

Western Australia

**Environmental Protection (Controlled Waste)
Regulations 2001**

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Environmental Protection (Controlled Waste) Regulations 2001

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Environmental Protection (Controlled Waste) Regulations 2001

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Environmental Protection (Controlled Waste) Regulations 2001*.

2. Commencement

These regulations come into operation on 1 April 2001.

3. Interpretation

In these regulations, unless the contrary intention appears -

“**approved**” means approved by the Chief Executive Officer;

“**carrier**” means a person licensed as a carrier under these regulations;

“**clinical waste**” means waste generated by medical, nursing, dental, veterinary, pharmaceutical or other related activity which is —

- (a) poisonous or infectious;
- (b) likely to cause injury to public health; or
- (c) contains human tissue or body parts;

“**controlled waste**” means a waste specified in a category in column 1 of Schedule 1 and possessing one or more of the

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characteristics described in column 2 of Schedule 2, except a waste that is -

- (a) removed under the *Radiation Safety (Transport of Radioactive Substances) Regulations 1991*;
- (b) removed to be discharged or deposited under a disposal licence under section 47 of the *Waterways Conservation Act 1976* or removed or discharged under a permit to discharge industrial waste under the *Metropolitan Water Supply, Sewerage and Drainage By-laws 1981* (unless it is a condition of the licence or permit that removal of the waste is to be subject to these regulations); or
- (c) removed by a local government or its contractor from premises within the district of the local government under section 112(1)(a) of the *Health Act 1911*;

“corresponding law” means a law of another State or a Territory relating to the collection, transportation, or disposal of a controlled waste;

“disposal site” means —

- (a) a waste treatment facility or depot licensed under Part V of the Act to store, treat, reuse, or dispose of a controlled waste;
- (b) a waste treatment facility operated by Waste Management (WA) established under section 110L of the *Environmental Protection Act 1986*; or
- (c) a waste treatment facility or depot licensed to store, treat, reuse, or dispose of a controlled waste under a corresponding law;

“hazard number” means the code number for a category of waste in the classification system of the United Nations Recommendations on the Transport of Dangerous Goods;

“interstate licence” means a licence, authorisation, permit, notice, registration, or approval in force in another State or a Territory under a corresponding law;

“licence” means a licence under these regulations;

“notifiable quantity” means, in relation to a substance specified in column 1 of Schedule 1, the quantity specified in column 2 of Schedule 1;

“operator” means a person licensed as an operator under these regulations;

“sewage” means waste containing faecal matter or urine.

[Regulation 3 amended in Gazette 19 Oct 2001 p. 5607.]

4. Application of regulations

- (1) The Chief Executive Officer may, by order published in the Gazette, direct that all or any of the provisions of these regulations do not apply according to the order in respect of a controlled waste.
- (2) An order made under subregulation (1) may be -
 - (a) subject to such conditions as the Chief Executive Officer specifies in the order; and
 - (b) revoked or varied by a subsequent order.
- (3) These regulations do not apply to a matter referred to in clause 8(d), (e), (f), (g), or (h) of the NEPM for the *Movement of Controlled Waste Between States and Territories*.
- (4) These regulations do not apply to dangerous goods within the meaning of section 3 of the *Dangerous Goods (Transport) Act 1998* that are being transported in accordance with that Act or regulations made under that Act.

Part 2 — Licensing

Division 1 — General matters

5. Application for licence

- (1) An application for a licence is to be —
 - (a) made in the approved manner and approved form duly completed; and
 - (b) accompanied by the appropriate fee prescribed in Schedule 3.
- (2) The Chief Executive Officer may, before determining an application for a licence, require the applicant to provide the Chief Executive Officer with such further information as the Chief Executive Officer requires in any particular case.

6. Licensing

- (1) Subject to subregulation (2) and regulations 16 and 21, the Chief Executive Officer is to grant an application made under regulation 5 and issue a licence to the applicant.
- (2) The Chief Executive Officer may refuse an application made under regulation 5 if —
 - (a) the applicant, or where the applicant is a body corporate, an individual concerned with the control and management of the body corporate, has been convicted of an offence against the Act, these regulations or any other offence that relates to the collection, transportation, storage, or disposal of a controlled waste;
 - (b) the Chief Executive Officer has reasonable grounds to suspect that the applicant, or where the applicant is a body corporate, an individual concerned with the control and management of the body corporate, is not of good character and repute and fit to be involved in the business in respect of which the application is made;
 - (c) the applicant's licence is suspended;

- (d) the applicant, or where the applicant is a body corporate, an individual concerned with the control and management of the body corporate, has previously been licensed under these regulations and that licence has been cancelled or refused renewal;
- (e) the applicant has been refused a licence or a renewal of a licence under a corresponding law or the applicant's licence under a corresponding law has been cancelled, revoked, or withdrawn;
- (f) the Chief Executive Officer has reasonable grounds to suspect that the application contains or is accompanied by information that is false or misleading to a significant extent; or
- (g) the applicant is already the holder of a licence, or where the applicant is a body corporate, an individual concerned with the control and management of the body corporate, is already the holder of a licence or is concerned with the control and management of a body corporate that is already the holder of a licence.

7. Conditions

- (1) The Chief Executive Officer may issue or renew a licence subject to such conditions as the Chief Executive Officer thinks fit to impose.
- (2) The Chief Executive Officer may at any time by written notice -
 - (a) impose conditions upon a licence that has been granted;
 - (b) add to, change, or remove conditions already imposed; and
 - (c) in the case of a licence issued to a carrier or operator, add or remove a class or type of controlled waste specified in the licence.
- (3) If the Chief Executive Officer decides to act under subregulation (2) -

- (a) the Chief Executive Officer is to give written notice of the decision to the holder of the licence; and
 - (b) the decision does not take effect until 7 days after the notice is given, or such later time as is set out in the notice.
- (4) A person who holds a licence and who contravenes a condition to which that licence is subject commits an offence.
- (5) A person who holds a licence may apply to the Chief Executive Officer for a condition of a licence to be changed or removed by application -
- (a) made in the approved form; and
 - (b) accompanied by the appropriate fee specified in Schedule 3.

8. Refund of fee

A full or partial refund of the fee accompanying an application for a licence may be made to the applicant at the discretion of the Chief Executive Officer if the application is not granted or the licence is granted for a period of less than one year but no refund is demandable.

9. Validity of licence

Subject to these regulations, a licence under these regulations expires on 30 June in the year after it is granted.

10. Renewal of licence

- (1) Upon application -
- (a) made before 30 June in the year renewal of a licence is due;
 - (b) made in the approved manner and the approved form duly completed; and
 - (c) accompanied by the appropriate fee prescribed in Schedule 3,

the Chief Executive Officer may renew the licence.

- (2) An applicant for renewal of a licence may apply to renew the licence for a period of one year and subject to these regulations the renewal, if granted, is to have effect for that period.
- (3) A renewal of a licence takes effect on the day immediately succeeding the day on which the previous licence expired or will expire.

11. Cancellation or suspension of, refusal to renew, licence

- (1) Subject to this regulation, the Chief Executive Officer may cancel, suspend for a fixed period, or refuse to renew a licence if —
 - (a) the holder has been convicted of an offence against the Act, these regulations, or any other offence that relates to the collection, transportation, storage, or disposal of a controlled waste;
 - (b) there has been a breach of a condition to which the licence is subject;
 - (c) the Chief Executive Officer has reasonable grounds to suspect that the licence was obtained by fraud or misrepresentation; or
 - (d) the holder's licence or registration under a corresponding law has been cancelled, revoked, withdrawn, or suspended or a renewal of that licence or registration has been refused.
- (2) If the holder of a licence is charged with an offence under the Act or a corresponding law relating to the collection, transportation, storage, or disposal of a controlled waste or an offence under these regulations, the Chief Executive Officer may suspend the licence until the charge in respect of the offence has been finally dealt with or determined according to law.

- (3) Unless otherwise provided in these regulations, if the Chief Executive Officer proposes to cancel, suspend, or refuse to renew a licence, the Chief Executive Officer is to give to the holder of the licence written notice of the proposal and the reasons for the proposal.
- (4) A notice given under subregulation (3) is to state that within 14 days after the notice is given, the person to whom it is given may make written representations to the Chief Executive Officer concerning the matter, and the Chief Executive Officer is not to determine the matter without considering any representations received within that period of 14 days.
- (5) If the Chief Executive Officer cancels, suspends, or refuses to renew, a licence, the Chief Executive Officer is to give to the holder of the licence written notice of the cancellation, suspension, or refusal to renew.

12. Automatic cancellation of licence

Despite regulation 11, upon the conviction of a person for an offence against a provision of the Act that relates to the collection, transportation, storage, or disposal of a controlled waste, the licence of the person is immediately cancelled.

Division 2 — Premises

13. Notice of controlled waste

- (1) If the aggregate quantity of a class or type of a controlled waste created, produced, or stored on premises is equal to or greater than the notifiable quantity of the waste, the occupier of the premises may be required by the Chief Executive Officer to give the Chief Executive Officer a notice containing the following information —
 - (a) the class or type of controlled waste created, produced, or stored on the premises;
 - (b) the quantity of the controlled waste created, produced, or stored on the premises;

- (c) the concentration of the controlled waste created, produced, or stored on the premises; and
 - (d) the location on the premises of the controlled waste.
- (2) An occupier who is required to give the Chief Executive Officer a notice under subregulation (1) and who fails to give the notice within 14 days of receiving the request from the Chief Executive Officer commits an offence.

14. Directions to transport a controlled waste to a disposal site

- (1) The Chief Executive Officer may give an occupier of premises a notice requiring the occupier to apply or to arrange for his or her agent to apply within 7 days of the date of the notice for a permit under regulation 31 to remove a controlled waste specified in the notice and stored on the occupier's premises (in this regulation referred to as the “**specified waste**”) to a disposal site.
- (2) An occupier who —
- (a) contravenes subregulation (1); or
 - (b) if a permit is granted, fails to remove the specified waste before the permit expires,
- commits an offence.

Division 3 — Carriers

15. Carrier to be licensed

- (1) A person who -
- (a) collects or transports or causes to be collected or transported a controlled waste for gain or reward or collects or transports or causes to be collected or transported more than the notifiable quantity of a controlled waste in a period of one year; and
 - (b) is not licensed as a carrier,
- commits an offence.

- (2) Subregulation (1) does not apply to an operator employed or engaged by a carrier.
- (3) The Chief Executive Officer is to specify in a licence issued to a carrier —
 - (a) the class or type of controlled waste the carrier may collect or transport; and
 - (b) the areas in which the carrier may collect or transport a class or type of controlled waste.
- (4) The Chief Executive Officer may give a carrier written permission to collect or transport a controlled waste in an area outside the areas specified in the carrier's licence and may specify in the permit the period within which the controlled waste may be so transported and the carrier's licence is taken to be varied accordingly.

16. Refusal of licence

In addition to the grounds specified in regulations 6 and 11, the Chief Executive Officer may refuse an application for, or for renewal of, a licence as a carrier, or suspend or cancel the licence of a carrier, if the Chief Executive Officer is not satisfied that the applicant or carrier is competent to operate as a carrier.

17. Recognition of a licence issued in another State or a Territory

- (1) A person who -
 - (a) has an interstate licence for the transportation of a controlled waste;
 - (b) applies to and satisfies the Chief Executive Officer that, having regard to regulation 6, the person is a suitable person to be licensed as a carrier; and
 - (c) pays the appropriate fee prescribed in Schedule 3,is to be licensed as a carrier.

- (2) If the person's interstate licence is not subject to any condition or restriction, the person's licence under these regulations is not to be subject to any condition or restriction.
- (3) If the person's interstate licence is subject to any condition or restriction, the person's licence under these regulations is to be subject to the conditions and restrictions to which the interstate licence is subject or such other or further conditions or restrictions as the Chief Executive Officer specifies.
- (4) This regulation does not have effect in respect of a person while the State is a participating jurisdiction within the definition of the Mutual Recognition Act 1992 of the Commonwealth.

18. Sub-contractors

- (1) If a carrier sub-contracts the collection or transportation of a controlled waste, the carrier's sub-contractor must -
 - (a) be licensed as a carrier; and
 - (b) operate under the licence issued to that sub-contractor as a carrier.
- (2) A sub-contractor who contravenes subregulation (1) commits an offence.

19. Employment of unlicensed operators

A carrier who employs or engages a person to collect or transport a controlled waste who is not licensed as an operator to collect or transport that waste commits an offence.

Division 4 — Operators

20. Operators to be licensed

- (1) A person who -
 - (a) is employed or engaged by a carrier to collect or transport a controlled waste; and
 - (b) is not licensed as an operator under this Part,

commits an offence.

- (2) The Chief Executive Officer is to specify in a licence issued to an operator -
- (a) the name and address of the person to whom the licence has been issued;
 - (b) the name and address of the operator's employer;
 - (c) that the operator may collect or transport -
 - (i) a controlled waste; or
 - (ii) a specified class or type of controlled waste;
- and
- (d) such other information as the Chief Executive Officer thinks fit.

21. Refusal of licence

In addition to the grounds specified in regulations 6 and 11, the Chief Executive Officer may refuse an application for, or for renewal of, a licence as an operator, or suspend or cancel the licence of an operator, if the Chief Executive Officer is not satisfied that the applicant has adequate technical competence to operate as an operator.

22. Operator identification card

- (1) The Chief Executive Officer is to issue an operator identification card to each person licensed as an operator.
- (2) A person licensed as an operator who fails to -
- (a) carry his or her operator identification card at all times while engaged in the collection or transportation of a controlled waste;
 - (b) when required to do so by an inspector produce for inspection the operator identification card; or
 - (c) notify the Chief Executive Officer within 24 hours of losing his or her operator identification card,

commits an offence.

23. Notification of change of particulars

- (1) A person licensed as an operator must give the Chief Executive Officer written notice of details of any change of employer or principal of that person that is relevant to the collection or transport of a controlled waste within 7 days of changing employer or principal.
- (2) An operator who contravenes subregulation (1) commits an offence.

24. Recognition of a licence issued in another State or a Territory

- (1) A person who —
 - (a) has an interstate licence as an operator to collect or transport a controlled waste;
 - (b) applies to and satisfies the Chief Executive Officer that, having regard to regulation 6, the person is a suitable person to be licensed as an operator; and
 - (c) pays the appropriate fee prescribed in Schedule 3,is to be licensed as an operator.
- (2) If the person's interstate licence is not subject to any condition or restriction, the person's licence under these regulations is not to be subject to any condition or restriction.
- (3) If the person's interstate licence is subject to any condition or restriction, the person's licence under these regulations is to be subject to the conditions and restrictions to which the interstate licence is subject or such other or further conditions or restrictions as the Chief Executive Officer specifies.
- (4) This regulation does not have effect in respect of a person while the State is a participating jurisdiction within the definition of the Mutual Recognition Act 1992 of the Commonwealth.

Division 5 — Vehicle or vessel

25. Vehicle or vessel of carriers to be licensed

A carrier who transports a controlled waste in a vehicle or vessel other than -

- (a) a vehicle or vessel that is licensed under this Part;
- (b) a vehicle licensed under the *Dangerous Goods (Transport) (Explosives by Road and Rail) Regulations 1999*;
- (c) a vehicle or vessel or class of vehicle or vessel that the Chief Executive Officer has exempted from the requirement to be licensed,

commits an offence.

26. Vehicle or vessel used for transporting a controlled waste to have proper signage

A carrier who transports a controlled waste in a licensed vehicle or vessel -

- (a) without having on each side and on the rear of the vehicle or vessel, a sign in writing at least 150 mm high with the words “Controlled waste”, the name of the carrier, and the licence number of the carrier displayed on it; or
- (b) without having on each container in which a controlled waste is transported on the vehicle or vessel, a sign in writing at least 150 mm high with the words “Controlled waste”, the name of the carrier, and the licence number of the carrier displayed on it,

commits an offence.

27. Application and inspection of vehicle or vessel

- (1) An application for a licence for a vehicle or vessel may only be made by a carrier.

- (2) Before an application for a licence for a vehicle or vessel is determined the applicant may be required by the Chief Executive Officer to submit the vehicle or vessel for inspection at a time and place satisfactory to the Chief Executive Officer.
- (3) The Chief Executive Officer may by written notice require the owner of a licensed vehicle or licensed vessel to submit the vehicle or vessel for inspection at a time and place specified in the notice.
- (4) The Chief Executive Officer may by written notice direct that a licensed vehicle or licensed vessel is to be modified as specified in the notice if the Chief Executive Officer is of the opinion that the vehicle or vessel requires that modification in order to comply with regulation 28 or a condition subject to which the vehicle or vessel is licensed.
- (5) An owner of a vehicle or vessel who fails to comply with a notice issued under subregulation (3) or (4) commits an offence.

28. Issue of licence

- (1) A licence is not to be issued in respect of a vehicle or vessel of a carrier unless the vehicle or vessel has such equipment, system, or modifications as the Chief Executive Officer may require as a condition of licensing the vehicle or vessel.
- (2) Nothing in subregulation (1) limits the power of the Chief Executive Officer at any time under regulation 7 to impose, add to, change, or remove conditions upon a licence in respect of equipment, systems, or modifications.
- (3) In addition to the grounds specified in regulation 11, the Chief Executive Officer may cancel, suspend for a fixed period, or refuse to renew a licence for a vehicle or a vessel if modifications relating to any of the matters referred to in subregulation (1) are made to the vehicle or vessel without the approval of the Chief Executive Officer.

29. Validity of licence

- (1) The licence for a vehicle or vessel of a carrier remains valid only while the licence of the carrier is valid.
- (2) If the licence of a carrier is suspended, the licence for each vehicle or vessel of the carrier is suspended for the period of the suspension of the carrier's licence.

30. Recognition of a licence for a vehicle or vessel in another State or a Territory

- (1) If a vehicle or vessel has an interstate licence to be used to transport a controlled waste and its owner pays the appropriate fee prescribed in Schedule 3 the vehicle or vessel is to be licensed under these regulations.
- (2) If the vehicle's or vessel's interstate licence is not subject to any condition or restriction, the licence under these regulations is not to be subject to any condition or restriction.
- (3) If the vehicle's or vessel's interstate licence is subject to any condition or restriction, the licence under these regulations is to be subject to the conditions and restrictions to which the interstate licence is subject or such other or further conditions or restrictions as the Chief Executive Officer specifies.

Part 3 — Removal of a controlled waste

Division 1 — Removal and transportation

31. Permit for removal of a controlled waste

- (1) An occupier of premises or an occupier's agent who wishes to remove a controlled waste from the occupier's premises must apply to the Chief Executive Officer for a permit to remove the waste.
- (2) An occupier of premises who causes or allows a controlled waste to be removed from the premises -
 - (a) without a permit granted under subregulation (4); or
 - (b) in contravention of any condition imposed in a permit granted under subregulation (4),commits an offence.
- (3) An application by a person under subregulation (1) is to be made in the approved manner and the approved form duly completed and is to be accompanied by the appropriate fee prescribed in Schedule 3.
- (4) The Chief Executive Officer may grant, or refuse to grant, a permit under this regulation.
- (5) The Chief Executive Officer may grant a permit subject to such conditions as the Chief Executive Officer thinks fit.
- (6) A person who has obtained a permit may apply to the Chief Executive Officer for a condition of the permit to be changed or removed by application -
 - (a) made in the approved form; and
 - (b) accompanied by the appropriate fee specified in Schedule 3.

- (7) The Chief Executive Officer is to assign a unique consignment number to each permit granted under subregulation (4) and that number is to be shown on the permit.
- (8) Unless otherwise approved by the Chief Executive Officer, a permit is valid for one removal operation only by a carrier from the premises specified in the permit.
- (9) If the Chief Executive Officer approves a permit as being for more than one removal operation, whether from the same or different premises, these regulations apply to each removal of a controlled waste from the premises under the permit as if the permit were a permit for each of those removal operations.
- (10) A permit expires on the date specified by the Chief Executive Officer in the permit.
- (11) This regulation applies to the occupier of premises in another State or a Territory if a controlled waste on those premises is to be removed from those premises and disposed of in this State.

32. Obligations of operators as to removal and transportation of a controlled waste

An operator who —

- (a) removes a controlled waste from premises without a permit for the removal of the waste; or
- (b) fails to comply with any condition imposed by a permit granted under regulation 31(4),

commits an offence.

33. Obligations of carriers as to the transportation of a controlled waste

- (1) A carrier who fails to ensure that an operator of a licensed vehicle or a licensed vessel of the carrier -
 - (a) only removes a controlled waste from premises with a permit for the removal of the waste; or

- (b) complies with any condition imposed by a permit granted under regulation 31(4),

commits an offence.

- (2) In proceedings against a carrier for a breach of subregulation (1), it is a defence to prove that -
 - (a) the carrier issued proper instructions and took reasonable precautions to ensure that the operator complied with subregulation (1);
 - (b) the offence was committed by the operator without the carrier's knowledge; and
 - (c) the carrier could not by the exercise of reasonable diligence have prevented the commission of the offence.

34. Obligations of operators as to compliance with conditions of a permit

- (1) Before leaving premises from which a controlled waste has been collected by the operator of the carrier's vehicle or vessel, the operator must ensure that there has been compliance with any conditions to which the permit is subject.
- (2) An operator who contravenes subregulation (1) commits an offence.

35. Obligations of carriers as to vehicles or vessels used to transport a controlled waste

- (1) A carrier who fails to ensure that a licensed vehicle or a licensed vessel of the carrier -
 - (a) is used in such a way as to prevent waste spilling, discharging, or falling from the vehicle or vessel; and
 - (b) in the case of a motor vehicle, has on each side and on the rear of the vehicle, a sign in writing at least 150 mm high with the words "Controlled waste", the name of the carrier, and the licence number of the carrier displayed on it,

commits an offence.

- (2) In proceedings against a carrier for a breach of subregulation (1)(a), it is a defence to prove that -
- (a) the carrier issued proper instructions and took reasonable precautions to ensure that the operator complied with subregulation (1)(a);
 - (b) the offence was committed by the operator without the carrier's knowledge; and
 - (c) the carrier could not by the exercise of reasonable diligence have prevented the commission of the offence.

36. Obligations of operators as to vehicles or vessels used to transport a controlled waste

An operator who fails to ensure that a licensed vehicle or a licensed vessel that he or she is using to transport a controlled waste is used in such a way as to prevent waste spilling, discharging, or falling from the vehicle or vessel commits an offence.

37. Obligation to report breach of conditions of a permit

An operator of a vehicle or vessel who fails to report to the Chief Executive Officer a breach of the conditions of a permit granted under regulation 31, within 7 days of the day on which the breach occurred, commits an offence.

Division 2 — Disposal of waste

38. Obligations as to disposal of a controlled waste

- (1) Unless a controlled waste is -
- (a) unloaded with the approval or at the direction of the Chief Executive Officer; or
 - (b) unloaded so that it can immediately be transferred to another licensed vehicle or licensed vessel,

an operator must not unload from a vehicle or vessel a controlled waste at a place other than the disposal site specified in the permit for the disposal of the waste.

- (2) Unless otherwise approved or directed by the Chief Executive Officer, an operator must deposit a controlled waste at a disposal site -
 - (a) not later than 7 days after the day on which it is collected; or
 - (b) in the case of a vehicle or vessel that is used to bring a controlled waste from another State or a Territory, not later than 7 days after the day on which the vehicle or vessel entered this State.
- (3) Unless otherwise approved or directed by the Chief Executive Officer, an operator who has collected a controlled waste in this State and who is taking the waste to another State or a Territory must remove the waste from this State not later than 7 days after the day on which it was collected in this State.
- (4) A carrier must ensure that any controlled waste collected in a licensed vehicle or a licensed vessel of the carrier is unloaded in accordance with subregulations (1) and (2).
- (5) The Chief Executive Officer may approve or direct the disposal of a controlled waste -
 - (a) at a disposal site other than the site specified in the permit;
 - (b) at a time specified in the approval or direction.
- (6) A failure to comply with the requirements of subregulation (1), (2)(a), (2)(b), or (4) is a prescribed alteration of the environment for the purposes of paragraph (c) of the definition of “pollution” in section 3(1) of the Act.
- (7) An operator who contravenes subregulation (3) commits an offence.

- (8) It is a defence in proceedings against a carrier under Part V of the Act (by the application of subregulation (6)) or subregulation (7) to prove that -
- (a) the carrier issued proper instructions and took reasonable precautions to ensure that the operator complied with subregulations (1) and (2);
 - (b) the offence was committed by the operator without the carrier's knowledge; and
 - (c) the carrier could not by the exercise of reasonable diligence have prevented the commission of the offence.

39. Procedure on unloading a vehicle or vessel

- (1) Before unloading a controlled waste at a disposal site, the operator of the vehicle or vessel from which the waste is to be unloaded must -
- (a) present the operator's identification card to the attendant in charge of the disposal site; and
 - (b) present the permit for the waste to be unloaded at the disposal site to the attendant in charge of the disposal site.
- (2) An operator who contravenes subregulation (1) commits an offence.

40. Obligations of the operator of a disposal site

- (1) The operator of a disposal site who receives a controlled waste from an operator must complete a record of disposal of the waste in a manner specified in the permit for the disposal of that waste.
- (2) A record of disposal completed under subregulation (1) must be kept by the operator of the disposal site for at least 3 years from the day on which the waste was delivered to the site.

- (3) The operator of a disposal site who receives a controlled waste must obtain the permit for the waste from the operator who delivered the waste to the site.
- (4) The operator of a disposal site who receives a controlled waste from a carrier must give or send to the carrier a receipt for the waste bearing a unique identification number which records the consignment number of the waste delivered to the site.
- (5) An operator of a disposal site who issues a receipt under subregulation (4) must sign the receipt or cause the receipt to be signed by his or her representative.
- (6) The operator of a disposal site who receives a controlled waste must send the permit for the waste completed under subregulation (1) to the Chief Executive Officer within 7 days of the day on which the waste was delivered to the site.
- (7) The operator of a disposal site who stores, destroys, treats, or reuses waste received under this regulation must send to the occupier of the premises from which the waste was collected a certificate of disposal showing -
 - (a) the consignment number of the waste;
 - (b) the receipt number of the waste; and
 - (c) the manner in which the waste was stored, destroyed, treated, or reused.
- (8) An operator of a disposal site who contravenes subregulation (1), (2), (3), (4), (5), (6), or (7) commits an offence.

Division 3 — Disposal of material containing asbestos

41. Interpretation

In this Division, unless the contrary intention appears -

“asbestos” means the asbestiform variety of mineral silicates belonging to the serpentine or amphibole groups of rock-forming minerals and includes actinolite, amosite,

anthophyllite, chrysotile, crocidolite, tremolite, and any mixture containing 2 or more of those;

“disposal site” means a premises licensed under Part V of the Act to accept material containing asbestos;

“material containing asbestos” means material in which —

- (a) fibrous material is able to be detected by stereoscopic light microscopy at a magnification of not less than 10 times and not greater than 40 times; and
- (b) the fibrous material is able to be identified as asbestos by polarised light microscopy at a magnification of not greater than 400 times or by a method approved by the Executive Director, Public Health under the *Health Act 1911*.

42. Disposal of material containing asbestos

A person who disposes of material containing asbestos otherwise than at a disposal site commits an offence unless -

- (a) the material is disposed of at a place approved by the Chief Executive Officer under regulation 45(a); and
- (b) the material is disposed of in accordance with any directions given by the Chief Executive Officer under regulation 45(b) as to the manner in which the material is to be disposed of at that place.

43. Asbestos for disposal to be separated, wrapped, and labelled

A person who takes material containing asbestos to a disposal site or to a place approved by the Chief Executive Officer under regulation 45(a) which is not -

- (a) separated from other material for disposal where that is reasonably practicable;
- (b) wrapped or otherwise contained in a manner required under the *Health (Asbestos) Regulations 1992*; and
- (c) labelled or marked with the words “CAUTION ASBESTOS” in letters not less than 40 mm high,

commits an offence.

44. Duty to notify others of presence of asbestos

A person who -

- (a) takes material containing asbestos to a disposal site or to a place approved by the Chief Executive Officer under regulation 45(a); and
- (b) does not inform the person who operates or controls the site or place (whether by the use of an appropriate label or otherwise) that the material is or contains asbestos,

commits an offence.

45. Chief Executive Officer may approve place and manner of disposal in special cases

If satisfied that the circumstances of a particular case warrant the disposal of material containing asbestos at a place other than a disposal site, the Chief Executive Officer may, in writing -

- (a) approve a place other than a disposal site for the disposal of the material containing asbestos; and
- (b) give directions as to the manner in which the material containing asbestos is disposed of at a place approved under paragraph (a).

46. Method of disposal

A person who operates a place approved under regulation 45(a) as a place for the disposal of material containing asbestos must dispose of material containing asbestos in accordance with any directions given under subregulation 45(b).

Part 4 — Clinical waste

47. Obligations of occupier of premises on which clinical waste is produced

- (1) An occupier of premises on which clinical waste is produced must ensure that the clinical waste is stored prior to collection -
 - (a) in a receptacle that is -
 - (i) leak proof;
 - (ii) rigid;
 - (iii) puncture resistant;
 - (iv) fitted with a rigid cover;
 - (v) marked and colour-coded in the approved manner to indicate the type of clinical waste stored and the approved method of disposal; and
 - (vi) clean and in good condition;and
 - (b) separately from any other waste produced on those premises.
- (2) An occupier of premises on which clinical waste is produced must ensure that the cover of the receptacle in which the clinical waste is stored is tightly closed over the receptacle except when depositing or removing waste or cleaning the receptacle.
- (3) An occupier of premises on which clinical waste is produced must, if the waste is given for the purpose of transport for disposal to a person who is not a licensed carrier, ensure that -
 - (a) the waste is contained within a container with -
 - (i) a rigid outer layer, impact resistant padding, and an inner layer that would be reasonably expected to protect the contents during transport and prevent spillage of the waste following the impact of an accident during transport; and

- (ii) an impervious inner liner that would be reasonably expected to contain any liquids associated with the waste;
 - (b) there is clear identification on the outer layer of the container that the contents are a bio-hazard and clinical waste for disposal;
 - (c) the clinical waste is carried in a vehicle, in -
 - (i) a separate compartment from the driver; and
 - (ii) clearly separated from any other waste carried in the vehicle;
 - and
 - (d) that the waste load compartment of the vehicle is securely locked at all times when the vehicle is unattended and there is clinical waste in the compartment.
- (4) The Chief Executive Officer may issue any of the following written directions to the occupier of premises on which clinical waste is produced -
- (a) as to the manner in which the types of clinical waste produced are to be segregated from one another;
 - (b) as to the manner in which the types of clinical waste produced are to be stored;
 - (c) as to the removal of that clinical waste, or clinical waste of that type or quantity;
 - (d) requiring the occupier to give the Chief Executive Officer written details of the occupier's waste management plans, or waste audit reports, in relation to that clinical waste.
- (5) An occupier given directions under subregulation (4) must comply with those directions.
- (6) The requirements prescribed by subregulation (1) are prescribed standards for the purposes of section 51 of the Act.

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- (7) An occupier who fails to comply with subregulation (2), (3), or (5) commits an offence.

Part 5 — Miscellaneous

48. Responsibility of carrier

- (1) If an operator commits an offence against these regulations, the carrier by whom the operator is employed or engaged is taken to have committed the same offence.
- (2) It is a defence in proceedings against a carrier for an offence against these regulations (by the application of subregulation (1)) for the carrier to prove that -
 - (a) the carrier issued proper instructions and took reasonable precautions to ensure compliance with these regulations;
 - (b) the offence was committed by the operator without the carrier's knowledge; and
 - (c) the carrier could not by the exercise of reasonable diligence have prevented the commission of the offence.
- (3) A carrier may be charged and convicted of an offence against these regulations under subregulation (1) whether or not the operator who committed the offence has been proceeded against and convicted of the offence.

49. Approval to reuse a controlled waste

- (1) The Chief Executive Officer may give, in a permit granted under regulation 31(4), approval for the operator of a disposal site to reuse a controlled waste.
- (2) The approval is to -
 - (a) specify the class or type of controlled waste that may be reused under the approval;
 - (b) give directions as to the manner in which the controlled waste is to be reused; and
 - (c) specify the period for which the approval is of effect.

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- (3) The Chief Executive Officer may by written notice revoke or vary an approval given under subregulation (1).
- (4) A person must not reuse a controlled waste unless -
 - (a) the person has approval under subregulation (1); and
 - (b) the waste is reused in accordance with the directions given in the approval.
- (5) A person who contravenes subregulation (4) commits an offence.

50. Exemptions

- (1) The Chief Executive Officer may by written notice exempt a person from compliance with any of the regulations in Parts 2, 3, and 4 if the Chief Executive Officer is satisfied that -
 - (a) the circumstances in which the exemption is requested are justifiable and accountable; and
 - (b) the exemption will not adversely affect the operation of these regulations.
- (2) The Chief Executive Officer may by further written notice revoke or vary an exemption given under subregulation (1).

51. Inspection of licences, etc.

A person required to hold a licence or have a permit under these regulations who, when required to do so by an inspector, fails to produce for inspection the licence or permit commits an offence.

52. Meeting

- (1) The Chief Executive Officer may by written notice require a person who is the holder of a licence under these regulations to attend at a meeting with the Chief Executive Officer at a time and place specified in the notice.
- (2) A person who fails to comply with a requirement under subregulation (1) commits an offence.

53. Appeals

- (1) A person who is aggrieved by a decision of the Chief Executive Officer under regulation 6(2), 7(1), 7(2), 11, 16, 21, 31(4), 31(5), or 49(1) may within 21 days after the day on which the person is notified of the decision lodge with the Minister an appeal in writing setting out the grounds of the appeal.
- (2) An appeal lodged under subregulation (1) is to be treated as if it were an appeal under section 102 of the Act, and for that purpose sections 102 and 106 to 110 of the Act apply as if the appeal were an appeal under section 102.

54. Penalty

A person who commits an offence against these regulations is liable to a penalty of \$5 000.

55. Amendment of the *Environmental Protection Regulations 1987*

Schedule 6 to the *Environmental Protection Regulations 1987* is amended after item 25 of the entry relating to the *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998* by inserting the following —

“

***Environmental Protection
(Controlled Waste)
Regulations 2001***

1. regulation 7(4)	250	500
2. regulation 13(2)	250	500
3. regulation 14(2)	250	500
4. regulation 15(1)	250	500
5. regulation 18(2)	250	500
6. regulation 19	250	500
7. regulation 20(1)	250	500
8. regulation 22(2)	250	500
9. regulation 23(2)	250	500

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10. regulation 25	250	500
11. regulation 26	250	500
12. regulation 27(5)	250	500
13. regulation 31(2)	250	500
14. regulation 32	250	500
15. regulation 33(1)	250	500
16. regulation 34(2)	250	500
17. regulation 35(1)	250	500
18. regulation 36	250	500
19. regulation 37	250	500
20. regulation 38(7)	250	500
21. regulation 39(2)	250	500
22. regulation 40(8)	250	500
23. regulation 42	250	500
24. regulation 43	250	500
25. regulation 44	250	500
26. regulation 47(7)	250	500
27. regulation 48(1)	250	500
28. regulation 49(5)	250	500
29. regulation 52(2)	250	500

”.

56. Transitional

Schedule 4 has effect with respect to transitional arrangements.

Schedule 1 — Controlled Waste

[r. 3]

Column 1 Controlled waste	Column 2 Notifiable quantity
Acidic solutions or acids in solid form	200 kg, or 200 L if in liquid form or solution
Animal effluent or residues (including abattoir effluent, poultry, and fish processing waste)	200 L
Antimony; antimony compounds	200 kg
Arsenic; arsenic compounds	200 kg
Asbestos	any quantity
Barium compounds other than barium sulphate	200 kg
Basic solutions or bases in solid form	200 kg, or 200 L if in liquid form or a solution
Beryllium; beryllium compounds	200 kg
Boron compounds	200 kg
Cadmium; cadmium compounds	200 kg
Ceramic based fibres with physio-chemical characteristics similar to those of asbestos	200 kg
Chlorates	200 kg
Clinical waste	240 L, or 100 L if in liquid form
Cobalt or cobalt compounds	200 kg
Containers or drums that are contaminated with residues of a controlled waste	The total volume of the containers or drums is more than or equal to 1000 L
Copper compounds	200 kg
Chromium compounds (hexavalent or trivalent)	200 kg
Cyanides (inorganic)	200 kg
Cyanides (organic)	200 kg
Encapsulated, chemically-fixed, solidified, or polymerized wastes	200 kg
Ethers	200 L
Filter cake	200 kg
Fire debris or fire washwaters	200 kg, or 200 L if in liquid form
Fly ash	10 t
Halogenated organic solvents	200 L

**1 —
Controlled
Waste**

Column 1 Controlled waste	Column 2 Notifiable quantity
Highly odorous organic chemicals (including mercaptans and acrylates)	200 L or 200 kg
Inorganic fluorine compounds excluding calcium fluoride	200 kg
Inorganic sulphides	200 kg
Isocyanate compounds	200 kg
Lead; lead compounds	200 kg
Mercury; mercury compounds	200 kg
Metal carbonyls	200 kg
Mineral oil emulsions	200 L
Nickel compounds	200 kg
Non toxic salts	200 kg
Organic phosphorus compounds	200 kg
Organic solvents excluding halogenated solvents	200 L
Organochlorine pesticides (OCPs)	The notifiable quantity is the notifiable quantity as defined in clause 1.11 of the Organochlorine Pesticides Waste Management Plan (1999) of the Australian and New Zealand Environmental and Conservation Council
Organohalogen compounds other than substances referred to elsewhere in this Schedule	200 L
Perchlorates	200 kg
Phenols; phenol compounds including chlorophenols	200 kg
Phosphorus compounds other than mineral phosphates	200 kg
Polychlorinated Biphenyls (PCBs)	The notifiable quantity is the notifiable quantity as defined in clause 1.19 of the Polychlorinated Biphenyls Management Plan (1996) of the Australian and New Zealand Environmental and Conservation Council
Polychlorinated dibenzo-furan (any congener)	The notifiable quantity is the notifiable quantity as defined in clause 1.19 of the Polychlorinated Biphenyls Management Plan (1996) of the Australian and New Zealand Environmental and Conservation Council
Polychlorinated dibenzo-p-dioxin (any congener)	The notifiable quantity is the notifiable quantity as defined in

Column 1 Controlled waste	Column 2 Notifiable quantity clause 1.19 of the Polychlorinated Biphenyls Management Plan (1996) of the Australian and New Zealand Environmental and Conservation Council
Residues from industrial waste treatment or disposal operations	200 kg
Selenium; selenium compounds	200 kg
Sewage	200 L
Soils contaminated with a controlled waste	1 t
Surface active agents (surfactants), containing mainly organic constituents and which may contain metals and inorganic materials	200kg
Tannery wastes (including leather dust, ash, sludge, or flours)	200 kg
Tellurium; tellurium compounds	200 kg
Thallium; thallium compounds	200 kg
Triethylamine catalysts for setting foundry sands	200 kg
Tyres	200 kg
Vanadium compounds	200 kg
Vegetable and food processing waste	200 kg
Waste chemical substances arising from research and development or teaching activities which substances are not identified or are new or the effects of which on human health or the environment are not known	200 kg
Waste containing peroxides other than hydrogen peroxide	200 kg
Waste from grease traps	200 L
Waste from heat treatment or tempering operations containing cyanides	200 kg
Waste from the manufacture, formulation, or use of wood-preserving chemicals	200 kg
Waste from the production, formulation, or use of biocides and phytopharmaceuticals	200 kg
Waste from the production, formulation, or use of inks, dyes, pigments, paints, lacquers, or varnish	200 kg
Waste from the production, formulation, or use of organic solvents	200 kg

**1 —
Controlled
Waste**

Column 1 Controlled waste	Column 2 Notifiable quantity
Waste from the production, formulation, or use of photographic chemicals or processing material	200 kg
Waste from the production, formulation, or use of resins, latex, plasticisers, glues, or adhesives	200 kg
Waste from the production or preparation of pharmaceutical products	200 kg
Waste mineral oils unfit for their intended use	200 L
Waste pharmaceuticals drugs or medicines	200 kg
Waste resulting from surface treatments of metals or plastics	200 kg
Waste tarry residues arising from refining, distillation, or pyrolytic treatment	200 kg
Waste, substances, or articles containing or contaminated by polychlorinated biphenyls (PCBs), polychlorinated naphthalenes (PCNs), polychlorinated terphenyls (PCTs), or polybrominated biphenyls (PBBs)	The notifiable quantity is the notifiable quantity as defined in clause 1.19 of the Polychlorinated Biphenyls Management Plan (1996) of the Australian and New Zealand Environmental and Conservation Council
Wastes of an explosive nature not subject to any other written law	200 kg
Wool scouring wastes	200 kg
Zinc compounds	200 kg

[Schedule 1 amended in Gazette 19 Oct 2001 p. 5607-8.]

Schedule 2 — List of hazardous characteristics

[r. 3]

Column 1 Hazard number	Column 2 Characteristics
H1	<p>Explosive</p> <p>An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.</p>
H3	<p>Flammable Liquids</p> <p>The word “flammable” has the same meaning as “inflammable”. Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off flammable vapour at temperatures of not more than 60.5°C, closed-cup test, or not more than 65.6°C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowances for such differences would be within the spirit of the definition).</p>
H4.1	<p>Flammable Solids</p> <p>Solids or waste solids, other than those classified as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.</p>
H4.2	<p>Substances or wastes liable to spontaneous combustion</p> <p>Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up in contact with air, and being then liable to catch fire.</p>

**List of
hazardous
characteristic
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Column 1 Hazard number	Column 2 Characteristics
H4.3	Substances or wastes which, in contact with water, emit flammable gases Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.
H5.1	Oxidising Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen, cause or contribute to, the combustion of other materials.
H5.2	Organic peroxides Organic substances or wastes which contain the bivalent O-O structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.
H6.1	Poisonous (acute) Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.
H6.2	Infectious substances Substances or wastes containing viable micro-organisms or their toxins which are known or suspected to cause disease in animals or humans.
H8	Corrosives Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
H10	Liberation of toxic gases in contact with air or water Substances or wastes which, by liberation with air or water, are liable to give off toxic gases in dangerous quantities.

Column 1 Hazard number	Column 2 Characteristics
H11	Toxic (delayed or chronic) Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
H12	Ecotoxic Substances or wastes which, if released, present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
H13	Capable of yielding another material which possesses H1-H12 Capable by any means, after disposal, of yielding another material, e.g. leachate, which possesses any of the characteristics listed above.

**List of
hazardous
characteristic
s**

Schedule 3 — Fees

		\$
1.	Licence issued for a period commencing on or after 1 April 2001 (rr. 5(1), 17(1), 24(1), 30(1)) —	
	(a) as a carrier	220
	(b) as an operator	220
	(c) for a vehicle or vessel	220
2.	Renewal of licence for a period commencing on or after 30 June 2000 (r. 10(1)) —	
	(a) as a carrier for each vehicle registered	160
	(b) as an operator	48
	(c) for a vehicle or vessel	48
3.	Application for review or amendment of a licence or permit (rr. 7(5), 31(6)) —	98
4.	Permit to remove a controlled waste (r. 31(3))	48

Schedule 4 — Transitional

[r. 56]

1. Time allowed to become licensed as a carrier

Despite regulation 15, a person may carry, collect, or transport a controlled waste without being licensed as a carrier until 3 months after the day on which these regulations commence to operate and for the duration of that period that person is taken to be a carrier licensed under these regulations.

2. Time allowed to become licensed as an operator

Despite regulation 20, an operator may use a vehicle or vessel to transport a controlled waste without being licensed as an operator until 3 months after the day on which these regulations commence to operate and for the duration of that period that person is taken to be an operator licensed under these regulations.

3. Time allowed to license vehicles or vessels

Despite regulation 25, a carrier may use a vehicle or vessel to transport a controlled waste without the vehicle or vessel being licensed until 3 months after the day on which these regulations commence to operate and for the duration of that period that vehicle or vessel is taken to be a licensed vehicle or vessel under these regulations.

4. Time allowed to obtain a permit to remove a controlled waste

Despite regulation 31, an occupier of premises or an occupier's agent may remove or cause to be removed a controlled waste from the premises without a permit to do so until 3 months after the day on which these regulations commence to operate and for the duration of that period the occupier is taken to have a permit under these regulations.

Notes

¹ This is a compilation of the *Environmental Protection (Controlled Waste) Regulations 2001*. The following table contains information about that regulation.

Compilation table

Citation	Gazettal	Commencement
<i>Environmental Protection (Controlled Waste) Regulations 2001</i>	30 Mar 2001 p. 1831-79	1 Apr 2001 (see r. 2)
<i>Environmental Protection (Controlled Waste) Amendment Regulations 2001</i>	19 Oct 2001 p. 5607-8	19 Oct 2001