

EV301\*

Environmental Protection Act 1986

## **Environmental Protection (Unauthorised Discharges) Regulations 2004**

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

### **1. Citation**

These regulations may be cited as the *Environmental Protection (Unauthorised Discharges) Regulations 2004*.

### **2. Interpretation**

In these regulations unless the contrary intention appears —

“**dark smoke**” means smoke that, if compared with a chart known as the Australian Miniature Smoke Chart (AS 3543 1989), would appear darker than shade 1 on that chart.

### **3. Discharges of certain materials prohibited**

- (1) A person who, in the course of or in connection with a business or a commercial activity, causes or allows a material listed in Schedule 1 to be discharged into the environment commits an offence.

Penalty: \$5 000.

- (2) Subregulation (1) does not apply if —

- (a) the material discharged into the environment is a detergent and the detergent —

- (i) was used as a wetting agent on a lawn or in a garden; and

- (ii) was applied or used at a frequency or rate that was not in excess of that recommended by the manufacturer of the wetting agent;

or

- (b) the material discharged into the environment is a pesticide or horticultural product and the pesticide or horticultural product was applied or used at a frequency or rate that was not in excess of that recommended by its manufacturer.

#### **4. Discharges of visible smoke from burning certain materials and dark smoke prohibited**

- (1) A person who, in the course of or in connection with a business or a commercial activity, burns or allows a material listed in Schedule 2 to be burnt so as to cause or allow visible smoke to be discharged into the environment commits an offence.

Penalty: \$5 000.

- (2) A person who, in the course of or in connection with a business or a commercial activity, burns or allows any material to be burnt so as to cause or allow dark smoke to be discharged into the environment for more than 4 minutes in any hour commits an offence.

Penalty: \$5 000.

- (3) Subregulation (2) does not apply to a solid or liquid burnt in a vehicle's engine on a road, a locomotive's engine while the locomotive is operating on a railway line or an aircraft's engine while the aircraft is taking off, landing, taxiing or in flight.

#### **5. Defences**

In proceedings against a person for a breach of regulation 3(1) or 4(1) or (2), it is a defence to show that the discharge —

- (a) occurred in accordance with an authorisation given in the exercise of a power under another written law;
- (b) occurred as a result of an emergency or an accident or malfunction caused otherwise than by the negligence of that person; or
- (c) occurred for the purpose of preventing danger to human life or health or irreversible damage to a significant part of the environment.

#### **6. *Environmental Protection Regulations 1987* amended**

- (1) The amendment in this regulation is to the *Environmental Protection Regulations 1987*\*.

[\* Reprinted as at 29 November 2002.

For amendments to 12 January 2004 see *Western Australian Legislation Information Tables for 2002, Table 4, p. 94, and Gazette 23 July and 9 September 2003.*]

- (2) Schedule 6 is amended by inserting after item 4 of the entry relating to the *Environmental Protection (NEPM - UPM) Regulations 2003* the following —

“

*Environmental Protection  
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1.	regulation 3(1)	250	500
2.	regulation 4(1)	250	500
3.	regulation 4(2)	250	500

”.

**7. *Clean Air Regulations 1967* repealed**

The *Clean Air Regulations 1967* are repealed.

**Schedule 1 — Materials that must not be discharged  
into the environment**

[r. 3]

Acid with a pH less than 4

Alkali with a pH more than 10

Animal waste

Animal oil, fat or grease

Compounds or solutions of cyanide, chromium, cadmium, lead, arsenic, mercury, nickel, zinc or copper

Degreaser

Detergent

Dust produced by a mechanical process including cutting, grinding, sawing, sanding or polishing a material

Dye

Engine coolant or engine corrosion inhibitor

Food waste

Laundry waste

Mineral oil

Organic solvent

Paint

Petrol, diesel or other hydrocarbon

Pesticide

Sediment

Sewage

Vegetable oil, fat or grease

**Schedule 2 — Materials that must not be burnt so as to  
discharge visible smoke into the environment**

[r. 4(1)]

Carpet  
Electrical cables  
Fabrics or textiles  
Organic solvent  
Paint  
Plastic, including polystyrene and the like  
Printed circuit boards  
Printing waste  
Rubber  
Timber that has been treated with preservatives  
Tyres  
Vehicles or vessels and their parts  
Waste oil, fats or grease

By Command of the Lieutenant-Governor and  
deputy of the Governor,

ROD SPENCER, Clerk of the Executive Council.