

Western Australia

Environmental Protection Regulations 1987

Reprinted as at 2 April 1999

Western Australia

Environmental Protection Regulations 1987

CONTENTS

Part 1 — Preliminary

1.	Citation	1
2.	Commencement	1
2AA.	Interpretation	1

Part 2 — Administrative matters

2A.	Prescribed particulars of draft policies	2
2B.	Inspection of minutes	2
2C.	Proposals of prescribed class	3
3.	Public records of proposals	4
3A.	Prescribed number of copies of report by Authority	4

Part 3 — Control of pollution generally

4.	Interpretation	5
5.	Prescribed premises	6
5A.	Occupier of certain prescribed premises may apply for registration	6
5B.	Registration of premises	6
5C.	Works approval fee	7
5D.	Licence fee	8
5E.	Determination of amount under Part 3 of Schedule 4	9
5EA.	Waiver of fee components where best practice criteria met	10
5F.	Amount payable for harmless discharge onto land	10

Contents

5G.	Maximum fee	11
5H.	Refunds	11
5I.	Certain matters to be determined by Chief Executive Officer	12
5IA.	Best practice criteria as condition of licence	12
5J.	Transitional provision (reduced fees)	13
5K.	Prescribed details of discharge of waste	13
5L.	Notification of details of discharge of waste	14

Part 4 — Audible alarms

6.	Prescribed periods for audible alarms	15
----	---------------------------------------	----

Part 5 — Appeals

7.	Fees and procedures in respect of appeals	16
8.	Publication of details of decisions on appeal	17
9.	Persons to be notified of decisions on appeal	18

Part 6 — Tyres

11.	Interpretation	20
12.	Disposal and storage of tyres	21
13.	Transport of used tyres prohibited	21
13A.	Tyre retailer not to damage used tyres	22
14.	Standards for the disposal of tyres	22
15.	Standards for the storage of used tyres	24

Part 7 — Anti-fouling paint

16.	Control of organotin anti-fouling paint	25
-----	---	----

Part 8 — Petrol

17.	Interpretation	27
18.	Sale of petrol — offences	28
19.	Defences	28
20.	Warranties	29

Part 9 — Landfill levy

21.	Interpretation	30
22.	Application	31
23.	Exemptions	32
24.	Financial assurance — exempt waste	33
25.	Amount of levy — when waste received at licensed landfill with weighbridge	34
26.	Amount of levy — when waste received at licensed landfill without weighbridge	35
27.	Determination of amount of levy	36
28.	Financial assurance — private licensee	36
29.	Records	38
30.	Return and payment of levy	39
31.	Audit	39
32.	Review and appeal	40
33.	Payment of levy as condition of licence (s.62(1)(h))	41

Part 10 — Things seized or forfeited

34.	Prescribed ways of dealing with thing seized — section 92B(1)	42
35.	Notice that a thing has been seized — section 92D	42
36.	Disposing of any thing forfeited to the Crown	43

Part 11 — Modified penalties and Tier 2 offences

37.	Modified penalty notice	44
38.	Withdrawal of modified penalty notice	44
39.	Prescribed particulars to be included in notice of payment of modified penalty — section 99E(3)	44
40.	Public inspection of register of certificates and modified penalty notices — section 99F(2)	44

Part 12 — Infringement notices and offences

41.	Offences prescribed as an “infringement notice offence” and prescribed penalties — sections 99H and 99K	45
42.	Infringement notice	46
43.	Withdrawal of infringement notice	46

Part 13 — Miscellaneous

44. Amount prescribed for costs and expenses and compensation — section 99Y(1) 47

Schedule 1 — Prescribed premises

Schedule 2 — Premises subject to registration

Schedule 3 — Works approval fee

Schedule 4 — Licence fee

Schedule 5 — Tyre landfill exclusion zone

Schedule 6 — Infringement notice offences

Schedule 7 — Forms

Notes

Defined Terms

Western Australia

Environmental Protection Act 1986

Environmental Protection Regulations 1987

Part 1 — Preliminary

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

1. Citation

These regulations may be cited as the *Environmental Protection Regulations 1987*¹.

2. Commencement

These regulations shall come into operation on the day on which section 3 of the *Environmental Protection Act 1986* comes into operation¹.

2AA. Interpretation

In these regulations, unless the contrary intention appears —

“**head office**” means the premises of the Authority at 141 St George’s Terrace (“Westralia Square”)², Perth, Western Australia;

“**public reading room**” means the public reading room situated at the premises of the Department at 141 St George’s Terrace (“Westralia Square”)², Perth, Western Australia.

[Regulation 2AA inserted in Gazette 11 December 1998 p.6597.]

Part 2 — Administrative matters

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

2A. Prescribed particulars of draft policies

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

(a) the places at which a draft policy will be available for public inspection are —

(i) the public reading room;

[(ii) *deleted*]

(iii) the premises of the Department at SGIO Building, Welcome Road, Karratha, Western Australia 6714;

(iv) the premises of the Department at 165, Gilmore Avenue, Kwinana, Western Australia 6167;

(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 January 1992 p.362; 11 December 1998 p.6598 .]

2B. Inspection of minutes

(1) In this regulation —

“**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 before the expiration of the period referred to in subregulation (2) determine that a particular minute —
- (a) relates to a matter that has yet to be resolved by the Authority; or
 - (b) contains information that the Authority considers to be confidential (whether for commercial reasons or otherwise),
- and stamp the minute accordingly.
- (4) A minute that is the subject of a determination referred to —
- (a) in subregulation (3)(a) is to be made available for public inspection after the expiration of 12 months from the day on which the minute was made; and
 - (b) in subregulation (3)(b) is to be made available for public inspection after the expiration of 5 years from the day on which the minute was made.
- (5) Minutes are to be made available for public inspection during normal office hours at the head office and the public reading room.

[Regulation 2B inserted in Gazette 5 May 1995 pp.1701-2; amended in Gazette 11 December 1998 p.6598.]

2C. Proposals of prescribed class

For the purposes of section 38(1) and (3) of the principal 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.

[Regulation 2C inserted in Gazette 11 October 1996 p.5395]

3. Public records of proposals

- (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 January 1992 p.362;
11 December 1998 p.6598.]*

3A. Prescribed number of copies of report by Authority

For the purposes of section 44(1) of the Act the prescribed number of copies is 4.

[Regulation 3A inserted in Gazette 11 December 1998 p.6599.]

Part 3 — Control of pollution generally

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

4. Interpretation

- (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;
 - (b) environmental performance objectives;
 - (c) continual improvement programmes;
 - (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.
- (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.
- (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*.

r. 5

- (5) In this Part (other than regulation 5G) and in Schedules 3 and 4 fee amounts are expressed in units or fractions of a unit, one unit being equivalent to \$12.50.

[Regulation 4 inserted in Gazette 13 September 1996 p.4546; amended in Gazette 12 September 1997 p.5150.]

5. Prescribed premises

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

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

5A. Occupier of certain prescribed premises may apply for registration

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

[Regulation 5A inserted in Gazette 13 September 1996 p.4546.]

5B. Registration of premises

- (1) An occupier of premises specified in Schedule 2 shall not operate the premises for the purposes described in that Schedule unless the premises are registered under this regulation.
Penalty: \$5 000.
- (2) An application for registration is to be —
- (a) in a form approved by the Chief Executive Officer;

- (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.
- (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.
- (5) On receipt of a notification and fee under subregulation (4), the Chief Executive Officer is to make the necessary alterations to the register.
- (6) A person who immediately before the commencement of the *Environmental Protection Amendment Regulations (No. 3) 1996* was the holder of a licence in respect of premises to which subregulation (1) applies is not required to apply for registration of those premises until the expiry of that licence.

[Regulation 5B inserted in Gazette 13 September 1996 pp.4546-7; amended in Gazette 11 December 1998 p.6599.]

5C. Works approval fee

- (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.

r. 5D

- (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;
 - (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.

[Regulation 5C inserted in Gazette 13 September 1996 p.4547.]

5D. Licence fee

- (1) Subject to subregulation (3) and regulation 5G, the fee prescribed for the purposes of section 57(1)(b) of the Act comprises —
- (a) the amount specified in the third column of Part 1 of Schedule 4 corresponding to the relevant category, and, where applicable, the relevant production or design capacity, 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, 70 or 80, where the operation of the premises involves the discharge of waste consisting of tailings, bitterns or flyash, the amount specified in the second column of Part 2 of Schedule 4 corresponding to the relevant quantity of such waste specified in the first column of that Part that is permitted to be discharged from the premises; and
 - (c) the appropriate amount under Part 3 of Schedule 4, as determined 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 (1)(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 (1)(c) in respect of bitterns discharges or discharges from category 14 premises.

[Regulation 5D inserted in Gazette 13 September 1996 p.4547; amended in Gazette 10 December 1996 pp.6876-7.]

5E. Determination of amount under Part 3 of Schedule 4

- (1) Subject to this regulation, the amount payable under Part 3 of Schedule 4 in respect of a particular kind of waste is to be determined on the basis of the quantity of such waste that is permitted to be discharged from the premises during the period to which the application relates averaged over that 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 period to which the application relates has been accurately measured, the amount payable under Part 3 of Schedule 4 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 period to which the application relates has been accurately calculated,

the amount payable under Part 3 of Schedule 4 in respect of such waste may, at the discretion of the Chief Executive Officer, be determined on the basis of the quantity so calculated.

r. 5EA

- (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 payable under Part 3 of Schedule 4 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 September 1996 p.4548.]

5EA. Waiver of fee components where best practice criteria met

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(1)(b) or (c) in respect of the licence.

[Regulation 5EA inserted in Gazette 12 September 1997 p.5150.]

5F. Amount payable for harmless discharge onto land

- (1) Despite regulation 5D(1)(c), an amount of 25 units may be paid in respect of waste to be discharged onto land instead of the appropriate amount specified in Table 2 of Part 3 of Schedule 4, if the Chief Executive Officer is satisfied that the method of discharge renders the waste harmless to the environment.
- (2) For the purposes of regulation 5G, the amount of 25 units mentioned in subregulation (1) is to be regarded as an amount payable under Part 3 of Schedule 4.

[Regulation 5F inserted in Gazette 13 September 1996 p.4548.]

5G. Maximum fee

The maximum fee payable in respect of a licence is —

- (a) if the total amount otherwise payable under Part 3 of Schedule 4 is predominantly attributable to the discharge of waste into air or onto land —
 - (i) \$165 000, in a case where that total amount or a component of that total amount is subject to the increase specified in regulation 5E(4); or
 - (ii) \$110 000, in any other case;
- (b) if the total amount otherwise payable under Part 3 of Schedule 4 is predominantly attributable to the discharge of waste into waters, \$200 000; or
- (c) if the total amount otherwise payable under Part 3 of Schedule 4 is equally attributable to the discharge of waste into air or onto land and the discharge of waste into waters, \$200 000.

[Regulation 5G inserted in Gazette 13 September 1996 p.4548.]

5H. Refunds

- (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,

the Chief Executive Officer is to refund to the licensee the difference between the fee that would have been payable if the amount under Part 3 of Schedule 4 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 September 1996 p.4549; amended in Gazette 12 September 1997 p.5150.]

5I. Certain matters to be determined by Chief Executive Officer

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 September 1996 p.4549.]

5IA. Best practice criteria as condition of licence

For the purposes of section 62(1)(h) 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 September 1997 p.5151.]

5J. Transitional provision (reduced fees)

- (1) Despite regulation 5D and subject to subregulation (2), the fee prescribed for the purposes of section 57(1)(b) of the Act in relation to an application made after the commencement of the *Environmental Protection Amendment Regulations (No. 2) 1997* for a licence —
 - (a) that is to come into force before 1 October 1997 is two fifths of the fee that would otherwise apply under this Part; and
 - (b) that is to come into force on or after 1 October 1997 but before 1 October 1998 is two thirds of the fee that would otherwise apply under this Part.
- (2) Subregulation (1) does not apply to an application for a licence in respect of category 62, 63, 64, 65 or 66 premises.

[Regulation 5J inserted in Gazette 13 September 1996 p.4549; amended in Gazette 10 December 1996 p.6877; 12 September 1997 p.5151.]

5K. Prescribed details of discharge of waste

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;
- (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;

r. 5L

- (c) the composition of the waste;
- (d) the quantity of the waste discharged;
- (e) whether or not the discharge caused pollution and, if so, the nature and extent of the pollution;
- (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 December 1998 p.6599.]

5L. Notification of details of discharge of waste

- (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 December 1998 p.6600.]

Part 4 — Audible alarms

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

6. Prescribed periods for audible alarms

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

Part 5 — Appeals

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

7. Fees and procedures in respect of appeals

- (1) A person lodging an appeal under Part VII of the Act shall —
 - (a) sign the appeal and address it to the Minister;
 - (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;
 - (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;
 - (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;
 - (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;
 - (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;
 - (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. Publication of details of decisions on appeal

- (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

r. 9

- 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 January 1992 p.362;
11 December 1998 p.6600.]*

9. Persons to be notified of decisions on appeal

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;
- (b) any relevant decision-making authority;
- (c) the Authority;
- (d) the Chief Executive Officer;
- (e) in the case of an appeal lodged under section 100 of the Act, the proponent of the relevant proposal;

- (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;
- (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 September 1996 p.4545.]

[10. Repealed in Gazette 31 December 1993 p.6878.]

11. Interpretation

- (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*;
- (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 cubic metres of shredded, broken or pieces of used tyres shall be deemed to equal 100 used tyres and any multiple of 2 cubic metres 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.

- (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 August 1991 pp.4554-5; amended in Gazette 12 November 1996 p.6303; 10 December 1996 p.6877.]

12. Disposal and storage of tyres

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 August 1991 p.4555; amended in Gazette 12 November 1996 pp.6303-4.]

13. Transport of used tyres prohibited

- (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

r. 13A

that person or is only incidental to any other business carried on by that person.

[Regulation 13 inserted in Gazette 30 August 1991 p.4555; amended in Gazette 11 December 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 November 1996 p.6304; amended in Gazette 11 December 1998 p.6600.]

14. Standards for the disposal of tyres

- (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 ³ |
| carbon monoxide | 1 g/m ³ |
| zinc | 3 mg/m ³ |
| cadmium | 3 mg/m ³ |
| aluminium | 3 mg/m ³ |
| 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 cubic metres of tyres reduced to pieces;
 - (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 August 1991 p.4555;
amended in Gazette 4 December 1992 p.5889;
12 November 1996 pp.6304-5.]*

15. Standards for the storage of used tyres

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 August 1991 p.4555.]

Part 7 — Anti-fouling paint

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

16. Control of organotin anti-fouling paint

- (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;
 - (b) a vessel that is 25 metres or less in length; or
 - (c) a vessel that is more than 25 metres 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 August 1991 pp.4553-4; amended in Gazette 11 December 1998 p.6600.]

Part 8 — Petrol

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

17. Interpretation

(1) In this Part —

“**ASTM**” followed by a designation refers to the test method having that designation that is published by the American Society for Testing and Materials in the “1995 Annual Book of ASTM Standards”;

“**IP**” followed by a designation refers to the test method having that designation that is published by the Institute of Petroleum in the “Standard Methods for Analysis and Testing of Petroleum and Related Products 1995”;

“**petrol**” means a liquid fuel or mixture of fuels of a kind used in internal combustion spark ignition engines but does not include aviation fuel;

“**unleaded petrol**” means petrol that contains —

- (a) not more than 0.013 grams of lead per litre; and
- (b) not more than 0.0013 grams of phosphorus per litre.

(2) For the purposes of this Part the amount of lead in petrol is the amount —

- (a) determined in accordance with IP 352/84; and
- (b) corrected to 15 degrees Celsius.

(3) For the purposes of this Part the amount of phosphorous in petrol is the amount —

- (a) determined in accordance with ASTM D 3231 - 94; and
- (b) corrected to 15 degrees Celsius.

[Regulation 17 inserted in Gazette 3 April 1998 pp.1972-3.]

18. Sale of petrol — offences

- (1) A person shall not sell petrol containing more than 0.20 grams of lead per litre.
Penalty: \$5 000.
- (2) A person shall not sell as unleaded petrol any substance which is not unleaded petrol.
Penalty: \$5 000.

*[Regulation 18 inserted in Gazette 3 April 1998 p.1973;
amended in Gazette 11 December 1998 p.6600.]*

19. Defences

- (1) In proceedings for an offence against regulation 18(1) or (2) it is a defence for the person charged to prove that the petrol was sold for use —
- (a) in a vehicle participating in a racing event or contest at a place that is not a road; or
 - (b) in a vehicle being tested at a place which is not a road.
- (2) In proceedings for an offence against regulation 18(1) it is a defence for the person charged to prove that —
- (a) the person purchased the petrol with a warranty referred to in regulation 20(1)(a); and
 - (b) at the time of the alleged offence the petrol was in the same state as when it was purchased.
- (3) In proceedings for an offence against regulation 18(2) it is a defence for the person charged to prove that —
- (a) the person purchased the petrol with a warranty referred to in regulation 20(1)(b); and
 - (b) at the time of the alleged offence the petrol was in the same state as when it was purchased.

[Regulation 19 inserted in Gazette 3 April 1998 p.1973.]

20. Warranties

- (1) A person who purchases petrol for resale may demand from the vendor a warranty in writing that —
- (a) the lead content of the petrol does not exceed 0.20 grams per litre; or
 - (b) the petrol is unleaded petrol.
- (2) A vendor shall not —
- (a) fail or refuse to provide a warranty demanded under subregulation (1); or
 - (b) provide a warranty under subregulation (1) that is false or misleading in any respect.

Penalty: \$5 000.

*[Regulation 20 inserted in Gazette 3 April 1998 p.1973;
amended in Gazette 11 December 1998 p.6601.]*

Part 9 — Landfill levy

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

21. Interpretation

(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;

“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 established under section 110H of the Act;

“landfill cover” means matter that —

- (a) is received at a category 64 or category 65 licensed landfill;
- (b) in accordance with a condition of the licence in respect of the licensed landfill, is used or is to be used for the purpose of covering waste;
- (c) is weighed over a weighbridge at the licensed premises at the time it is received; and
- (d) is accepted by the licensee at no charge or is paid for by the licensee;

“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 *Metropolitan Region Town Planning Scheme Act 1959*;

“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;
 - (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 June 1998 pp.3370-71.]

22. Application

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.

[Regulation 22 inserted in Gazette 26 June 1998 p.3371.]

23. Exemptions

- (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) landfill cover;
 - (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.
- (3) The Chief Executive Officer may, by written notice —
 - (a) grant, or refuse to grant, an exemption;
 - (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.
- (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 June 1998 p.3371.]

24. Financial assurance — exempt waste

- (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.
- (4) If the financial assurance is not provided and maintained in accordance with subregulation (3) —
- (a) the exemption ceases to have effect; and

r. 25

- (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 June 1998 pp.3371-2.]

25. Amount of levy — when waste received at licensed landfill with weighbridge

- (1) Subject to any exemption granted on application under regulation 23(2), waste to which this Part applies that is received at a 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) A licensee who has been granted an exemption from the requirement to weigh waste received 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 June 1998 p.3372.]

26. Amount of levy — when waste received at licensed landfill without weighbridge

- (1) If the licensed landfill at which waste to which this Part applies is received does not have a weighbridge, the Chief Executive Officer, having regard to —
 - (a) the capacity of the licensed landfill, as specified on the licence;
 - (b) the characteristics and density of waste received at the licensed landfill; and
 - (c) any survey report made in respect of the licensed landfill,

from time to time is to estimate the weight of waste received and give the licensee written notice of the estimate.

- (2) The estimated weight notified to the licensee is to be the weight that is used for the purpose of determining the amount of the levy under regulation 27.
- (3) If, after receiving a survey report under subregulation (5), the Chief Executive Officer is of the opinion that the amount of waste received by a licensee during a return period was less than the amount estimated under subregulation (1), the Chief Executive Officer may refund or rebate to the licensee an amount equal to the amount of levy paid in respect of the amount of waste that exceeds the estimated amount.
- (4) The Chief Executive Officer may by written notice direct a licensee of a licensed landfill in respect of which an estimate of weight of waste for the purposes of subregulation (1) has been made to cause —
 - (a) a survey of the volume of waste received at the licensed landfill in the survey period specified by the Chief

r. 27

Executive Officer to be carried out by an approved person; and

- (b) a report to be prepared on the survey by the person who carried out the survey.

- (5) The licensee is to give the report of the survey to the Chief Executive Officer within the time specified by the Chief Executive Officer and in a form approved by the Chief Executive Officer.

Penalty: \$5 000.

[Regulation 26 inserted in Gazette 26 June 1998 pp.3372-3; amended in Gazette 11 December 1998 p.6601.]

27. Determination of amount of levy

The amount by way of levy that is payable in respect of waste to which this Part applies is —

- (a) \$1 per tonne for waste (other than waste specified in paragraph (b)) received at a category 63 licensed landfill;
- (b) \$3 per tonne for low hazard waste (type 1) received at a category 63 licensed landfill with the approval of the Chief Executive Officer; and
- (c) \$3 per tonne for waste received at a category 64 or 65 licensed landfill.

[Regulation 27 inserted in Gazette 26 June 1998 p.3373.]

28. Financial assurance — private licensee

- (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.
- (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 June 1998 p.3373;
amended in Gazette 11 December 1998 p.6601.]*

29. Records

- (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;
 - (b) the name and licence number of the licensee;
 - (c) the weight, or, if the waste is not weighed, the estimated weight, of the waste;
 - (d) a description of the type of waste;
 - (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 authorized person within 24 hours of being requested by the authorized 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 June 1998 pp.3373- 4; amended in Gazette 11 December 1998 p.6601.]

30. Return and payment of levy

- (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 25 or 26, 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 June 1998 p.3374.]

31. Audit

- (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
 - (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.

r. 32

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

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

32. Review and appeal

- (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;
 - (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 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 June 1998 p.3374.]

33. Payment of levy as condition of licence (s.62(1)(h))

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

[Regulation 33 inserted in Gazette 26 June 1998 p.3374.]

Part 10 — Things seized or forfeited

[Heading inserted in Gazette 11 December 1998 p.6601.]

34. Prescribed ways of dealing with thing seized — section 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;
 - (b) destruction or treatment at a site licensed under Part V of the Act, as specified by the Chief Executive Officer;
 - (c) preservation, as specified by the Chief Executive Officer;
 - (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 December 1998 pp.6601-02.]

35. Notice that a thing has been seized — section 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;
- (d) stating the place where the thing was seized;
- (e) stating the place where the thing may be claimed;
- (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 December 1998 p.6602.]

36. Disposing of any thing forfeited to the Crown

- (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;
 - (b) sale at public auction, by tender or by private contract;
 - (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 December 1998 pp.6602-03.]

Part 11 — Modified penalties and Tier 2 offences

[Heading inserted in Gazette 11 December 1998 p.6603.]

37. Modified penalty notice

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 December 1998 p.6603.]

38. Withdrawal of modified penalty notice

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 December 1998 p.6603.]

39. Prescribed particulars to be included in notice of payment of modified penalty — section 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 December 1998 p.6603.]

40. Public inspection of register of certificates and modified penalty notices — section 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 public reading room.

[Regulation 40 inserted in Gazette 11 December 1998 p.6603.]

Part 12 — Infringement notices and offences

[Heading inserted in Gazette 11 December 1998 p.6603.]

41. Offences prescribed as an “infringement notice offence” and prescribed penalties — sections 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

r. 42

- (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 December 1998 pp.6603-04.]

42. Infringement notice

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 December 1998 p.6604.]

43. Withdrawal of infringement notice

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 December 1998 p.6604.]

Part 13 — Miscellaneous

[Heading inserted in Gazette 11 December 1998 p.6604.]

44. Amount prescribed for costs and expenses and compensation — section 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;
 - (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 December 1998 pp.6604-05.]

Schedule 1 — Prescribed premises

[regulation 5]

PART 1

<i>Category number</i>	<i>Description of category</i>	<i>Production or design capacity</i>
1	Cattle feedlot: premises on which the watering and feeding of cattle occurs, being premises — (a) situated less than 100 metres 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	Aquaculture (ponds or tanks): premises on which — (a) marine, estuarine or freshwater fish or prawns are propagated or reared; and (b) supplementary feeding occurs, in ponds or tanks that discharge waste into waters or onto land.	Biomass 1 000 kilograms or more
4	Aquaculture (natural waters): premises on which — (a) marine, estuarine or freshwater fish or prawns are propagated or reared; and (b) supplementary feeding occurs, in enclosures in naturally occurring waters.	Not applicable
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; (b) tailings from metallic or non-metallic ore are reprocessed; or	50 000 tonnes or more per year

Prescribed premises Schedule 1

<i>Category number</i>	<i>Description of category</i>	<i>Production or design capacity</i>
	(c) tailings or residue from metallic or non-metallic ore are discharged into a containment cell or dam.	
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 <i>in situ</i> 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
9	Coal mining: premises on which —	5 000 tonnes or more per year
	(a) water is extracted and discharged into the environment to allow coal mining; or	
	(b) coal mining or processing occurs and tailings are discharged.	
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

Schedule 1 Prescribed premises

<i>Category number</i>	<i>Description of category</i>	<i>Production or design capacity</i>
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 (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.	100 tonnes or more per year
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

Prescribed premises Schedule 1

<i>Category number</i>	<i>Description of category</i>	<i>Production or design capacity</i>
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 kilolitres or more per year
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.	50 kilolitres or more per year
26	Textile operations: premises on which — (a) carpet is manufactured; (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

Schedule 1 Prescribed premises

<i>Category number</i>	<i>Description of category</i>	<i>Production or design capacity</i>
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
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

Prescribed premises Schedule 1

<i>Category number</i>	<i>Description of category</i>	<i>Production or design capacity</i>
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	Not applicable
	(b) cement clinker, clay, limestone or similar material is ground.	
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 6) 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

Schedule 1 Prescribed premises

<i>Category number</i>	<i>Description of category</i>	<i>Production or design capacity</i>
48	Metal finishing: premises (other than premises within category 44) 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
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
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 megawatts or more in aggregate (using natural gas) 10 megawatts 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

Prescribed premises Schedule 1

<i>Category number</i>	<i>Description of category</i>	<i>Production or design capacity</i>
54	Sewage treatment facility: premises — (a) on which sewage is treated (excluding septic tanks); and (b) from which treated sewage is discharged onto land or into waters.	100 cubic metres or more per day
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
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 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; (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 kilograms or more per hour

Schedule 1 Prescribed premises

<i>Category number</i>	<i>Description of category</i>	<i>Production or design capacity</i>
61	Waste treatment facility: premises (other than premises within category 54) — (a) on which liquid waste produced on other premises is stored, reprocessed, treated or irrigated; or (b) from which waste, including septage or sewage treatment plant sludge, is discharged onto land.	100 tonnes or more per year
62	Waste depot: premises on which waste is stored, or sorted, pending final disposal or re-use.	500 tonnes or more per year
63	Inert landfill site: premises on which only inert waste (as determined by reference to the specifications 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
64	Putrescible landfill site: premises (other than premises within category 63) on which only one or more of the following kinds of waste (in each case as determined by reference to the specifications referred to in category 63) is or are accepted for burial — (a) inert waste; (b) putrescible waste; (c) low hazard waste (type 1); (d) special waste (type 1).	Not applicable
65	Secure landfill site: premises on which either or both of the following types of waste (in each case as determined by reference to the specifications referred to in category 63) is or are accepted for burial — (a) low hazard waste (type 2); (b) special waste (type 2).	Not applicable

Prescribed premises Schedule 1

<i>Category number</i>	<i>Description of category</i>	<i>Production or design capacity</i>
66	Intractable landfill site: premises on which only intractable waste (as determined by reference to the specifications referred to in category 63) is accepted for burial.	Not applicable
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 kilograms or more per hour (fuel with a sulphur content of 0.25% or more) or In aggregate 2 000 kilograms 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

Schedule 1 Prescribed premises

PART 2

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

Prescribed premises	Schedule 1	
<i>Category number</i>	<i>Description of category</i>	<i>Production or design capacity</i>
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
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 litres 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

Schedule 1 Prescribed premises

<i>Category number</i>	<i>Description of category</i>	<i>Production or design capacity</i>
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 megawatts in aggregate
85	Sewage treatment 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 cubic metres per day
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 kilograms per hour in aggregate

[Schedule 1 inserted in Gazette 13 September 1996 pp.4549-59; amended in Gazette 10 December 1996 p.6877; 12 September 1997 p.5151.]

Schedule 2 — Premises subject to registration

[regulation 5B]

<i>Description of premises</i>	<i>Production or design capacity</i>
1. Abattoir: premises on which animals are slaughtered.	More than 100 but less than 1 000 tonnes per year
2. Smoking, drying or curing operations: premises (other than a retail butcher shop or chicken outlet) on which meat or other edible products are smoked, dried or cured.	More than 200 tonnes per year
3. Fibreglass reinforced plastic manufacturing: premises on which resin is used to prepare or manufacture reinforced plastics or reinforced plastic products.	More than 1 tonne per year
4. Water treatment facility: premises on which water is treated for domestic use.	More than 1 megalitre per day
5. Abrasive blasting operations: premises on which metal or other material is cleaned or abraded by blasting with any abrasive blasting material or abrasive blasting equipment.	Not applicable

[Schedule 2 inserted in Gazette 13 September 1996 p.4559.]

Schedule 3 Works approval fee

Schedule 3 — Works approval fee

[regulation 5C]

<i>Cost of works</i>	<i>Fee units</i>
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 September 1996 pp.4559-60.]

Schedule 4 — Licence fee

[regulation 5D]

Part 1 — Premises component

<i>Category</i>	<i>Production or design capacity</i>	<i>Fee units</i>
Categories 1 and 2	Less than 2 000 animals	50
	2 000 animals or more	100
Categories 3 and 4	Not applicable	20
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

Environmental Protection Regulations 1987

Schedule 4 Licence fee

<i>Category</i>	<i>Production or design capacity</i>	<i>Fee units</i>
	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

Environmental Protection Regulations 1987

	Licence fee	Schedule 4
<i>Category</i>	<i>Production or design capacity</i>	<i>Fee units</i>
	More than 10 000 but not more than 100 000 tonnes per year	100
	More than 100 000 tonnes per year	150
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, 38 and 39	Not more than 2 000 tonnes per year	50
	More than 2 000 but not more than 10 000 tonnes per year	100

Schedule 4 Licence fee

<i>Category</i>	<i>Production or design capacity</i>	<i>Fee units</i>
Categories 40, 42 and 43	More than 10 000 but not more than 50 000 tonnes per year	200
	More than 50 000 tonnes per year	300
	Not more than 10 000 tonnes per year	100
Category 41	More than 10 000 but not more than 100 000 tonnes per year	200
	More than 100 000 tonnes per year	400
	Not more than 5 000 tonnes per year	50
Category 44	More than 5 000 but not more than 50 000 tonnes per year	100
	More than 50 000 but not more than 500 000 tonnes per year	250
	More than 500 000 tonnes per year	350
	Not more than 10 000 tonnes per year	75
	More than 10 000 but not more than 50 000 tonnes per year	150
Category 45	More than 50 000 but not more than 500 000 tonnes per year	300
	More than 500 000 tonnes per year	600
	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

Environmental Protection Regulations 1987

	Licence fee	Schedule 4
<i>Category</i>	<i>Production or design capacity</i>	<i>Fee units</i>
	More than 100 000 tonnes per year	400
Category 46	Not more than 1 000 000 tonnes per year	250
	More than 1 000 000 tonnes per year	600
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 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 megawatts	50
	More than 20 but not more than 100 megawatts	100
	More than 100 but not more than 200 megawatts	200
	More than 200 megawatts	500
Category 54	Not more than 200 cubic metres per day	20
	More than 200 but not more than 2 000 cubic metres per day	50
	More than 2 000 cubic metres per day	100
Category 55	Not applicable	50
Categories 56 and 57	Not applicable	20

Environmental Protection Regulations 1987

Schedule 4 Licence fee

<i>Category</i>	<i>Production or design capacity</i>	<i>Fee units</i>
Category 58	Not more than 5 000 tonnes per day	75
	More than 5 000 but not more than 10 000 tonnes per day	150
	More than 10 000 but not more than 50 000 tonnes per day	250
	More than 50 000 tonnes per day	350
Category 59	Not more than 100 kilograms per hour	50
	More than 100 kilograms per hour	100
Category 60	Not more than 500 kilograms per hour	50
	More than 500 kilograms per hour	100
Category 61	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
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

<i>Category</i>	<i>Production or design capacity</i>	<i>Fee units</i>
	More than 50 000 but not more than 500 000 tonnes per year	80
	More than 500 000 tonnes per year	160
Categories 64 and 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
Category 65	Not applicable	655
Category 66	Not applicable	655
Category 67	Not applicable	15
Categories 68 to 87	Not applicable	24

Part 2 — Tailings, bitterns or flyash component

<i>Discharge quantity</i>	<i>Fee units</i>
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

Schedule 4 Licence fee

Part 3 — Discharge component

Table 1 — Discharges into air

<i>Kind of waste</i>	<i>Fee units (for each gram per minute)</i>
1. Carbon monoxide	0.01
2. Oxides of nitrogen, sulphur oxides and particulates	0.1
3. Volatile organic compounds (being compounds not specified elsewhere in this Table that participate in atmospheric photochemical reactions) —	
(a) discharged from premises in the metropolitan region (within the meaning of the <i>Metropolitan Region Town Planning Scheme Act 1959</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

<i>Kind of waste</i>	<i>Fee units</i>
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) 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

Schedule 4 Licence fee

	<i>Kind of waste</i>	<i>Fee units</i>
	(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	.025
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, manganese, mercury, molybdenum, nickel, vanadium and zinc	100
	(b) pesticides	100
	(c) fish tainting wastes	100
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
	(b) total dissolved solids	0.05
	(c) fluoride	1
	(d) iron	1
	(e) total residual chlorine	10
	(f) other	1

[Schedule 4 inserted in Gazette 13 September 1996 pp.4560-7; amended in Gazette 10 December 1996 p.6878.]

Schedule 5 — Tyre landfill exclusion zone

[regulation 11(1)]

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 2 — Country

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

[Schedule 5 inserted in Gazette 10 December 1996 p.6879.]

Schedule 6 — Infringement notice offences

[r. 41]

Infringement notice offence	Modified penalty for first offence	Modified penalty for subsequent offence
	\$	\$
<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(1) or (4)	250	500
2. regulation 13(1)	250	500
3. regulation 13A(1)	250	500
4. regulation 16(1)	250	500
5. regulation 16(2)	250	500
6. regulation 16(3)	250	500
7. regulation 18(1)	250	500
8. regulation 18(2)	250	500

Infringement notice offences Schedule 6

Infringement notice offence	Modified penalty for first offence	Modified penalty for subsequent offence
	\$	\$
9. regulation 20(2)	250	500
10. regulation 26(5)	250	500
11. regulation 28(2)	250	500
12. regulation 28(4)	250	500
13. regulation 28(8)	250	500
14. regulation 29(5)	250	500
15. 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

Environmental Protection Regulations 1987

Schedule 6 Infringement notice offences

Infringement notice offence	Modified penalty for first offence	Modified penalty for subsequent offence
	\$	\$
<i>Environmental Protection (Liquid Waste) Regulations 1996</i>		
1. regulation 6(4)	250	500
2. regulation 11(2)	250	500
3. regulation 13(2)	250	500
4. regulation 17(2)	250	500
5. regulation 19(1)	250	500
6. regulation 22(2)	250	500
7. regulation 23	250	500
8. regulation 24(1)	250	500
9. regulation 26(2)	250	500
10. regulation 27(2)	250	500
11. regulation 28(1)	250	500
12. regulation 31	250	500
13. regulation 32(5)	250	500
14. regulation 33A(2)	250	500
15. regulation 33A(3)	250	500
16. regulation 33A(4)	250	500
17. regulation 35(1)	250	500
18. regulation 37	250	500
19. regulation 38(1)	250	500

Infringement notice offences Schedule 6

Infringement notice offence	Modified penalty for first offence	Modified penalty for subsequent offence
	\$	\$
20. regulation 38(3)	250	500
21. regulation 38(4)	250	500
22. regulation 40(1)	250	500
23. regulation 40(2)	250	500
24. regulation 41(4)	250	500
25. regulation 42(2)	250	500
26. regulation 43(2)	250	500
27. regulation 45(5)	250	500
28. regulation 48	250	500
29. regulation 49	250	500
30. regulation 50(2)	250	500
31. regulation 51(2)	250	500
<i>Environmental Protection (Noise) Regulations 1997</i>		
1. regulation 6(2)	250	500
2. regulation 23	250	500
<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

Environmental Protection Regulations 1987

Schedule 6 Infringement notice offences

Infringement notice offence	Modified penalty for first offence	Modified penalty for subsequent offence
	\$	\$
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>		
1. regulation 3(1)	250	500
2. regulation 3(2)	250	500
3. regulation 4(1)	250	500

Infringement notice offences Schedule 6

Infringement notice offence	Modified penalty for first offence	Modified penalty for subsequent offence
	\$	\$
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

Schedule 6 Infringement notice offences

Infringement notice offence	Modified penalty for first offence	Modified penalty for subsequent offence
	\$	\$
24. regulation 12(3)	250	500
25. regulation 13	250	500

[Schedule 6 inserted in Gazette 11 December 1998 pp.6605-08.]

Schedule 7 — Forms

[rr. 37, 38, 42, 43]

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

Details of the offence and modified penalty:

Table with 3 columns: Section of the Act, Description of the offence, Modified penalty \$

Information about this notice:

Date:
Issued at:
by:
Signature:

* At the discretion of the Department of Environmental Protection, 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:

Schedule 7 Forms

PAY THE MODIFIED PENALTY TO:

The Accountant

Department of Environmental Protection

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 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 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 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:

Section or regulation	Description of the offence	Modified penalty \$
------------------------------	-----------------------------------	-------------------------------

Information about this notice:

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

***At the discretion of the Department of Environmental Protection,
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
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 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) action may be taken to suspend your Motor Driver's Licence or Vehicle Licence until you have paid in full the modified penalty and any additional charges; 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.

Notes

¹ This reprint is a compilation as at 2 April 1999 of the *Environmental Protection Regulations 1987* and includes the amendments effected by the regulations referred to in the following Table.

Table of Regulations

Citation	Gazettal	Commencement	Miscellaneous
<i>Environmental Protection Regulations 1987</i>	20 February 1987 pp.444-9	20 February 1987	
Regulations effecting amendments in the previous reprint are <u>not</u> referred to in this Table			Reprinted as at 4 December 1995
<i>Environmental Protection Amendment Regulations (No. 3) 1996</i>	13 September 1996 pp.4545-67	1 October 1996 (see regulation 2)	Regulation 7 Transitional ³
<i>Environmental Protection Amendment Regulations (No. 5) 1996</i>	11 October 1996 p.5395	4 August 1996 (see regulation 2 and <i>Gazette</i> 2 August 1996 p.3615)	
<i>Environmental Protection Amendment Regulations (No. 4) 1996</i>	12 November 1996 pp.6303-05	12 November 1996	
<i>Environmental Protection Amendment Regulations (No. 6) 1996</i>	10 December 1996 pp.6876-9	10 December 1996	

Citation	Gazettal	Commencement	Miscellaneous
<i>Environmental Protection Amendment Regulations (No. 2) 1997</i>	12 September 1997 pp.5149-51	12 September 1997	
<i>Environmental Protection Amendment Regulations 1998</i>	3 April 1998 pp.1972-3	25 July 1998 (see regulation 2 and <i>Gazette</i> 24 July 1998 p.3887)	
<i>Environmental Protection Amendment Regulations (No. 2) 1998</i>	26 June 1998 pp.3370-74	1 July 1998 (see regulation 2 and <i>Gazette</i> 26 June 1998 p.3369)	
<i>Environmental Protection (Miscellaneous Amendments) Regulations 1998, Part 2</i>	11 December 1998 pp.6597-6611	8 January 1999 (see regulation 2)	

² Now known as the “Hartley Poynton Building”.

³ Regulation 7 of the *Environmental Protection Amendment Regulations (No. 3) 1996* reads as follows —

“

7. Transitional

- (1) The principal regulations as amended by these regulations do not apply to an existing landfill site until the expiration of the period of 6 months after the commencement of these regulations.
- (2) In this regulation —
 - “**existing landfill site**” means a landfill site that, immediately before the commencement of these regulations, was operated as —
 - (a) by a local government with the consent of the Governor under section 119 of the *Health Act 1911*;
 - or

- (b) as a landfill site at which only inert waste (as determined by reference to the specifications 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) was accepted for burial.
- (3) This regulation does not operate so as to prevent —
 - (a) an occupier of an existing landfill site from applying for a licence in respect of those premises within the period of 6 months after the commencement of these regulations as if the principal regulations as amended by these regulations applied to that site; or
 - (b) the granting of a licence under the Act, within the period of 6 months after the commencement of these regulations, in respect of those premises as if the principal regulations as amended by these regulations applied to that site,

and such an application or licence is to have the same effect as if the principal regulations as amended by these regulations applied to that site at the time the application was made or the licence was granted.

”.

Defined Terms

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
It is not part of the law.]*

Defined Term	Provision(s)
approved.....	21(1)
approved site	11(1)
ASTM	17(1)
best practice criteria	4(1)
category	4(1)
commencement day	21(1)
enclosed water body	16(4)
exemption period	21(1)
existing licensee	21(1)
Fund	21(1)
head office.....	2AA
IP.....	17(1)
landfill cover	21(1)
length	16(4)
levy.....	21(1)
licence	4(1)
licensed landfill.....	21(1)
licensed premises	11(1)
licensee.....	21(1), 24(1), 28(1)
metropolitan region	21(1)
minute	2B(1)
Organotin anti-fouling paint.....	16(4)
petrol	17(1)
public reading room	2AA
return period.....	21(1)
semi-enclosed water body	16(4)
specified	31(3)
storage.....	11(1)
the actual discharge.....	5H(2)(b)
tyre	11(1)
Tyre Landfill Exclusion Zone	11(1)
tyre retailer	11(1)
unleaded petrol.....	17(1)
vessel.....	16(4)