as follows —

.....
.....

If a classification specified in this certificate is —

- (a) *contaminated — remediation required*; or
- (b) *contaminated — restricted use*; or
- (c) *remediated for restricted use*,

then the restrictions on the use of the site are as follows —

.....
.....
.....
.....

.....
Chief Executive Officer

Note:

- ~~•~~ A copy of this certificate of contamination audit will be provided to each owner of the land, and may also be provided to an occupier of the land (Contaminated Sites Act 2003 section 63(6)).
- ~~•~~ This certificate of contamination audit supersedes any earlier certificate of contamination audit given in respect of the same land (Contaminated Sites Act 2003 section 63(8)).
- ~~•~~ Note that where the classification applying to the land is —
 - (a) contaminated — remediation required; or
 - (b) contaminated — restricted use; or
 - (c) remediated for restricted use,

or where a notice under the Contaminated Sites Act 2003 Part 4, has been given, and a memorial lodged, in respect of the land then a disclosure in the form of Form 6 is to be given by each owner of the land to a person at least 14 days before the completion of a transaction which would result in the person becoming an owner, mortgagee or lessee of the land described in this form and a copy of this disclosure is to be given to the Chief Executive Officer (Contaminated Sites Act 2003 section 68).

Form 5

[r. 33]

Contaminated Sites Act 2003, section 64

DISCLOSURE STATEMENT

OWNER

Owner's full name

.....
..... ABN

Address

.....
..... Postcode

Phone Fax

Phone Fax

THE OWNER'S LAND

Lot No.—_____ and/or Street No. Street name

.....

Suburb Postcode

Local Government

.....

.....

Description of land (including copy of certificate of title)

.....

.....

.....

.....

LAND THAT COMPRISES ALL OR PART OF AN AFFECTED SITE (WHERE THE OWNER'S LAND IS A SOURCE SITE)

Lot No.—_____ and/or Street No. Street name

.....

Suburb

.....

.....

Postcode

~~Local Government~~

Local Government

Description of land (including copy of certificate of title)

.....

.....

CONTAMINATION OF LAND

Has a report under the *Contaminated Sites Act 2003* section 11 been made in respect of the land?

.....

..... Yes/No

If a report under section 11 has been made, when was the report made?

.....

Is the site to be identified and reported under a programme for the identification and reporting of sites approved under the *Contaminated Sites Act 2003* section 12? Yes/No

If so, on what date was the programme approved by the Chief Executive Officer?

.....

Contaminants of concern

.....

Previous activity, or activities and/or land use, or uses (if known)

.....

Current activity, or activities and/or land use, or uses (if known)

.....

Extent of contamination

.....

Details of reports on investigations undertaken on the land. (List report title, author and date, and attach copies to this form, unless copies have been provided previously.)

.....

.....

.....

CONTAMINATION FOR WHICH EXEMPTION IS SOUGHT

Contamination for which an exemption is sought

.....

(Provide details of the contamination for which you seek an exemption certificate under the Contaminated Sites Act 2003 section 65 — this may be some or all of the contamination described above under “Contamination of land”.)

Extent of contamination

.....

.....

Reasons why you believe that you are entitled to an exemption certificate under the *Contaminated Sites Act 2003* section 65 in respect of the contamination

.....

.....

List any documents attached to this statement in support of the reasons set out on this statement.

Note:

Under the Contaminated Sites Act 2003 section 94, it is an offence to —

- ~~.....~~ make a statement in making this disclosure statement which you know is false or misleading in a material particular; or
- ~~.....~~ make a statement in making this disclosure statement which is false or misleading in a material particular, with reckless disregard as to whether the statement is false or misleading in a material particular; or
- ~~.....~~ provide, or cause to be provided, in making this disclosure statement information that you know is false or misleading in a material particular; or
- ~~.....~~ provide, or cause to be provided, in making this disclosure statement information that is false or misleading in a material particular, with reckless disregard as to whether or not the information is false or misleading in a material particular; or
- ~~.....~~ fail to disclose, or cause a failure to disclose, all information which you know is materially relevant to this disclosure statement.

If this disclosure statement is being made by an individual:

I declare that —

- ~~.....~~ I,, the person described in this statement, am the owner of the land described in this statement under the heading “The Owner’s Land” (and referred to in this declaration as “my land”) and was the owner of that land on the [insert date, once known]; and
- ~~.....~~ the contamination for which I am seeking an exemption certificate was not caused, or contributed to, by an action of mine; and
- ~~.....~~ I did not fail to prevent the contamination of my land, as far as it was reasonably within my control to prevent that contamination; and
- ~~.....~~ my land was contaminated at the time I became an owner of the land and, at that time, I did not know, or suspect, and could not reasonably have known or suspected, that the land was contaminated.

Signature of person making the statement ~~Date~~
..... Date

Full name and title
.....
.....

Address and phone numbers
.....
.....

OR *If this disclosure statement is being made by an owner which is not an individual, the declaration may be made on behalf of the owner by an individual authorised to do so. If the owner is a body corporate, it need not be made under its seal:*

I declare that —

- ~~the~~ the body corporate [or *insert name of other owner if appropriate*] described in this statement is the owner of the land described in this statement under the heading “The Owner’s Land” (and referred to in this declaration as the body’s land) and was the owner of that land on the [insert date, once known]; and
- ~~the~~ the contamination for which an exemption certificate is sought was not caused, or contributed to, by an action of the body described in this statement; and
- ~~that~~ that body did not fail to prevent the contamination of the body’s land, as far as it was reasonably within its control to prevent that contamination; and
- ~~the~~ the body’s land was contaminated at the time the body became an owner of the land and, at that time, it did not know, or suspect, and could not reasonably have known or suspected, that the land was contaminated.

I,

I,
..... (name) (position)

..... am authorised by [*insert name of body corporate or other owner*] to make this disclosure statement on behalf of that owner.

Signature of person

Date

Full name and title

.....
.....

Address and phone numbers

.....
.....

.....
.....
.....

Form 6

[r. 34]

Contaminated Sites Act 2003, section 68

**LAND OWNER'S DISCLOSURE BEFORE COMPLETION OF
LAND TRANSACTION**

Note:

Under the Contaminated Sites Act 2003 section 68 this disclosure is to be given to a person at least 14 days before the completion of a transaction which would result in the person becoming an owner, mortgagee or lessee of the land described in this form and a copy of this disclosure is to be given to the Chief Executive Officer.

OWNER

Owner's full name

..... ABN

Address

.....
..... Postcode

Phone

..... Fax

LAND

Lot No. and/or Street No. Street name

.....

Suburb

.....
..... Postcode

~~Local Government~~

Local Government

Description of land (including copy of certificate of title)

.....
.....
.....

CLASSIFICATION AND/OR NOTICE UNDER THE ACT PART 4

As at, the land described in this form comprised all, or part, of a site classified under the *Contaminated Sites Act 2003* as —

- (a) *contaminated — remediation required;*

- (b) *contaminated — restricted use;*
- (c) *remediated for restricted use.**

(* Delete as appropriate.)

AND/OR

As at 20....., a notice under the *Contaminated Sites Act 2003* Part 4 has been given, and a memorial lodged, in respect of the land described in this form. The notice is —

- (a) an investigation notice;
- (b) a clean up notice;
- (c) a hazard abatement notice.*

(* Delete as appropriate.)

CONTAMINATION

The nature and extent of all identified contamination of the land described in this form is as follows —

.....

If, at the date set out in this form the land described in this form comprised all, or part, of a site classified under the *Contaminated Sites Act 2003* as —

- (a) *contaminated — remediation required; or*
- (b) *contaminated — restricted use; or*
- (c) *remediated for restricted use,*

then the restrictions on the use of the site are as follows —

.....

Note:

Under the *Contaminated Sites Act 2003* section 94 it is an offence to —

- ~~—~~ *make a statement in making this disclosure which you know is false or misleading in a material particular; or*
- ~~—~~ *make a statement in making this disclosure which is false or misleading in a material particular, with reckless disregard as to whether the statement is false or misleading in a material particular; or*
- ~~—~~ *provide, or cause to be provided, in making this disclosure information that you know is false or misleading in a material particular; or*

- ~~provide~~ provide, or cause to be provided, in making this disclosure information that is false or misleading in a material particular, with reckless disregard as to whether or not the information is false or misleading in a material particular; or
- ~~fail to disclose~~ fail to disclose, or cause a failure to disclose, all information which you know is materially relevant to this disclosure.

If this disclosure is being made by an individual:

Signature of person making the disclosure ~~Date~~
 Date

Full name and title

Address and phone numbers

OR if this disclosure is being made by an owner which is not an individual, it may be signed on behalf of the owner by an individual authorised to do so. If the owner is a body corporate, it need not be made under its seal:

I,

(name)(position)
 am authorised by [insert name of body corporate or other owner] to make this disclosure on behalf of that owner.

Signature of person Date

Full name and title

Address and phone numbers

Schedule 2 — Fees

Item	Fee	Provision	Amount (fee units)
1.	Basic summary of records	r. 8(1)(c)(i)	<u>2</u>
2.	Detailed summary of records	r. 8(1)(c)(ii)	<u>20</u>
3.	Certificate of contamination audit	r. 29(2)(f)	<u>275</u>
4.	Application fee for auditor (other than auditor accredited under r. 37)	r. 36(1)(c)	<u>20</u>
5.	Accreditation fee for auditor	r. 40 and r. 45	250, per year of accreditation
6.	Fee to lodge appeal	r. 65	<u>3</u>

Schedule 3 — Code of conduct for auditors

[r. 61]

1. Conflict of interest

- (1) An auditor must not hold any financial or other interest, either directly or indirectly, and must not give any undertaking, that could directly or indirectly compromise the performance by the auditor of his or her duties under this Act or the EP Act.
- (2) An auditor must ensure that anyone engaged by the auditor does not hold any financial or other interest, either directly or indirectly, and does not give any undertaking, that could directly or indirectly compromise the performance by the auditor of his or her duties under this Act or the EP Act.

2. Auditor who has worked on a site is not to audit it

An auditor is not to audit a site or to produce a report on an audit of a site, or undertake to do so, if the auditor is or has been —

- (a) involved in investigating, managing or remediating that site;
or
- (b) a person responsible for remediation of that site; or
- (c) an owner or occupier of that site,

or is employed by a person who or which is, or has been, involved in investigating, managing or remediating that site.

3. Acceptance of gifts or benefits

An auditor must not accept a gift, donation or benefit, or allow any person employed or engaged by the auditor to do so, if by doing so it may appear as intended or likely to cause the auditor, or a person employed or engaged by the auditor, to undertake his or her duties in a particular way, or deviate from a proper course of action.

4. Personal and professional behaviour

An auditor must perform any duties associated with his or her position diligently, impartially and conscientiously, to the best of the auditor's ability.

”

Notes

¹ [This is a compilation of the *Contaminated Sites Regulations 2006*. The following table contains information about those regulations.](#)

Compilation table

<u>Citation</u>	<u>Gazettal</u>	<u>Commencement</u>
Contaminated Sites Regulations 2006	8 Aug 2006 p. 2913-74	1 Dec 2006 (see r. 2 and <i>Gazette</i> 8 Aug 2006 p. 2899)
