

CLEAN AIR.

No. 5 of 1981.

AN ACT to amend the Clean Air Act 1964-1971.

[Assented to 18 May 1981.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Clean Air Amendment Act 1981*.

Short title
and citation.

(2) In this Act the Clean Air Act 1964-1971 is referred to as the principal Act.

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April 1979.

(3) The principal Act as amended by this Act may be cited as the Clean Air Act 1964-1981.

2. This Act shall come into operation on a day to be fixed by proclamation.

Commence-
ment.

Section 3
amended.

3. Section 3 of the principal Act is amended—
- (a) by deleting “*Division 2.—Other provisions relating to Scheduled Premises, ss. 31-35.*” and substituting the following—
- “ *Division 2.—Other provisions relating to Scheduled Premises, ss. 30A-35.* ”;
- and
- (b) by deleting “PART IVA.—SANDBLASTING OPERATIONS” and substituting the following—
- “ PART IVA.—OPERATIONS PERMITS ”.

Section 6
amended.

4. Section 6 of the principal Act is amended in subsection (1)—
- (a) in the definition of “fuel burning equipment” by deleting “material in, or in relation to, any industrial plant;” and substituting the following—
- “ material; ”;
- (b) by deleting the definition of “industrial plant” and substituting the following definition—
- ‘ “industrial plant” means—
- (a) any plant or equipment used for the manufacturing, processing, handling, moving, storing or disposing of materials (including raw materials, materials in the process of manufacture, manufactured materials, by-products and waste materials) in or in connection with any trade, industry or process; or
- (b) any plant or equipment of a prescribed class or description,
- but does not include fuel burning equipment or a vehicle. ’; and

- (c) in the definition of "occupier" by deleting "part;" in paragraph (b) and substituting the following—

“ part,

and includes a person in occupation of any premises, notwithstanding any want of title to occupy the premises; ”.

5. Section 8 of the principal Act is amended— Section 8
amended.

- (a) in subsection (1), by deleting "fourteen" and substituting the following—

“ sixteen ”; and

- (b) in subsection (4)—

- (i) by deleting "twelve" and substituting the following—

“ fourteen ”;

- (ii) by deleting paragraph (d) and substituting the following paragraph—

“ (d) an officer of the department known as the Department of Conservation and Environment so nominated by the Minister administering that department; ”;

- (iii) by deleting "a person" in paragraph (i) and substituting the following—

“ two persons ”; and

- (iv) by deleting "three persons" in paragraph (j) and substituting the following—

“ four persons ”.

Section 12
amended.

6. Section 12 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsections—

“ (1) The Governor may, in respect of each member of the Council other than the chairman of the Council, appoint a person or officer as the case requires having a like qualification, or being representative of a like body as the member in whose place he is appointed, to be the deputy of that member and a person so appointed has, in the event of the absence or incapacity of that member, all the powers, functions and duties of that member during the period in which he acts in the office of that member.

(1a) Where—

(a) both a member and the deputy of that member are absent or temporarily incapable of fulfilling the duties of a member;

or

(b) the office of a member is vacant and is not filled in accordance with this Act,

the Minister may appoint a person to act in the place of that member during that absence or incapacity, or until the vacancy is filled, as the case requires, and any person so appointed has, while his appointment subsists, all the powers, functions and duties of a member. ”;

and

(b) by inserting after subsection (4) the following subsection—

“ (5) Any reference in this Act to a member shall be construed as including a reference to—

(a) a deputy acting in the office of that member; and

- (b) a person appointed by the Minister to act in the place of a member during any absence, temporary incapacity or casual vacancy. ”.

7. Section 16 of the principal Act is amended in subsection (5) by deleting “eight” in paragraph (a) and substituting the following—

Section 16 amended.

“ nine ”.

8. Section 17 of the principal Act is amended by inserting after subsection (1) the following subsection—

Section 17 amended.

“ (1a) The Council may, on matters relevant to the purposes of this Act, confer and collaborate with, and make submissions and recommendations to, the departments of the Public Service and other bodies, instrumentalities, and agencies of the Commonwealth, and the States and Territories of the Commonwealth. ”.

9. After section 17 of the principal Act the following section is inserted—

Section 17A inserted.

“ 17A. (1) The Council may, either generally or as provided by the instrument of delegation, by writing, delegate its power to grant or renew licences, permits, or approval under section thirty-four of this Act to the person for the time being holding or acting in the office of Chairman of the Council.

Delegation.

(2) For the purposes of this Act, the exercise of a power or the performance of a duty by a delegate under this section shall be deemed to be the exercise of the power or the performance of the duty by the Council.

- (3) A delegation under this section may—
- (a) be made subject to such conditions, qualifications and exceptions as are set out in the instrument of delegation;
 - (b) be revoked or varied at any time by instrument in writing by the Council.

(4) The Council may exercise a power or perform a duty notwithstanding that it has delegated its exercise or performance under this section. ”.

Section 20
amended.

10. Section 20 of the principal Act is amended—

- (a) in subsection (2), by deleting “seven” in paragraph (a) and substituting the following—

“ eight ”;

- (b) in subsection (3)—

- (i) by deleting “eight” and substituting the following—

“ nine ”;

- (ii) by deleting “fuel technologist” in paragraph (b) and substituting the following—

“ qualified engineer or industrial chemist with expertise in fuel technology ”;

- (iii) by deleting “Mines.” in the last line of paragraph (g) and substituting the following—

“ Mines; ”; and

- (iv) by inserting after paragraph (g) the following paragraph—

“ (h) a person who is a biological or agricultural scientist employed in the

department known as the Department of Agriculture nominated in writing by the Minister for Agriculture. ”; and

- (c) in subsection (7), by deleting “four” in paragraph (a) and substituting the following—

“ five ”.

11. Section 22 of the principal Act is amended— Section 22 amended.

- (a) in subsection (1), by deleting “1904” and substituting the following—

“ 1978 ”; and

- (b) by inserting after subsection (2) the following subsection—

“ (3) The Council may, with the consent of a local authority and upon such terms and conditions as may be agreed between that local authority and the Council, appoint as an inspector any officer of that local authority who is a health surveyor appointed under the Health Act 1911. ”.

12. Section 24 of the principal Act is amended Section 24 amended.
in subsection (4) by deleting paragraph (b) and substituting the following paragraph—

- “ (b) may, during the currency of a licence, by a notice in writing to the holder of the licence—

(i) revoke the licence or suspend it for such period not exceeding six months as it thinks fit;

(ii) revoke or vary any condition attached to the licence; or

(iii) attach new conditions to the licence; ”.

Section 26
amended.

13. Section 26 of the principal Act is amended in subsection (2) by inserting after "under this Act, until the" the following—

" Minister or the ".

Section 30
amended.

14. Section 30 of the principal Act is amended—

(a) in subsection (1), by deleting "two hundred dollars" and substituting the following—

" \$3 000 "; and

(b) in subsection (4), by deleting "one thousand dollars" wherever it occurs and substituting the following—

" \$5 000 ".

Section 30A
inserted.

15. After the heading to Division 2 of Part III and immediately before section 31 of the principal Act the following section is inserted—

" 30A. This Division of this Part of this Act is supplementary to, and not in derogation of, any of the provisions of Division 1 of this Part of this Act. ".

Application
of this
Division.

Section 33
amended.

16. Section 33 of the principal Act is amended in subsection (1) by deleting "section" and substituting the following—

" subsection ".

Section 34
amended.

17. Section 34 of the principal Act is amended by inserting after subsection (5) the following subsection—

" (6) Without limiting the generality of the provisions of subsection (5) of this section any condition attached to the grant of an application for approval may limit the time within which the approval is valid. ".

18. Section 37 of the principal Act is amended— Section 37 amended.

(a) in subsection (1), by inserting after “chimney” the following—

“ or open fire ”; and

(b) in subsection (2), by inserting after “chimney” the following—

“ or open fire ”.

19. The heading to Part IVA of the principal Act is deleted and the following heading is substituted— Heading to Part IVA substituted.

“ PART IVA.—OPERATIONS PERMITS. ”

20. Section 39A of the principal Act is amended— Section 39A amended.

(a) by deleting “sandblasting” wherever it occurs and substituting the following—

“ abrasive blasting ”; and

(b) by inserting, in their appropriate alphabetical positions, the following definitions—

‘ “construction operations” means any work—

(a) in connection with the construction, erection, installation, addition to, alteration, repair, maintenance, cleaning, painting, renewal, removal, dismantling or demolition of any building or structure which, when done in relation to a vessel, includes the construction of the vessel and all work that is done on or adjacent to a vessel in a dock or on a slip or at a wharf or other place;

(b) driving or extracting piles, sheet piles or trench sheet;

(c) laying or lining any pipe having an internal diameter exceeding 175 millimetres; or

(d) excavating, trenching, cutting or any work in connection with—

(i) excavating for or preparing foundations for any building or structure; or

(ii) excavating for water, sewerage, drainage, gas or electricity supply,

but does not include any work done in relation to a single storey dwelling or a two storey dwelling that is used or is intended to be used exclusively as a self-contained private dwelling;

“controlled operations” means any construction operations, demolition operations or abrasive blasting operations;

“demolition operations” means any operations in which any demolition is carried out and in which the nature or natures of the processes carried on, or the materials used, is or are likely to cause air pollution. ’ .

Section 39B
amended.

21. Section 39B is amended—

(a) in subsection (1), by deleting “sandblasting” and substituting the following—

“ controlled ”;

(b) in subsection (2), by deleting “twenty dollars” and inserting the following—

“ \$50 ”; and

(c) in subsection (3)—

(i) by deleting “sandblasting” in paragraph (b) and substituting the following—

“ controlled ”; and

(ii) by deleting “sandblasting” in paragraph (c) and substituting the following—

“ controlled ”.

22. Section 42 of the principal Act is amended in subsection (1) by deleting “Two hundred dollars” and substituting the following—

Section 42
amended.

“ \$2 000 ”.

23. Section 45 of the principal Act is amended—

Section 45
amended.

(a) in subsection (1)—

(i) by inserting after “licence” where it occurs in the last line of paragraph (a) the following—

“ including, without limiting the generality of the foregoing, any decision of the Council attaching a condition to a licence or revoking or suspending a licence ”;

(ii) by inserting after “decision or the notice to the” the following—

“ Minister or to the ”; and

(iii) by inserting after “relates are or is situated” the following—

“ , but the commencement of an appeal to one extinguishes any right of appeal to the other ”;

(b) by inserting after subsection (2) the following subsection—

“ (2a) On an appeal to the Minister, the Minister may dismiss or allow the appeal wholly or in part, and may make such modifications in any requisition, determination, decision or condition appealed against as he thinks fit, and may make or impose any new determination, decision or condition in substitution for or in addition to the one appealed against. ”;

(c) in subsection (3), by inserting after “An appeal” the following—

“ to the Local Court ”;

(d) in subsection (4), by inserting after “An appeal” the following—

“ to the Local Court ”; and

(e) in subsection (6), by deleting “The Local Court” and substituting the following—

“ On an appeal to the Local Court, the Court ”.

Section 48
amended.

24. Section 48 of the principal Act is amended by deleting “Two hundred dollars” and substituting the following—

“ \$2 000 ”.

Section 51
amended.

25. Section 51 of the principal Act is amended by deleting “Two hundred dollars” and substituting the following—

“ \$2 000 ”.

Section 52
amended.

26. Section 52 of the principal Act is amended—

(a) in subsection (2)—

(i) by deleting “two hundred dollars” and substituting the following—

“ \$10 000 ”; and

(ii) by deleting “forty dollars” and substituting the following—

“ \$1 000 ”; and

(b) by inserting after subsection (2) the following subsection—

“ (3) A prosecution for an offence against this Act may be instituted at any time within three years after the commission of the offence or within six months after the commission of the offence comes to the notice of the Council, whichever is the later period. ”.

27. Section 53 of the principal Act is amended— Section 53 amended.

(a) in subsection (1)—

(i) by deleting “sandblasting” wherever it occurs in paragraph (i) and substituting the following—

“ controlled ”;

(ii) by deleting “operations.” in subparagraph (ii) of paragraph (i) and substituting the following—

“operations; ”; and

(iii) by inserting after paragraph (i) the following paragraph—

“ (j) prescribing—

(i) the manner of referring an appeal to the Minister;

(ii) the procedure to be followed on appeal;

(iii) the fees to be paid on appeal; and

(iv) the forms to be used in relation to an appeal. ”;

and

(b) in subsection (2)—

(i) by deleting “two hundred dollars” in paragraph (g) and substituting the following—

“ \$2 000 ”;

(ii) by deleting “forty dollars” in paragraph (g) and substituting the following—

“ \$400 ”;

(iii) by deleting “continues.” in paragraph (g) and substituting the following—

“ continues; ”; and

(iv) by inserting after paragraph (g) the following paragraph—

“ (h) impose upon any person or class of person a discretionary authority. ”.

Schedule
amended.

28. The Schedule to the principal Act is amended—

(a) in paragraph (a)—

(i) by inserting before the subparagraph relating to asphalt works the following subparagraph—

“ abrasive blasting works, being premises on which metal or other material is cleaned or abraded by blasting with any abrasive blasting material; ”

(ii) in the subparagraph relating to cement works, by inserting after “ground” the following—

“ and lime is manufactured ”;

- (iii) in the subparagraph relating to chemical works (class 1) by deleting "lime or other calcium compounds" and substituting the following—

" or calcium compounds other than lime ";
- (iv) by deleting the subparagraph relating to construction sites;
- (v) by deleting the subparagraph relating to demolition sites;
- (vi) by inserting after the subparagraph relating to ferrous and non-ferrous metal works the following subparagraph—

" fibreglass works, being premises in which fibreglass reinforced plastics are prepared or manufactured and in which in excess of 500 kilograms per annum of plastic resin is used; ";
- (vii) by inserting after the subparagraph relating to primary metallurgical works the following subparagraph—

" rendering works, being premises in which animal matter is rendered or reduced for use as a fertiliser, stock food, or any other purpose; ";
- (viii) by deleting the subparagraph relating to sandblasting works; and
- (ix) by inserting after the subparagraph relating to scrap metal reclaiming works the following subparagraph—

" sewage or waste water treatment plants, being premises in which sewage or waste waters are treated for the removal of

solids or for the drying or
incineration of such solids; ”;

and

(b) in paragraph (b) by deleting from “one ton
of coal” to the end of the paragraph and
inserting the following—

“ 500 kilograms per hour of combustible
material; ”.
