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**ENVIRONMENT**


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EV301\*

Environmental Protection Act 1986

## Environmental Protection Amendment Regulations 2004

Made by the Governor in Executive Council.

### 1. Citation

These regulations may be cited as the *Environmental Protection Amendment Regulations 2004*.

### 2. The regulations amended

The amendments in these regulations are to the *Environmental Protection Regulations 1987*\*.

[\* Reprinted as at 29 November 2002.

For amendments to 7 May 2004 see *Western Australian Legislation Information Tables for 2003, Table 4, p. 96, and Gazette 12 March 2004.*]

### 3. Regulation 4 amended

(1) Regulation 4(1) is amended as follows:

- (a) by inserting the following definitions in the appropriate alphabetical positions —

“

“**fee period**” means a period beginning on 1 October and ending on the following 30 September;

“**licence period**” means —

- (a) in relation to an application for a licence — the period to which the application relates;
- (b) in relation to a licence — the period covered by the licence.

”;

- (b) in the definition of “licence” by deleting “Act.” and inserting instead —

“ Act; ”.

(2) Regulation 4(5) is amended by inserting after “5D” —

“ , 5DA ”.

- (3) Regulation 4(6) is amended as follows:
- (a) by deleting “, one unit being” and inserting instead —  
“ and, for a fee period, one unit is ”;
  - (b) by deleting “a licence that is to come into force during the period specified in column 1 of that Table” and inserting instead —  
“ that period ”.
- (4) Regulation 4(7) is amended as follows:
- (a) by deleting “, one unit being” and inserting instead —  
“ and, for a fee period, one unit is ”;
  - (b) by deleting “a licence that is to come into force during the period specified in column 1 of that Table” and inserting instead —  
“ that period ”.

**4. Regulation 5CB inserted**

After regulation 5CA the following regulation is inserted —

“

**5CB. Application for renewal of licence**

- (1) An application for a licence to replace an existing licence on the expiry of the existing licence must be made by the licence holder of the existing licence more than 70 days before the day on which the existing licence expires.
- (2) A licence holder who makes an application described in subregulation (1) 70 days or less than 70 days before the expiry of the existing licence but more than 42 days before the expiry must pay a late application fee of 10 units.
- (3) A licence holder who makes an application described in subregulation (1) 42 days or less than 42 days before the expiry of the existing licence must pay a late application fee of 20 units.

”.

**5. Regulation 5D amended**

- (1) Regulation 5D(1) is repealed and the following subregulations are inserted instead —

“

- (1) The total amount of the fee for a licence in respect of prescribed premises is the sum of the following amounts — the amount for each fee period, or part fee period, in the licence period worked out under subregulation (1a) (reduced pro rata for a part fee period).

- (1a) Subject to subregulations (3) and (4) and regulation 5G (the maximum fee), the amount for a fee period is the sum of the paragraph (a) amount and the larger of the paragraph (b) amount and the paragraph (c) amount —
- (a) the amount specified in the third column of Part 1 of Schedule 4 for the fee period for the relevant category, and the relevant production or design capacity (where applicable), of the premises specified in the first and second columns of that Part;
  - (b) in respect of premises within category 5, 6, 7, 8, 9, 12, 14, 44, 46, 53, 70 or 80, where the operation of the premises involves the discharge of waste consisting of tailings, bitterns, water to allow mining of ore or flyash — the amount specified in the second column of Part 2 of Schedule 4 for the fee period for the relevant quantity of such waste specified in the first column of that Part that is permitted to be discharged from the premises;
  - (c) the amount for the fee period is the sum of the following amounts — the amount worked out under regulation 5E for each kind of waste to be discharged from the premises.

- (2) Regulation 5D(2) is amended by deleting “(1)(a)” and inserting instead —

“ (1a)(a) ”.

- (3) Regulation 5D(3) and (4) are amended by deleting “(1)(c)” and inserting instead —

“ (1a)(c) ”.

## 6. Regulation 5DA replaced

Regulation 5DA is repealed and the following regulation is inserted instead —

“

### 5DA. Payment of licence fees

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

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

”.

#### 7. Regulation 5E amended

- (1) Regulation 5E(1) is repealed and the following subregulation is inserted instead —

“

- (1) Subject to this regulation, the amount under regulation 5D(1a)(c) for a fee period for a particular kind of waste is to be worked out under Part 3 of Schedule 4 on the basis of the rate at which the waste is permitted to be discharged from the premises during the licence period — the rate (in the units specified for that kind of waste in Part 3 of Schedule 4) being the quantity of waste permitted to be discharged from the premises during the licence period averaged over the licence period.

”.

- (2) Regulation 5E(2) is amended as follows:
  - (a) by deleting “period to which the application relates” and inserting instead —  
“ licence period ”;
  - (b) by deleting “amount payable under Part 3 of Schedule 4” and inserting instead —  
“ rate in subregulation (1) ”.
- (3) Regulation 5E(3) is amended as follows:
  - (a) in paragraph (b) by deleting “period to which the application relates” and inserting instead —  
“ licence period ”;

- (b) by deleting “amount payable under Part 3 of Schedule 4” and inserting instead —  
“ rate in subregulation (1) ”;
  - (c) by deleting “the quantity so calculated” and inserting instead —  
“ that quantity averaged over the licence period ”.
- (4) Regulation 5E(4) is amended by deleting “payable under Part 3 of Schedule 4” and inserting instead —  
“ for the fee period ”.

**8. Regulation 5EA amended**

Regulation 5EA is amended by deleting “5D(1)(b) or (c)” and inserting instead —

“ 5D(1a)(b) or (c) ”.

**9. Regulation 5F amended**

- (1) Regulation 5F(1) is amended as follows:
- (a) by deleting “5D(1)(c), an amount of 25 units” and inserting instead —  
“ 5D(1a)(c), an amount of 25 units for the fee period ”;
  - (b) by deleting “appropriate amount specified in Table 2 of Part 3 of Schedule 4” and inserting instead —  
“ amount worked out under regulation 5E ”.
- (2) Regulation 5F(2) is repealed.

**10. Regulation 5G replaced**

Regulation 5G is repealed and the following is inserted instead —

“

**5G. Maximum fee**

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

**Table**

| <b>Column 1</b><br><b>Fee period</b>                        | <b>Column 2</b><br><b>\$</b> |
|---|------------------------------|
| Beginning on 1 October 2002 and ending on 30 September 2003 | 315 000.00                   |
| Beginning on 1 October 2003 and ending on 30 September 2004 | 365 000.00                   |
| Beginning on 1 October 2004 and ending on 30 September 2005 | 415 000.00                   |
| Beginning on 1 October 2005 and ending on 30 September 2006 | 465 000.00                   |
| Beginning on 1 October 2006 and ending on 30 September 2007 | 515 000.00                   |
| Beginning on 1 October 2007 and ending on 30 September 2008 | 565 000.00                   |
| Beginning on 1 October 2008 and ending on 30 September 2009 | 615 000.00                   |
| Beginning on 1 October 2009 and ending on 30 September 2010 | 665 000.00                   |
| Beginning on 1 October 2010 and ending on 30 September 2011 | 715 000.00                   |
| Beginning on 1 October 2011 and ending on 30 September 2012 | 765 000.00                   |
| Beginning on and from 1 October 2012                        | 815 000.00                   |

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

**Table**

| <b>Column 1</b><br><b>Fee period</b>                        | <b>Column 2</b><br><b>\$</b> |
|---|------------------------------|
| Beginning on 1 October 2002 and ending on 30 September 2003 | 260 000.00                   |
| Beginning on 1 October 2003 and ending on 30 September 2004 | 310 000.00                   |
| Beginning on 1 October 2004 and ending on 30 September 2005 | 360 000.00                   |
| Beginning on 1 October 2005 and ending on 30 September 2006 | 410 000.00                   |
| Beginning on 1 October 2006 and ending on 30 September 2007 | 460 000.00                   |
| Beginning on 1 October 2007 and ending on 30 September 2008 | 510 000.00                   |

| <b>Column 1</b>   | <b>Column 2</b> |
|---|-----------------|
| <b>Fee period</b>   | <b>\$</b>       |
| Beginning on 1 October 2008 and ending on 30 September 2009 | 560 000.00      |
| Beginning on 1 October 2009 and ending on 30 September 2010 | 610 000.00      |
| Beginning on 1 October 2010 and ending on 30 September 2011 | 660 000.00      |
| Beginning on 1 October 2011 and ending on 30 September 2012 | 710 000.00      |
| Beginning on and from 1 October 2012                        | 760 000.00      |

- (4) If the amount worked out under regulation 5D(1a)(c) is predominantly attributable to the discharge of waste into waters — the maximum fee for the fee period is the amount specified in column 2 of the Table to this subregulation for the fee period.

**Table**

| <b>Column 1</b>   | <b>Column 2</b> |
|---|-----------------|
| <b>Fee period</b>   | <b>\$</b>       |
| Beginning on 1 October 2002 and ending on 30 September 2003 | 350 000.00      |
| Beginning on 1 October 2003 and ending on 30 September 2004 | 400 000.00      |
| Beginning on 1 October 2004 and ending on 30 September 2005 | 450 000.00      |
| Beginning on 1 October 2005 and ending on 30 September 2006 | 500 000.00      |
| Beginning on 1 October 2006 and ending on 30 September 2007 | 550 000.00      |
| Beginning on 1 October 2007 and ending on 30 September 2008 | 600 000.00      |
| Beginning on 1 October 2008 and ending on 30 September 2009 | 650 000.00      |
| Beginning on 1 October 2009 and ending on 30 September 2010 | 700 000.00      |
| Beginning on 1 October 2010 and ending on 30 September 2011 | 750 000.00      |
| Beginning on 1 October 2011 and ending on 30 September 2012 | 800 000.00      |
| Beginning on and from 1 October 2012                        | 850 000.00      |

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

**Table**

| <b>Column 1</b><br><b>Fee period</b>                        | <b>Column 2</b><br><b>\$</b> |
|---|------------------------------|
| Beginning on 1 October 2002 and ending on 30 September 2003 | 350 000.00                   |
| Beginning on 1 October 2003 and ending on 30 September 2004 | 400 000.00                   |
| Beginning on 1 October 2004 and ending on 30 September 2005 | 450 000.00                   |
| Beginning on 1 October 2005 and ending on 30 September 2006 | 500 000.00                   |
| Beginning on 1 October 2006 and ending on 30 September 2007 | 550 000.00                   |
| Beginning on 1 October 2007 and ending on 30 September 2008 | 600 000.00                   |
| Beginning on 1 October 2008 and ending on 30 September 2009 | 650 000.00                   |
| Beginning on 1 October 2009 and ending on 30 September 2010 | 700 000.00                   |
| Beginning on 1 October 2010 and ending on 30 September 2011 | 750 000.00                   |
| Beginning on 1 October 2011 and ending on 30 September 2012 | 800 000.00                   |
| Beginning on and from 1 October 2012                        | 850 000.00                   |

**11. Regulation 5H amended**

Regulation 5H(2) is amended by deleting “Part 3 of Schedule 4” and inserting instead —

“ regulation 5E ”.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.