

Queensland



Environmental Protection Act 1994

ENVIRONMENTAL PROTECTION REGULATION 1998

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(includes amendments up to SL No. 320 of 1999)**

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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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[as amended by all amendments that commenced on or before 16 December 1999]

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Environmental Protection Regulation 1998*.

Commencement

2. Schedule 1, items 38 and 39, commence on 1 January 2001.

Definitions—dictionary

3. The dictionary in schedule 9 defines particular words used in this regulation.

PART 2—ENVIRONMENTALLY RELEVANT ACTIVITIES

Levels 1 and 2 environmentally relevant activities

4.(1) An activity mentioned in schedule 1, column 1, is an environmentally relevant activity of the level set out opposite the activity in schedule 1, column 2.

(2) However, an activity lawfully carried out under a local law in a detached house or in a separate building within the curtilage of a detached

house by 1 or more of the permanent residents of the house is not an environmentally relevant activity.

(3) Despite subsection (1), an activity mentioned in schedule 1, items 16, 24, 26, 31, 35, 43, 45, 52, 59, 68, 77, 79 and 80, is a level 1 environmentally relevant activity until 30 June 1998.

Approval required to carry out level 2 environmentally relevant activity

5.(1) A person must not carry out a level 2 environmentally relevant activity without a level 2 approval.

Maximum penalty—165 penalty units.

(2) This section does not apply if—

- (a) the activity is carried out under a single environmental authority issued under section 61¹ of the Act; or
- (b) the person has a development approval for carrying out the activity.

New approval required to carry out level 2 environmentally relevant activity if significant change in way activity is carried out

6.(1) This section applies if—

- (a) the holder of an approval (other than an approval to explore for or mine minerals) proposes to carry out works for the construction or alteration of a building or structure, or for the installation or alteration of plant or equipment, for carrying out the environmentally relevant activity concerned; and
- (b) the construction, alteration or installation will result in an increase

¹ On application for an environmental authority to carry out different activities, the administering authority may, under section 61 of the Act, issue a single environmental authority for the activities. Under section 46(1) of the Act, the administering authority may issue an environmental authority subject to the relevant conditions it considers necessary or desirable, including, relevant conditions relating to any activity carried out by the licensee as part of carrying out an environmentally relevant activity.

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of 10% or more in the release of contaminant into the environment under the approval.

(2) The person must not carry out the works without an approval to carry out the activity on the basis of the increased quantity of contaminant to be released into the environment.

Maximum penalty—100 penalty units.

Environmentally relevant activity—waste disposal

6A. A person who carries out the environmentally relevant activity of operating a facility mentioned in schedule 1, item 75(a) must ensure the limited regulated waste received at the facility in a year is not more than 10% of the waste received at the facility in the year.

Maximum penalty—50 penalty units.

PART 2A—ENVIRONMENTAL NUISANCE*Division 1—Preliminary**Subdivision 1—Object of part and its achievement***Object of pt 2A**

6B. The object of this part is to help to protect Queensland's environment from environmental nuisance.

How object is achieved

6C. To achieve the object, this part—

- (a) provides for nuisance abatement notices to control emissions that

- cause unlawful environmental nuisance; and
- (b) creates offences for specific types of noise of a minor nature.²

Subdivision 2—Standard definitions

Definitions for pt 2A

6D. In this part—

“affected building”, for noise, means any building, or any part of a building, including, for example, the building from which the noise is made, at which the noise can be heard.

“AS 1055” means AS 1055—1997 Acoustics—Description and measurement of environmental noise.³

“at”, a place or premises, includes in or on the place or premises.

“audible noise” see section 6E.

“background noise level” means the background A-weighted sound pressure level under AS 1055.⁴

“builder” means a person who, under the *Queensland Building Services Authority Act 1991*, holds, or who is required to hold, a licence or an owner builder permit.

“building” includes a structure of any type and part of a building or structure.

“building contractor” means a person who is employed or engaged—

- (a) by a builder to carry out building work; or
- (b) by someone else to carry out building work for a builder.

² For the achievement of the object, see also the noise policy, part 2 (Application and object).

³ A copy of AS 1055 may be inspected, free of charge, at the department’s office at 160 Ann Street, Brisbane.

⁴ See AS 1055.1, paragraph 3.7, definition “Background A-weighted sound pressure level”.

“building site” means a place where building work is being, or is about to be, carried out at which a sign must, under the *Queensland Building Services Authority Act 1991*, section 52, be exhibited.

“building work” means—

- (a) an activity (a **“building activity”**) as follows—
 - (i) building, repairing, altering, underpinning (whether by vertical or lateral support), moving or demolishing a building;
 - (ii) providing airconditioning, drainage, heating, lighting, sewerage, ventilation or water supply for a building; or
- (b) excavating or filling—
 - (i) for, or incidental to, a building activity; or
 - (ii) that may adversely affect the stability of a building, whether on the land on which the building is situated or on adjoining land; or
- (c) supporting (whether vertically or laterally) land for a building activity.

“complainant” means a person who has made a nuisance complaint, for which a rejection notice has not been given.

“educational institution” means—

- (a) a State educational institution or a non-State school under the *Education (General Provisions) Act 1989*; or
- (b) a State college under the *Vocational Education, Training and Employment Act 1991*; or
- (c) a university.

“emission” means an emission of ash, dust, fumes, light, noise, odour or smoke.

“general emission criteria” means the general emission criteria under section 6S.

“indoor venue” means a building, other than a licensed premises, used for musical, sporting or other entertainment or for cultural or religious activities.

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Examples of ‘use’ of a building for definition “indoor venue”—

- 10 pin bowling
- concerts
- indoor cricket
- religious worship
- squash.

“licensed premises” means licensed premises under the *Liquor Act 1992*.

“noise emission criteria” means the noise emission criteria under section 6T.

“noise offence” means an offence against division 4.

“noise offence exemption” see section 6ZG(1).

“nuisance abatement notice” means a nuisance abatement notice given under division 3.

“nuisance complaint” means a complaint made under section 6L for which a rejection notice has not been given.

“open-air event” means an open-air activity, competition, concert, display or race.

“power boat” means a power driven watercraft, including, for example, a jet ski or other power driven personal watercraft.

“railway” means a private or public railway or railway facility.

Examples of a ‘railway facility’—

- a railway bridge
- a railway communications system
- a railway marshalling station and yard
- a railway track
- works built for a railway.

“rejection notice” see section 6M(3).

“relevant nuisance complaint”, for an emission, means a nuisance complaint made about—

- (a) the emission; or

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- (b) another emission of the same type if the same person—
 - (i) is, or may have been, a responsible person for both emissions; or
 - (ii) allowed, or may have allowed, both emissions to happen.

“responsible person”, for an emission, means—

- (a) a person who makes the emission, causes it to be made or is in control of its cause; or
- (b) if the emission is animal noise—
 - (i) the animal’s owner; or
 - (ii) a person who has care or control of the animal.

“source noise” see section 6ZN.

“unlawful environmental nuisance” see section 6F.

Subdivision 3—Meaning of audible noise

Meaning of “audible noise”

6E.(1) “Audible noise” means noise that can be heard by any individual who is an occupier of an affected building.

(2) For subsection (1), the occupier can hear the noise if the occupier can hear it from the part of the building most exposed to the noise.

Example of ‘audible noise’—

A occupies unit 1 in a block of units. A makes noise or causes noise to be made from unit 1. B occupies unit 10 in the same block. The most exposed part of unit 10 to the noise is its balcony. B can not hear the noise from unit 10’s bathroom, but can hear it from the balcony. The noise is audible noise.

Subdivision 4—Meaning of unlawful environmental nuisance

General definition

6F. Subject to sections 6G to 6K, **“unlawful environmental nuisance”** means environmental nuisance not authorised to be done or omitted to be

done under any of the following—

- (a) an environmental protection policy;
- (b) an environmental management program;
- (c) an environmental protection order;
- (d) an environmental authority;
- (e) a development condition of a development approval.
- (f) an emergency direction.⁵

Animal noise exclusion

6G. Animal noise can only be unlawful environmental nuisance if the animal that made the noise is a domestic animal.

Audible traffic signal noise exclusion

6H. Noise from an audible traffic signal at pedestrian lights under the Queensland Road Rules is not unlawful environmental nuisance if the signal complies with AS 1742.10—1990 Pedestrian control and protection.⁶

Blasting noise exclusion

6I. Noise from blasting is not unlawful environmental nuisance for an affected building if—

- (a) the airblast overpressure is no more than 115 dB (Lin) Peak for 4 out of any 5 consecutive blasts; and
- (b) the ground vibration is—
 - (i) for vibrations of more than 35 Hz—no more than 25 mm a second ground vibration, peak particle velocity; or

⁵ See however, section 119(2) (Unlawful environmental harm) of the Act for defences to a charge of unlawfully causing environmental harm.

⁶ A copy of AS 1742.10 may be inspected, free of charge, at the department's office at 160 Ann Street, Brisbane.

- (ii) for vibrations of no more than 35 Hz—no more than 10 mm a second ground vibration, peak particle velocity.

Outdoor shooting range noise exclusion

6J.(1) Noise from an outdoor shooting range is not unlawful environmental nuisance for an affected building if the noise is no more than—

- (a) from 6 a.m. to 6 p.m. on any day—
 - (i) for a range that is normally used at least 5 days a week—95 dB (Lin) Peak Hold; or
 - (ii) for a range that is normally used 4 days a week—100 dB (Lin) Peak Hold; or
 - (iii) for a range that is normally used no more than 3 days a week—105 dB (Lin) Peak Hold; or
- (b) from 6 p.m. to 10 p.m. on any day—
 - (i) for a range that is normally used at least 5 evenings a week—85 dB (Lin) Peak Hold; or
 - (ii) for a range that is normally used 4 evenings a week—90 dB (Lin) Peak Hold; or
 - (iii) for a range that is normally used no more than 3 evenings a week—95 dB (Lin) Peak Hold.

(2) For subsection (1), noise from an outdoor shooting range is measured by working out the arithmetic average of the noise levels of whichever of the following happens first during the measurement period—

- (a) at least 40 individual gunshots;
- (b) at least 20 individual gunshots in any 30 minute period.

(3) In this section—

“used” means used for an activity that includes shooting.

Examples of a range being ‘used’—

1. A shooting match conducted at the range.

2. A defence personnel or police officer training session, that includes shooting, conducted at the range.

Cooking odour exclusion

6K. A cooking odour is not unlawful environmental nuisance if the cooking that made the odour happens on land on which a class 1, 2, 3 or 10 building under the Building Code of Australia is constructed.⁷

Division 2—Investigation of unlawful environmental nuisance

Subdivision 1—Nuisance complaints

How nuisance complaint may be made

6L.(1) If a person believes an emission from a person, place or thing has or is causing unlawful environmental nuisance, the person may complain to the administering authority about the emission.

(2) The complaint may be written or oral.

(3) The complaint must include—

- (a) the complainant's name and residential address; and
- (b) a telephone number at which the complainant can be contacted; and
- (c) enough details of the emission to allow the authority to investigate whether the emission is causing unlawful environmental nuisance.

Frivolous, vexatious or mistaken complaints

6M.(1) This section applies if, at any time after a nuisance complaint has been made, the administering authority believes, on reasonable grounds, the complaint is frivolous, vexatious or based on a mistaken belief.

⁷ For classes of building under the Building Code of Australia, see appendix C (Classification of Buildings and Structures), paragraph C3 (Classifications).

(2) The authority may reject the complaint.

(3) If the authority rejects the complaint, it must give the person who made the complaint written notice (a “**rejection notice**”) stating the following—

- (a) that the authority has rejected the complaint;
- (b) the reasons for the rejection;
- (c) that the person to whom the notice is given may apply to the authority, within 14 days after receiving the notice, for a review of the authority’s decision to reject the complaint;
- (d) how to apply for a review.

Subdivision 2—Investigations

No investigation without relevant nuisance complaint

6N. The administering authority must not investigate an emission unless a relevant nuisance complaint has been made for the emission.

Duty to investigate nuisance complaint

6O.(1) The administering authority must investigate a nuisance complaint as soon as practicable after—

- (a) the complaint has been made; and
- (b) the authority has had a reasonable opportunity to consider whether the complaint is frivolous, vexatious or based on a mistaken belief.

(2) However, subsection (1) ceases to apply if—

- (a) a rejection notice has been given for the complaint; or
- (b) the authority considers the complaint would be more appropriately dealt with under another law.

Examples for subsection (2)(b)—

1. A nuisance complaint is made about noise from licensed premises. The administering authority may consider the complaint would be more

appropriately dealt with under the *Liquor Act 1992*.

2. A nuisance complaint is made about domestic animal noise. The administering authority may consider it more appropriate to deal with the complaint under a local law about abating domestic animal noise.

(3) If, under subsection (2)(b), the authority does not, or ceases to, investigate the complaint the authority must advise the complainant of the law under which it considers the complaint would be more appropriately dealt with.

Discharge of duty to investigate

6P.(1) This section applies only if the administering authority must investigate a nuisance complaint.

(2) If the emission the subject of the complaint is noise, the authority must investigate and consider whether a noise offence may have been committed.⁸

(3) If the emission is not noise or if the authority does not consider a noise offence has been committed, the authority must investigate and consider whether—

- (a) a nuisance abatement notice should be given; or
- (b) any other action is appropriate.

Division 3—Nuisance abatement notices

Subdivision 1—When nuisance abatement notice may be given

Conditions for giving nuisance abatement notice

6Q. The administering authority may give a nuisance abatement notice to a responsible person for an emission only if—

⁸ See sections 6Q(c) (Conditions for giving nuisance abatement notice) and 6R (Restrictions) and the *Justices Regulation 1993*, section 5 (Authorised person for infringement notice (nominated laws)) and schedule 1, part 14C, section 3 (Relevant nuisance complaint required for noise infringement notice).

- (a) a relevant nuisance complaint has been made for the emission; and
- (b) the authority reasonably believes the emission is, or has been, causing unlawful environmental nuisance, after considering—
 - (i) the general emission criteria; and
 - (ii) if the emission is noise—the noise emission criteria; and
- (c) a restriction under section 6R does not apply.

Restrictions

6R. A nuisance abatement notice must not be given to a person for an emission if—

- (a) the emission, or a matter relating to it is, or may be, a noise offence; or
- (b) the emission was caused by an environmentally relevant activity and the activity was carried out under a development approval or environmental authority.

Subdivision 2—Emission criteria

General emission criteria

6S. The general emission criteria are as follows—

- (a) the emission's characteristics or qualities;
- (b) the emission's amount and rate;
- (c) the duration and time of the emission;
- (d) whether the emission is continuous or fluctuating;
- (e) the characteristics and qualities of the environment into which the emission is made (the **“receiving environment”**);
- (f) the emission's impact on the receiving environment;
- (g) the views of each complainant for the emission;
- (h) if another person affected by the emission has given the

- administering authority a view about the emission—that view;
- (i) the order of occupancy between the responsible person and each complainant.

Noise emission criteria

6T.(1) For noise other than animal noise, the noise emission criteria are as follows—

- (a) the acoustic quality objective under the noise policy, section 11;
- (b) if a sound pressure level has been measured by the administering authority—the sound pressure level;
- (c) the audibility of the noise;
- (d) whether the noise is continuous at a steady level or whether it has a fluctuating, intermittent, tonal or impulsive nature;
- (e) whether the noise has vibration components.

(2) For animal noise, the noise emission criteria is whether the noise is excessive in all the circumstances.

(3) For subsection (2), the administering authority may consider the noise to be excessive in all the circumstances if—

- (a) the noise is made for more than a total of 6 minutes in any hour from 7 a.m. to 10 p.m. on any day; or
- (b) the noise is made for more than a total of 3 minutes in any 30 minute period on any day after 10 p.m. or before 7 a.m..

Subdivision 3—Requirements for nuisance abatement notices

Requirements

6U.(1) A nuisance abatement notice must—

- (a) be signed by the administering authority; and
- (b) identify the responsible person to whom it is to be given; and
- (c) describe the emission the subject of the notice; and

- (d) state the following—
 - (i) that the person must stop the emission or control, prevent or reduce it so that it is no longer unlawful environmental nuisance;
 - (ii) a time (the “**compliance time**”) on or before which the person must comply with subparagraph (i);
 - (iii) that the person may apply to the administering authority, within 14 days after receiving the notice, for a review of the decision to give the notice;
 - (iv) how to apply for a review;
 - (v) the maximum penalty for failing to comply with the notice.
- (2) The compliance time must be reasonable having regard to—
 - (a) the general emission criteria; and
 - (b) if the emission is noise—the noise emission criteria.

Subdivision 4—Compliance with nuisance abatement notices

Failure to comply with nuisance abatement notice

6V. A person to whom a nuisance abatement notice has been given must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—

- (a) for an individual—40 penalty units; or
- (b) for a corporation—80 penalty units.

Division 4—Noise offences***Subdivision 1—Offences*****Building work**

6W. A builder or building contractor must not carry out building work on a building site in a way that makes or causes audible noise to be made from the building work—

- (a) on a Sunday or public holiday, at any time; or
- (b) on a Saturday or business day, before 6.30 a.m. or after 6.30 p.m..

Maximum penalty—20 penalty units.

Regulated devices

6X.(1) This section does not apply to a builder or building contractor who is carrying out building work on a building site.

(2) A person must not operate a regulated device in a way that makes audible noise or causes audible noise to be made—

- (a) on a Sunday or public holiday, before 8 a.m. or after 7 p.m.; or
- (b) on a Saturday or business day, before 7 a.m. or after 7 p.m..

Maximum penalty—20 penalty units.

(3) However, subsection (2) does not apply if—

- (a) the regulated device is a grass-cutter or leaf-blower; and
- (b) the person operates the device at a place as follows and is authorised by an occupier of the place to operate the device—

- (i) a road or route, or part of a road or route, declared under the *Transport Infrastructure Act 1994*, section 23,⁹ to be a State-controlled road;
- (ii) a railway.

(4) Also, subsection (2)(b) does not apply to audible noise made or caused to be made by the operation of a regulated device by anyone at a manual arts facility at an educational institution from 7 p.m. to 10 p.m..

(5) In this section—

“grass-cutter” means an electrical or mechanical device a function of which is to cut grass.

Examples of a ‘grass-cutter’—

- a brush cutter
- an edge cutter
- a lawn-mower
- a ride-on mower
- a string trimmer.

“leaf-blower” means an electrical or mechanical device a function of which is to blow leaves.

“regulated device” means any of the following—

- (a) a compressor;
- (b) a ducted vacuuming system;
- (c) a generator;
- (d) a grass-cutter;
- (e) an impacting tool;
- (f) a leaf-blower;
- (g) a mulcher;
- (h) an oxyacetylene burner;

⁹ *Transport Infrastructure Act 1994*, section 23 (Declaration of State-controlled roads)

- (i) an electrical, mechanical or pneumatic power tool.

Examples of a 'power tool'—

- a chainsaw
- a drill
- an electric grinder or sander
- an electric welder
- a nail-gun.

Spa blowers and pool pumps

6Y.(1) An occupier of premises at or for which there is a spa blower or a pump for a swimming pool or spa pool must not use or allow the use of the spa blower or the pump—

- (a) before 7 a.m. or after 10 p.m. on any day if it makes audible noise or causes audible noise to be made; or
- (b) from 7 a.m. to 7 p.m. on any day if it makes noise or causes noise to be made of more than 50 dB(A); or
- (c) from 7 p.m. to 10 p.m. on any day if it makes noise or causes noise to be made of more than 5 dB(A) above the background noise level.

Maximum penalty—20 penalty units.

(2) However, subsection (1)(a) does not apply if—

- (a) the audible noise is made or caused to be made at an educational institution; and
- (b) the noise is no more than 5 dB(A) above the background noise level.

Airconditioning equipment

6Z. An occupier of premises at or for which there is airconditioning equipment must not use or allow the use of the equipment—

- (a) from 7 a.m. to 10 p.m. on any day if it makes noise or causes noise to be made of more than 50 dB(A); or

- (b) before 7 a.m. or after 10 p.m. on any day if it makes noise or causes noise to be made of more than the higher of the following—
 - (i) 40 dB(A);
 - (ii) 5 dB(A) above the background noise level.

Maximum penalty—20 penalty units.

Refrigeration equipment

6ZA.(1) This section applies to a person who is—

- (a) an occupier of premises at or for which there is plant or equipment for refrigeration (“**refrigeration equipment**”); or
- (b) an owner of refrigeration equipment that is on or in a vehicle, other than a vehicle used or to be used on a railway.

(2) The person must not use or allow the use of the refrigeration equipment—

- (a) before 7 a.m. or after 10 p.m. on any day if it makes noise or causes noise to be made of more than the higher of the following—
 - (i) 40 dB(A);
 - (ii) 5 dB(A) above the background noise level; or
- (b) from 7 a.m. to 10 p.m. on any day if it makes noise or causes noise to be made of more than 50 dB(A).

Maximum penalty—20 penalty units.

(3) In this section—

“**vehicle**” includes a trailer.

Indoor venues

6ZB.(1) An occupier of a building must not use or allow the use of the building as an indoor venue—

- (a) before 7 a.m. on any day if the use causes audible noise; or

- (b) from 7 a.m. to 10 p.m. on any day if the use causes noise of more than 50 dB(A); or
- (c) after 10 p.m. on any day if the use causes noise of more than the lesser of the following—
 - (i) 45 dB(A);
 - (ii) 10 dB(A) above the background noise level.

Maximum penalty—20 penalty units.

(2) However, subsection (1)(b) does not apply if—

- (a) the building is, or is part of, an educational institution; and
- (b) the use of the building as an indoor venue is organised by or for the educational institution for its purposes.

Open-air events

6ZC.(1) An occupier of premises must not use or allow the use of the premises for an open-air event—

- (a) before 7 a.m. on any day if the use causes audible noise; or
- (b) from 7 a.m. to 10 p.m. on any day if the use causes noise of more than 70 dB(A); or
- (c) after 10 p.m. on any day if the use causes noise of more than the lesser of the following—
 - (i) 50 dB(A);
 - (ii) 10 dB(A) above the background noise level.

Maximum penalty—20 penalty units.

(2) However, subsection (1)(b) does not apply if—

- (a) the premises is, or is part of, an educational institution; and
- (b) the use of the premises for an open-air event is organised by or for the educational institution for its purposes.

Amplifier devices, other than at indoor venue or open-air event

6ZD.(1) This section applies to a person who operates an amplifier device, other than at an indoor venue or open-air event.

(2) The person must not operate the device in a way that makes audible noise or causes audible noise to be made—

- (a) on a Saturday, Sunday or public holiday, before 8 a.m. or after 6 p.m; or
- (b) on a business day, before 7 a.m. or after 10 p.m..

Maximum penalty—20 penalty units.

(3) The person must not operate the device in a way that makes noise or causes noise to be made of more than 10 dB(A) above the background noise level—

- (a) on a Saturday, Sunday or public holiday, from 8 a.m. to 6 p.m; or
- (b) on a business day, from 7 a.m. to 10 p.m..

Maximum penalty—20 penalty units.

(4) However, subsection (3) does not apply if the noise is made or caused to be made by an amplifier device operated by anyone at an educational institution.

(5) In this section—

“amplifier device” means any of the following—

- (a) a loudhailer;
- (b) a megaphone;
- (c) a public address system, other than for a railway;
- (d) a remote telephone bell;
- (e) a telephone repeater bell.

Power boat sports in waterway

6ZE.(1) This section applies to a person in control of a power boat on any of the following (the **“waterway”**)—

- (a) a creek, river, stream or watercourse;

Environmental Protection Regulation 1998

- (b) an inlet of the sea into which a creek, river, stream or watercourse flows;
- (c) a dam or weir.

(2) The person must not use the power boat for a power boat sport if the use makes audible noise for the same affected building for more than a continuous period of 2 minutes—

- (a) on a Sunday or public holiday, before 8 a.m. or after 6.30 p.m.; or
- (b) on a Saturday or business day, before 7 a.m. or after 7 p.m..

Maximum penalty—20 penalty units.

(3) Also, the person must not use the power boat for a power boat sport on any day at any time if—

- (a) the use makes audible noise for the same affected building for more than a continuous period of 2 minutes; and
- (b) during the period the noise is also continuously more than 75 dB(A), measured at the shore of the waterway from at least 30 m from where the power boat is being used.

Maximum penalty—20 penalty units.

(4) In this section—

“person in control”, of a power boat, includes—

- (a) the driver of the boat; and
- (b) the person in command of the boat; and
- (c) the person who appears to be in control or command of the boat.

“power boat sport” means—

- (a) a sport in which a person is towed by a line attached to a power boat, including, for example, a person water skiing or riding on a toboggan or tube; or
- (b) operating a jet ski or other power driven personal watercraft, other than for fishing.

Operating power boat engine at premises

6ZF.(1) A person must not at a premises operate a power boat engine in a way that makes audible noise or causes audible noise to be made—

- (a) on a Sunday or public holiday, before 8 a.m. or after 6.30 p.m.; or
- (b) on a Saturday or business day, before 7 a.m. or after 7 p.m..

Maximum penalty—20 penalty units.

(2) An occupier of premises must not allow a power boat engine to be operated at the premises in a way that makes audible noise or causes audible noise to be made during a period mentioned in subsection (1).

Maximum penalty—20 penalty units.

(3) In this section—

“**operate**”, a power boat engine, includes flushing the engine.

Subdivision 2—Exemptions**Operation of sdiv 2**

6ZG.(1) Each section in this subdivision provides an exemption (a “**noise offence exemption**”) to the offences created under subdivision 1.

(2) A noise offence exemption applies for—

- (a) a responsible person for a noise; and
- (b) a person who allows a noise to happen.

(3) If a noise offence exemption applies, the person does not commit an offence against subdivision 1 in relation to the noise.

(4) The *Justices Act 1886*, section 76,¹⁰ applies to a noise offence exemption.

Compliance with general environmental duty

6ZH.(1) It is a noise offence exemption if—

¹⁰ *Justices Act 1886*, section 76 (Proof of negative etc.)

- (a) the noise happened while a lawful activity was being carried out; and
- (b) the general environmental duty was complied with by the person and everyone else who was in control of the cause of the noise when it happened.

(2) For subsection (1)(b), the duty may be complied with in the way stated in section 36¹¹ of the Act or by complying with any relevant code of practice.

Lawful environmental nuisance

6ZI. It is a noise offence exemption if the noise was not unlawful environmental nuisance.

Certain environmentally relevant activities

6ZJ. It is a noise offence exemption if—

- (a) the noise was caused by an environmentally relevant activity; and
- (b) the activity was carried out under a development approval or environmental authority.

Compliance with certain instruments under Act or a local law

6ZK.(1) It is a noise offence exemption if an instrument mentioned in section 6F or a local law provides or allows for—

- (a) the noise to be made or caused to be made; or
- (b) the carrying out of an activity in a way that makes the noise or causes it to be made.

Examples of an ‘activity’—

- building work
- use of premises for an indoor venue or open-air event.

¹¹ Section 36 (General environmental duty) of the Act

(2) However, subsection (1) does not apply if—

- (a) the offence for which the exemption is sought relates to making the noise or causing it to be made during a period; and
- (b) the instrument or local law does not provide or allow for the noise to be made or caused to be made, or for the activity to be carried out, during the period.

Subdivision 3—Proceedings for noise offences

Relevant nuisance complaint required for certain prosecuting parties

6ZL.(1) This section applies to a person as follows (the “**prosecutor**”) if the prosecutor proposes to start a proceeding for a noise offence—

- (a) the administering authority;
- (b) the administering executive;
- (c) an authorised person.

(2) The prosecutor must not start the proceeding unless a relevant nuisance complaint has been made for the noise the subject of the proceeding.

(3) A statement in either of the following that a relevant nuisance complaint has been made is evidence that a relevant nuisance complaint has been made—

- (a) the complaint starting the proceeding;
- (b) a certificate purporting to be signed by the prosecutor or another person mentioned in subsection (1).

(4) Subsection (3) does not require the statement or certificate to state any matter for the relevant nuisance complaint mentioned in section 6L(3).¹²

Special evidentiary provisions for audible noise

6ZM.(1) This section applies if in a proceeding for a noise offence it is

¹² Section 6L (How nuisance complaint may be made)

claimed audible noise was made or caused to be made from a person, place or thing (the “**alleged source**”) to an affected building.¹³

(2) An individual (the “**occupier**”) who was, when the noise was made or caused to be made (the “**relevant time**”), an occupier of the building, may give evidence that—

- (a) the occupier could, at the relevant time, hear the noise at the building; and
- (b) the occupier formed the opinion, based on the occupier’s own senses, that the noise was made or caused to be made from the alleged source and travelled to the building.

(3) An authorised person may give evidence of the following if the person was, at the relevant time, present at the building with the occupier and the person could hear the noise at the building—

- (a) that the occupier was, at the relevant time, an occupier of the building;
- (b) that the occupier could, at the relevant time, hear the noise at the building;
- (c) that the person formed the opinion, based on the person’s own senses, that the noise was made or caused to be made from the alleged source and travelled to the building.

(4) Evidence may be given under subsection (3)—

- (a) without any need to call the occupier; and
- (b) whether or not other audible noise was made or caused to be made to the building from a person, place or thing other than the alleged source.

(5) Opinion evidence may be given under this section without any need to call further opinion evidence.

¹³ See also section 6ZT (General evidentiary provision for emissions).

Division 5—Measurement of noise***Subdivision 1—Preliminary*****Operation of div 5**

6ZN. This division provides for where and how noise from a person, place or thing (“**source noise**”) or the background noise level is to be measured to decide whether—

- (a) a noise emission is unlawful environmental nuisance; or
- (b) source noise is a noise offence or may relate to a noise offence.

No requirement to measure audible noise

6ZO.(1) This section applies if in a proceeding for a noise offence it is claimed audible noise was made, caused to be made or allowed to happen.

(2) Evidence mentioned in section 6ZM or 6ZT may be given about the noise without any requirement for the noise to have been measured.¹⁴

(3) If the noise is established as audible noise, the rate of its audibility is not required to be established.

Subdivision 2—Where to measure noise**Source noise**

6ZP.(1) This section applies for measuring source noise, other than for section 6ZE(3)(b).¹⁵

(2) Source noise may be measured only from an affected building for the noise.

(3) Any part of the building may be used for the measurement.

¹⁴ Sections 6ZM (Special evidentiary provisions for audible noise) and 6ZT (General evidentiary provision for emissions)

¹⁵ Section 6ZE (Power boat sports in waterway)

Background noise level

6ZQ.(1) Subject to subsections (3) and (4), the background noise level may be measured only from an affected building for the source noise for which the level is to be measured (the “**relevant noise**”).

(2) Any part of the building may be used for the measurement.

(3) Subsection (4) applies if it is impracticable to measure the level from any affected building for the relevant noise.

Examples for subsection (3)—

1. The source of the relevant noise is a continuously running swimming pool pump. The background noise level can not be measured at all without stopping the pump. No occupier of the premises at which the pump is situated can be found after making reasonable efforts or inquiries.
2. The source of the relevant noise is a continuously running refrigerator at a retail food outlet. The background noise level can not be measured at all without stopping the refrigerator. Stopping the refrigerator may damage perishable goods inside it or unreasonably interrupt the running of the outlet.

(4) If this subsection applies, the level may be measured at the nearest point to the source of the relevant noise that could reasonably be expected to have a similar background noise level to any affected building for the relevant noise.

Subdivision 3—How to measure noise**Measurement procedures**

6ZR.(1) Source noise or the background noise level may be measured only by applying—

- (a) the procedure under—
 - (i) AS 1055;¹⁶ or
 - (ii) the *Noise Measurement Manual*, published by the

¹⁶ See AS 1055.1, paragraph 4 (Investigation of specific environmental noise situations).

department (the “**manual**”);¹⁷ or

- (b) another appropriate scientific method or procedure for noise measurement.

(2) A copy of AS 1055 or of the manual is admissible in evidence in a proceeding under the Act.

(3) The chief executive must keep a copy of the manual open for inspection by members of the public during office hours on business days at—

- (a) the department’s head office;¹⁸ and
- (b) the other places the chief executive considers appropriate.

Measurement of noises of same type from same premises

6ZS. If 2 or more noises of the same type happen simultaneously at the same premises, they must be measured as if they are 1 noise of that type happening at the premises.

Examples—

1. A number of concerts happen simultaneously at different places at the same premises. A building is affected by noise from more than 1 of the concerts. The noises must be measured as if they were from 1 concert.
2. A premises is used as a stopover depot for trucks with refrigerators. A building is affected by noise from the use of more than 1 of the refrigerators. The noises must be measured as if they were from 1 refrigerator.

Division 6—Miscellaneous

General evidentiary provision for emissions

6ZT.(1) This section applies to a proceeding for an offence against this

¹⁷ For other relevant provisions about measuring noise, see section 180 (Evidentiary provisions) of the Act and section 29 (Prescribed instruments—Act, s 180(8)) of the noise policy.

¹⁸ The department’s head office is at 160 Ann Street, Brisbane.

part in which it is claimed an emission was made or caused to be made from a person, place or thing (the “**alleged source**”).¹⁹

(2) An authorised person may give evidence that the person formed the opinion, based on the person’s own senses, that—

- (a) the emission was emitted from the alleged source and travelled to another place; and
- (b) the level, nature or extent of the emission within the other place was an unreasonable interference with someone’s enjoyment of the other place or with another environmental value.

(3) Evidence may be given under subsection (2) whether or not another emission was made or caused to be made to the other place from a person, place or thing other than the alleged source.

(4) The evidence may be given without any need to call further opinion evidence.

Dispute resolution by agreement not affected

6ZU. This part does not—

- (a) limit the capacity of persons to negotiate, under the *Dispute Resolution Centres Act 1990* or otherwise, a settlement of the subject matter of a nuisance complaint; or
- (b) prevent the administering authority making guidelines to help persons negotiate a settlement of a nuisance complaint.’

¹⁹ See also section 6ZM (Special evidentiary provisions for audible noise).

PART 3—OZONE DEPLETING SUBSTANCES

Division 1—Controlled articles

Responsibilities of owner or person in possession of controlled article

7.(1) A person who owns, or has possession of, a controlled article must—

- (a) operate and maintain the article in the way required by the applicable industry code of practice for carrying out that activity; and
- (b) engage only a qualified person to install, commission, service or decommission the article.

Maximum penalty—50 penalty units.

(2) Subsection (1)(b) does not apply if the article—

- (a) uses a controlled substance as a solvent for cleaning or degreasing; or
- (b) is sterilisation equipment.

Labelling by manufacturers and importers

8.(1) A manufacturer or importer of a controlled article must attach a label that complies with subsection (2) to the article in a way that the label is visible to a person about to work on the article.

Maximum penalty—50 penalty units.

(2) The label must—

- (a) specify the controlled substances contained or used in the article; and
- (b) be legible; and
- (c) contrast in colour with the article; and
- (d) be capable of enduring for the life of the article.

Labelling on charging of motor vehicle airconditioning equipment with refrigerant

9.(1) A person who charges motor vehicle airconditioning equipment with refrigerant must attach a label that complies with subsection (2) to—

- (a) the equipment; or
- (b) a prominent place on the vehicle to which the equipment is fitted.

Maximum penalty—50 penalty units.

(2) The label must state—

- (a) the person's name; and
- (b) the date of the charging; and
- (c) the date of the last replacement of the filter; and
- (d) the refrigerant and lubricant type used.

Labelling on charging of certain airconditioning or refrigeration equipment with refrigerant

10.(1) A person who charges any of the following airconditioning or refrigeration equipment with a CFC or HCFC must attach a label that complies with subsection (2) to the equipment—

- (a) commercial or industrial airconditioning equipment;
- (b) commercial or industrial refrigeration equipment;
- (c) domestic airconditioning equipment;
- (d) domestic refrigeration equipment.

Maximum penalty—50 penalty units.

(2) The label must state—

- (a) the person's name; and
- (b) the date of the charging; and
- (c) the refrigerant and lubricant type used.

Division 2—Controlled substances***Subdivision 1—Restriction on dealing with controlled substances*****Release of controlled substance**

11.(1) A person must not, in carrying out a schedule 3 activity, release a controlled substance into the environment from any equipment mentioned in the schedule for the activity or from any storage vessel.

Maximum penalty—50 penalty units.

(2) However, a person does not commit an offence against subsection (1) if the substance is released in the way required by the applicable industry code of practice for carrying out the activity.

Restriction on sale or buying of controlled substances

12.(1) A person who sells a controlled substance must comply with schedule 2, section 1.

Maximum penalty—50 penalty units.

(2) A person who buys a controlled substance must comply with schedule 2, section 2.

Maximum penalty—50 penalty units.

Restriction on handling or use of controlled substances

13. A person must not engage in a schedule 3 activity involving the handling or use of a controlled substance, unless the person—

- (a) is a qualified person for the activity; or
- (b) engages in the activity under the direct supervision of a qualified person for the activity.

Maximum penalty—50 penalty units.

Duty to recover and reclaim controlled substances

14.(1) This section applies to a person who engages in a schedule 3 activity that results in, or might result in, the release of a controlled substance into the environment.

(2) The person must ensure any controlled substance released in carrying out the activity is recovered and reclaimed in the way required by the applicable industry code of practice for carrying out the activity and schedule 2, sections 3 and 4.

Maximum penalty—50 penalty units.

Disposal of a controlled substance

15.(1) If a person, other than a seller of controlled substances, comes into possession of a controlled substance (other than a halon)—

- (a) that is contaminated; or
- (b) the use of which is prohibited under this regulation;

the person must deliver the substance to a person who sells controlled substances.

Maximum penalty—50 penalty units.

(2) A seller of controlled substances who comes into possession of a controlled substance mentioned in subsection (1) must ask the chief executive to approve the disposal or destruction of the substance.

Maximum penalty—50 penalty units.

(3) The chief executive must give written notice to the person—

- (a) directing the way the substance is to be disposed of or destroyed; and
- (b) of the day for complying with the notice.

(4) The person must comply with the notice.

Maximum penalty—50 penalty units.

Subdivision 2—Equipment using controlled substances**Procedure for operation and maintenance of equipment**

16.(1) A person who owns bulk storage equipment used in carrying out a schedule 3 activity must maintain the equipment in the way required by the applicable industry code of practice for carrying out the activity.

Maximum penalty—50 penalty units.

(2) A person who operates bulk storage equipment in carrying out a schedule 3 activity, must operate the equipment in the way required by the applicable industry code of practice for carrying out the activity.

Maximum penalty—50 penalty units.

(3) In this section—

“bulk storage equipment” means equipment used in the handling or transfer of a controlled substance to or from a bulk storage vessel having a capacity of more than 100 kg.

Solvent cleaning or degreasing

17. A person who operates or services equipment that uses a controlled substance as a solvent for cleaning or degreasing must—

- (a) in operating or servicing the equipment, comply with the applicable industry code of practice for carrying out that activity; and
- (b) ensure all controlled substances are recovered and reclaimed in the way required by schedule 2, section 4.

Maximum penalty—50 penalty units.

Dry cleaning equipment

18. A person who operates or services dry cleaning equipment that uses a controlled substance in its operation must, in operating or servicing the equipment, comply with the applicable industry code of practice for carrying out that activity.

Maximum penalty—50 penalty units.

Sterilisation equipment

19.(1) A person must not install in premises sterilisation equipment that contains or uses a controlled substance.

Maximum penalty—50 penalty units.

(2) A person who operates or services sterilisation equipment that uses a controlled substance in its operation must, in operating or servicing the equipment, comply with the applicable industry code of practice for carrying out that activity.

Maximum penalty—50 penalty units.

Subdivision 3—Products containing controlled substances**Aerosols containing controlled substances**

20.(1) A person must not manufacture or sell an aerosol product containing a controlled substance unless the person holds a current exemption granted under the *Ozone Protection Act 1989* (Cwlth), section 40.

Maximum penalty—50 penalty units.

(2) Subsection (1) does not apply to the sale of an aerosol product that contains methyl chloroform or a HCFC as the only controlled substance.

Division 3—Refrigeration and airconditioning**Refrigeration and airconditioning**

21. A person who manufactures, installs or services any of the following equipment that uses a controlled substance must, in manufacturing, installing or servicing the equipment, comply with the applicable industry code of practice for carrying out that activity—

- (a) commercial or industrial refrigeration equipment;
- (b) commercial or industrial airconditioning equipment;
- (c) motor vehicle airconditioning equipment;

- (d) domestic refrigeration equipment;
- (e) domestic airconditioning equipment.

Maximum penalty—50 penalty units.

Installation of refrigeration or airconditioning equipment

22.(1) A person must not install in premises commercial or industrial refrigeration or airconditioning equipment that contains or uses a CFC.

Maximum penalty—50 penalty units.

(2) However, subsection (1) does not apply to—

- (a) the installation of equipment that merely involves relocating the equipment in premises; or
- (b) the installation of equipment in premises immediately after its removal from other premises if both premises are owned or occupied by the same person.

Division 4—Foams

Manufacture of plastic foams

23. A person must not use a CFC in the manufacture of a plastic foam unless the person holds a current exemption under the *Ozone Protection Act 1989* (Cwlth), section 40.

Maximum penalty—50 penalty units.

Division 5—Fixed halon and HCFC systems

Subdivision 1—Fixed halon systems

Manufacture etc. of fixed halon system

24. A person who manufactures, installs, services, maintains or decommissions a fixed halon system must comply with the applicable

industry code of practice for carrying out that activity.

Maximum penalty—50 penalty units.

Restriction on installing, keeping and refilling of fixed halon system

25.(1) A person must not, without a certificate of approval—

- (a) install a fixed halon system in premises or a vehicle; or
- (b) being the owner of premises or a vehicle, allow a fixed halon system to remain in the premises or vehicle; or
- (c) refill a fixed halon system.

Maximum penalty—50 penalty units.

(2) An application for the approval must be made to the chief executive in the approved form.

(3) The chief executive must consider each application and must either grant or refuse it.

(4) If the chief executive is satisfied the essential use criteria mentioned in schedule 4 are satisfied, the chief executive must grant the application and issue a certificate of approval.

(5) The chief executive may impose reasonable conditions on the approval.

(6) If the chief executive imposes conditions on the approval, the chief executive must—

- (a) endorse the conditions on the certificate of approval; and
- (b) give the applicant written notice that the applicant may apply for a review of, or appeal against, the chief executive's decision to impose the conditions within 14 days after receipt of the notice.

(7) If the chief executive refuses the application, the chief executive must promptly give written notice to the applicant—

- (a) stating the application is refused and the reasons for the refusal; and

- (b) that the applicant may apply for a review of, or appeal against, the chief executive's decision to refuse the application within 14 days after receipt of the notice.

Testing fixed halon systems

26. A person must not test a fixed halon system in a way that results in, or might result in, the release of a controlled substance into the environment.
Maximum penalty—50 penalty units.

Release of controlled substances

27. The owner or occupier of premises or a vehicle in which a fixed halon system is installed who becomes aware of a release of a controlled substance from the system must, within 30 days after the release, give written notice to the chief executive of the release and the reason for the release.

Maximum penalty—50 penalty units.

Subdivision 2—Fixed HCFC systems

Testing of fixed HCFC systems

28. A person must not test a fixed HCFC system in a way that results in, or might result in, the release of a HCFC into the environment.

Maximum penalty—50 penalty units.

Division 6—Portable halon fire extinguishers

Restriction on sale or refilling of portable halon fire extinguishers

29.(1) A person must not sell a portable halon fire extinguisher to someone else (the “**customer**”) unless the customer produces to the person a certificate of approval to buy, and have possession of, a portable halon fire extinguisher.

Maximum penalty—50 penalty units.

(2) A person must not refill a portable halon fire extinguisher for someone else (also the “**customer**”) unless the customer produces to the person a certificate of approval to have the portable halon fire extinguisher refilled.

Maximum penalty—50 penalty units.

Approval to buy or refill a portable halon fire extinguisher

30.(1) An application for an approval to buy, and have possession of, a portable halon fire extinguisher or have a portable halon fire extinguisher refilled, must be made to the chief executive in the approved form.

(2) The chief executive must consider each application and must either grant or refuse it.

(3) If the chief executive is satisfied the essential use criteria mentioned in schedule 4 are satisfied, the chief executive must grant the application and issue a certificate of approval.

(4) The chief executive may impose reasonable conditions on the approval.

(5) If the chief executive imposes conditions on the approval, the chief executive must—

- (a) endorse the conditions on the certificate of approval; and
- (b) give the applicant written notice that the applicant may apply for a review of, or appeal against, the chief executive’s decision to impose the conditions within 14 days after receipt of the notice.

(6) If the application is refused, the chief executive must promptly give written notice to the applicant—

- (a) of the refusal and the reasons for the refusal; and
- (b) that the applicant may apply for a review of, or appeal against, the chief executive’s decision to refuse the application within 14 days after receipt of the notice.

Possession of portable halon fire extinguishers

31. A person must not have a portable halon fire extinguisher in the person's possession without a certificate of approval for the extinguisher.

Maximum penalty—50 penalty units.

Division 7—General***Subdivision 1—Fire extinguishers and refrigerant cylinders*****Discharge of HCFC fire extinguishers**

32. A person must not discharge a fixed HCFC system or a portable HCFC fire extinguisher into the environment other than to extinguish a fire in an emergency.

Maximum penalty—50 penalty units.

Discharge of halon fire extinguishers

33. A person must not discharge a fixed halon system or a portable halon fire extinguisher into the environment other than to extinguish a fire in an emergency.

Maximum penalty—50 penalty units.

Aerosol or non-refillable fire extinguishers

34. A person must not sell an aerosol fire extinguisher or a non-refillable fire extinguisher that uses a controlled substance other than HCFC.

Maximum penalty—50 penalty units.

Non-refillable refrigerant cylinders

35. A person must not—

- (a) manufacture or bring into Queensland a non-refillable cylinder containing a refrigerant that is a CFC; or

- (b) commission a non-refillable cylinder using a refrigerant that is a CFC.

Maximum penalty—50 penalty units.

Subdivision 2—Cancellation of certificates of approval

Cancellation of certificate of approval

36. The chief executive may cancel a certificate of approval on the following grounds—

- (a) the certificate holder has contravened a condition of the certificate;
- (b) the certificate holder has been convicted of an offence against the Act or this regulation in relation to the activity to which the certificate relates;
- (c) the certificate was issued because of a materially false or misleading representation or declaration (made either orally or in writing);
- (d) the certificate holder has ceased to carry out the activity to which the certificate relates.

Procedure for cancellation

37.(1) If the chief executive considers a ground exists to cancel a certificate of approval (the “**proposed action**”), the chief executive must give the certificate holder written notice that—

- (a) states the proposed action; and
- (b) states the grounds for the proposed action; and
- (c) outlines the facts and circumstances forming the basis for the grounds; and
- (d) invites the holder, within a stated time of at least 30 days, to make written representations to show why the proposed action should not be taken.

(2) If, after considering all written representations made within the stated time, the chief executive still considers a ground to take the proposed action exists, the chief executive may cancel the certificate.

(3) The chief executive must inform the certificate holder of the decision by written notice.

(4) The notice must be given within 10 days after the chief executive makes a decision.

(5) If the chief executive decides to cancel the certificate, the notice must state—

- (a) the reasons for the decision; and
- (b) that the certificate holder may apply for a review of, or appeal against, the decision within 14 days after receipt of the notice.

(6) The decision takes effect on the later of—

- (a) the day when the notice is given to the certificate holder; or
- (b) the day of effect stated in the notice.

(7) However, if the certificate is cancelled because of the conviction of the holder for an offence—

- (a) the cancellation does not take effect until—
 - (i) the end of the time to appeal against the conviction; and
 - (ii) if the appeal is made against the conviction—the appeal is finally decided; and
- (b) the cancellation has no effect if the conviction is quashed on appeal.

Return of cancelled certificate

38.(1) If the chief executive cancels a person's certificate of approval, the chief executive may give the person written notice requiring the person to return the certificate within a stated period of not less than 14 days.

(2) The person must comply with the notice, unless the person has a reasonable excuse not to comply with it.

Maximum penalty—50 penalty units.

PART 3A—NATIONAL POLLUTANT INVENTORY

Division 1—Preliminary

Subdivision 1—General

Purpose of pt 3A

38A. The purpose of this part is to give effect to, and enforce compliance with, the National Environment Protection (National Pollutant Inventory) Measure made under the *National Environment Protection Council Act 1994* (Cwlth), section 14.

Subdivision 2—Interpretation

Definitions for pt 3A

38B. In this part—

“**emission**”, for a substance, see section 38C.

“**emission data**”, for a substance, means an estimate of the amount of the substance emitted in a reporting period that identifies—

- (a) the medium to which the substance was discharged, including, for example, air, land and water; and
- (b) the estimation technique used.

“**estimation technique**” means a method of estimating the amount of a substance emitted to the environment.

“**facility**” see section 38D.

“**industry handbook**”, for a facility, means an industry handbook published under the NPIM.²⁰

“**NPIM**” means the National Environment Protection (National Pollutant

²⁰ Publication of the handbooks is notified in the Commonwealth of Australia Gazette.

Inventory) Measure made under the *National Environment Protection Council Act 1994* (Cwlth), section 14.

“occupier”, of a facility, means the person in occupation or control of the facility, whether or not the person owns the facility.

“offshore facility” see section 38E.

“published” means published by the Commonwealth.

“reporting facility” means a facility the occupier of which is required to give information to the chief executive under section 38H.

“reporting period”, for a facility, means the facility’s reporting period under section 38J.

“reporting requirement”, for an occupier, means the requirement for the occupier to give information to the chief executive under section 38H(3).

“substance” see section 38F.

Meaning of “emission” of a substance

38C.(1) “Emission” of a substance is the substance’s emission to the environment—

- (a) whether in pure form or contained in other matter; and
- (b) whether as a gas, liquid or solid.

(2) Emission of a substance includes its emission from a landfill, sewage treatment plant or tailings dam.

(3) However, emission of a substance does not include its—

- (a) release into a landfill, sewer or tailings dam; or
- (b) removal from a facility for destroying, treating, recycling, reprocessing, recovering or purifying the substance.

Meaning of “facility”

38D.(1) A **“facility”** is—

- (a) a building or land from which a substance may be emitted; or

- (b) an appliance, equipment item, implement, machine, plant item, tool or other item used for an activity carried out at the facility.

(2) A facility includes an offshore facility.

Meaning of “offshore facility”

38E.(1) An “**offshore facility**” is a structure or vessel located in an adjacent area for the State under the *Petroleum (Submerged Lands) Act 1967* (Cwlth) that—

- (a) is used or constructed for recovering petroleum, including natural gas; or
- (b) carries, contains or includes equipment for drilling, or carrying out another operation for a well, from the structure or vessel.

(2) An offshore facility includes a combination of 2 or more related offshore facilities.

(3) However, an offshore facility does not include a vessel engaged merely in site surveys or investigations to a seabed depth of not more than 100 metres.

Meaning of “substance”

38F.(1) For the period 1 July 1998 to 30 June 2000, a “**substance**” is a substance mentioned in the NPIM, schedule A, table 1, column 1.

(2) From 1 July 2000, a “**substance**” is a substance mentioned in the NPIM, schedule A, table 2, column 1 or, if the column is amended after a review mentioned in the NPIM, section 33, the column as amended.

General

38G. Unless this regulation provides otherwise, expressions used in it that are defined under the NPIM have the meaning given to them under the NPIM.

Division 2—Collecting data for the national pollutant inventory**Occupiers of reporting facilities to give information**

38H.(1) This section applies to an occupier of a facility that, under section 38I, exceeds the reporting threshold for a substance in the facility's reporting period.

(2) However, this section applies only if an industry handbook for the facility is published at least 3 months before the period ends.

(3) Subject to sections 38O and 38Q,²¹ the occupier must give the following information to the chief executive within 3 months after the period ends—

- (a) the occupier's—
 - (i) name or any other relevant identification, including any name changes in the preceding financial year; and
 - (ii) Australian Company Number (ACN), if applicable; and
 - (iii) postal address; and
 - (iv) contact phone number for public enquiries;
- (b) the facility's—
 - (i) street address; and
 - (ii) main activity;
- (c) for each substance for which the reporting threshold is exceeded in the period—
 - (i) the substance's name and chemical abstract series registered number, if any; and
 - (ii) emission data;
- (d) any further information required to assess the integrity of the emission data and stated in the industry handbook for the facility or reasonably requested, by written notice given to the occupier, by the chief executive.

²¹ Sections 38O (Exemption on ground of national security) and 38P (Claiming exemption on ground of commercial confidentiality)

(4) The notice must state—

- (a) why the further information is required; and
- (b) that the applicant may, within 14 days after the notice is given, apply for a review of, or appeal against, the decision to issue the notice.

(5) The information must be accompanied by a statement, signed by or for the occupier, that the occupier exercised care in obtaining and giving the information.

(6) In this section—

“**facility**” does not include the following—

- (a) a mobile emission source, including, for example, an aircraft in flight or a ship at sea, operating outside the boundaries of a fixed facility;
- (b) a petroleum retailing facility, or part of a petroleum retailing facility, engaged in selling fuel by retail;
- (c) a dry-cleaning facility employing less than 20 persons;
- (d) a scrap metal handling facility trading in metal and not engaged in battery reprocessing or metal smelting;
- (e) a facility, or part of a facility, engaged solely in agricultural production, unless it is engaged in—
 - (i) processing agricultural produce; or
 - (ii) intensive livestock production, including, for example a cattle feedlot or piggery.

Examples of ‘agricultural production’ for paragraph (e)—

Aquaculture, horticulture, livestock raising and tree growing.

“**table 1 substance**” means a substance mentioned in the NPIM, schedule A, table 1.

“**table 2 substance**” means a substance mentioned in the NPIM, schedule A, table 2.

Exceeding reporting threshold

38I.(1) The facility exceeds the reporting threshold for a substance in its reporting period if—

- (a) for a category 1 substance, its activities involve using 10 t or more of the substance in the period; or
 - (b) for a category 1a substance—
 - (i) its activities involve using 25 t or more of the substance in the period; and
 - (ii) for a bulk storage facility, its design capacity also exceeds 25 kt; or
 - (c) for a category 2a substance, its activities involve burning—
 - (i) 400 t or more of fuel or waste in the period; or
 - (ii) 1 t or more of fuel or waste in any hour in the period; or
 - (d) for a category 2b substance—
 - (i) its activities involve—
 - (A) burning 2 000 t or more of fuel or waste in the period; or
 - (B) consuming 60 000 MW hours or more of energy in the period; or
 - (ii) its maximum potential power consumption at any time in the period is rated at 20 MW or more; or
 - (e) for a category 3 substance, its activities involve emitting to water, other than groundwater, the scheduled amount, or more, of the substance in the period.
- (2)** Subsection (1)(a) or (b) does not apply to using a substance—
- (a) already permanently incorporated in an article in a way not leading to its emission to the environment; or
 - (b) if it is an article for sale or use and is handled in a way not leading to its emission to the environment.

Example for subsection (2)(a)—

An alloy component of metal in a machine.

(3) In working out the amount of a substance used for subsection (1)(a) or (b), the occupier is not required to include an amount that is in a proprietary mixture or any other material unless—

- (a) for a proprietary mixture—the substance is specified in a material safety data sheet describing the substance’s properties and use, or the manufacturer’s advice; and
- (b) for any other material—the occupier could reasonably be expected to know the substance is in the material.

(4) In this section—

“**article**” means a manufactured item formed to a specific shape or design during manufacture.

“**category 1 substance**” means a substance for which a threshold category of 1 is stated in the NPIM, schedule A, table 1 or 2, column 3.

“**category 1a substance**” means a substance for which a threshold category of 1a is stated in the NPIM, schedule A, table 1 or 2, column 3.

“**category 2a substance**” means a substance for which a threshold category of 2a is stated in the NPIM, schedule A, table 1 or 2, column 3.

“**category 2b substance**” means a substance for which a threshold category of 2b is stated in the NPIM, schedule A, table 1 or 2, column 3.

“**category 3 substance**” means a substance for which a threshold category of 3 is stated in the NPIM, schedule A, table 1 or 2, column 3.

“**scheduled amount**”, of a substance, means the amount mentioned in the NPIM, schedule A, table 1 or 2, column 4, for the substance.

“**using**”, a substance, means handling, manufacturing, importing or processing it or producing it as a waste or by-product of an activity or process.

Reporting period for facility

38J.(1) The reporting period for the facility is—

- (a) a financial year; or

Environmental Protection Regulation 1998

- (b) if the chief executive decides the occupier is required, under section 68 of the Act, to give the chief executive data similar to emission data on the basis of a different annual reporting period, the different annual reporting period.

(2) The chief executive may make a decision under subsection (1)(b) on the chief executive's own initiative or on a written application made to the chief executive by the occupier.

(3) Immediately after making the decision, the chief executive must give the occupier written notice of it.

(4) If the chief executive refuses the occupier's application, the notice must state—

- (a) the application is refused and the reasons for the refusal; and
- (b) that the applicant may, within 14 days after the notice is given, apply for a review of, or appeal against, the chief executive's decision to refuse the application.

(5) If the chief executive fails to give the occupier a notice about the chief executive's decision on an application made by the occupier under subsection (2) within 40 days after the application is made, the failure is taken to be a decision by the chief executive to refuse the application at the end of the 40 days.

(6) Despite subsection (1), the first reporting period for a new reporting facility is the period—

- (a) starting on the first day of the third month after the industry handbook for the facility is published; and
- (b) ending at the end of—
 - (i) the financial year in which the handbook is published; or
 - (ii) if subsection (1)(b) applies to the facility, the annual reporting period mentioned in the subsection.

(7) In this section—

“new reporting facility” means a facility for which an industry handbook is published—

- (a) after 1 July 1998; and

- (b) at least 3 months before the end of the facility's reporting period mentioned in subsection (1).

Estimation technique for emission data

38K. The occupier of a facility must use 1 of the following estimation techniques for emission data—

- (a) the estimation technique set out in the industry handbook for the facility;
- (b) another estimation technique approved by the chief executive for the facility.

Application for approval of estimation technique

38L.(1) The occupier of a facility may apply to the chief executive for approval of an estimation technique for emission data.

(2) The application must be in writing, setting out the technique for which approval is sought and giving the information necessary to enable the chief executive to decide the application.

(3) The chief executive may, by written notice given to the occupier, ask the occupier to give to the chief executive, in the reasonable period stated in the notice, further relevant information to enable the chief executive to decide the application.

Approving estimation technique

38M.(1) The chief executive may approve the estimation technique, or approve it subject to a modification decided by the chief executive.

(2) In deciding whether to approve the estimation technique, or approve it subject to a modification, the chief executive must have regard to the accuracy of the technique compared with the accuracy of estimation techniques in the handbook.

(3) The chief executive may refuse to approve the technique if the chief executive has given the occupier a notice under section 38L(3) asking for further information and the occupier does not comply with the request in the period stated in the notice.

Environmental Protection Regulation 1998

(4) Immediately after making a decision under this section, the chief executive must give the occupier written notice of the decision.

(5) If the chief executive decides to approve the technique subject to a modification, the notice must state the modification.

(6) If the chief executive refuses to approve the technique, or approves it subject to a modification, the notice must state—

- (a) the approval is refused or given subject to a stated modification to the technique and the reasons for the refusal or modification; and
- (b) that the occupier may, within 14 days after the notice is given, apply for a review of, or appeal against, the chief executive's decision to refuse the approval or give it subject to the modification.

(7) Subsection (8) applies if the chief executive fails to give the occupier a notice about the chief executive's decision on an application made by the occupier under section 38L—

- (a) within 40 days after the application is made; or
- (b) if the occupier gave the chief executive further information under section 38L(3)—within 40 days after receiving the further information.

(8) The chief executive's failure to give the notice is taken to be a decision by the chief executive to refuse to approve the technique at the end of the relevant 40 days.

Occupier must keep particular data for 3 years

38N.(1) The occupier of a facility must keep the data used in deciding if the reporting threshold for a substance is exceeded in the reporting period for the occupier's facility for 3 years after the reporting period ends.

Maximum penalty—20 penalty units.

(2) The occupier must keep the data used in calculating emission data given to the chief executive for 3 years after the emission data is required to be given.

Maximum penalty—20 penalty units.

Exemption on ground of national security

38O.(1) This section applies if the occupier of a facility gives the chief executive written evidence that—

- (a) the occupier has made a claim to the Commonwealth under the NPIM that information required to be given by the occupier under section 38H(3) should be treated as confidential on the grounds of national security; and
- (b) the claim—
 - (i) has been granted; or
 - (ii) has not been assessed before the occupier is required to give the information to the chief executive.

(2) Subject to subsection (3), the occupier is exempted from giving the information to the chief executive.

(3) If the exemption is given under subsection (1)(b)(ii) and the Commonwealth refuses the claim after the occupier is required to give the information to the chief executive, the occupier must give the information to the chief executive within 3 months after receiving notice of the Commonwealth's decision to refuse the claim.

Claiming exemption on ground of commercial confidentiality

38P.(1) The occupier of a facility may, by written notice given to the chief executive, claim information required to be given by the occupier under section 38H(3) should be treated as confidential on the grounds of commercial confidentiality.

(2) The notice must contain the information necessary to enable the chief executive to decide the claim.

(3) The chief executive may, by written notice given to the occupier, ask the occupier to give the chief executive, in the reasonable period stated in the notice, further relevant information to enable the chief executive to decide the claim.

Deciding claim for exemption on ground of commercial confidentiality

38Q.(1) The chief executive may grant the claim only if the chief executive reasonably believes the information would be exempt matter under the *Freedom of Information Act 1992*, section 45.²²

(2) If the chief executive grants the claim, the occupier is exempted from giving the information to the chief executive.

(3) The chief executive may refuse to grant the claim if the chief executive has given the occupier a notice under section 38O(3) asking for further information and the occupier does not comply with the request in the period stated in the notice.

(4) The chief executive must give the occupier written notice of the chief executive's decision on the claim.

(5) If the chief executive refuses to grant the claim, the notice must state—

- (a) the claim is refused and the reasons for the refusal; and
- (b) that the occupier may, within 14 days after the notice is given, apply for a review of, or appeal against, the chief executive's decision on the claim.

(6) Subsection (7) applies if the chief executive fails to give the occupier a notice about the chief executive's decision on the claim—

- (a) within 60 days after the claim is made; or
- (b) if the occupier gave the chief executive further information under section 38P(3)—within 60 days after receiving the further information.

(7) The chief executive's failure to give the notice is taken to be a decision by the chief executive to refuse to grant the claim at the end of the relevant 60 days.

²² *Freedom of Information Act 1992*, section 45 (Matter relating to trade secrets, business affairs and research)

Division 3—Giving information to Commonwealth**Chief executive to give information to Commonwealth**

38R.(1) This section applies to information given to the chief executive under section 38H by 30 September in a year.

(2) The chief executive must ensure the information is given to the Commonwealth under the NPIM by 30 November in the year.

Division 4—Enforcement provisions**Noncompliance with reporting requirement**

38S.(1) The occupier of a reporting facility must comply with the occupier's reporting requirement, unless the occupier has a reasonable excuse for not complying with it.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply to the occupier's reporting requirement—

- (a) for the period 1 July 1998 to 30 June 2000; and
- (b) for substances mentioned in the NPIM, schedule A, table 2 and not mentioned in that schedule, table 1—for the period 1 July 2000 to 30 June 2001.

Minister may name occupier in report to council

38T.(1) This section applies to the occupier of a facility who the Minister is satisfied has failed to comply with section 38S.

(2) If the Minister is satisfied it is appropriate in the circumstances, the Minister may, in the Minister's report to the council under the *National Environment Protection Council (Queensland) Act 1994*, section 23, name the occupier as a person who the Minister is satisfied has failed to comply with section 38S.

(3) In deciding whether it is appropriate in the circumstances to name an occupier in the report, the Minister must have regard to the following

relevant matters—

- (a) any mitigating or aggravating circumstances;
- (b) whether the occupier has previously failed to comply with the section and any action taken against the occupier for the noncompliance;
- (c) whether naming the occupier would be unreasonably harsh or oppressive.

(4) Before naming the occupier in the report, the Minister must give the occupier a written notice stating the following—

- (a) that the Minister proposes naming the occupier in the report as a person who the Minister is satisfied has failed to comply with section 38S;
- (b) the grounds for the proposed action;
- (c) that the occupier may make, within a stated period (the “**show cause period**”) written representations to show why the proposed action should not be taken.

(5) The show cause period must end not less than 28 days after the notice is given to the occupier.

(6) The Minister must consider the written representations, if any, made by the occupier during the show cause period.

(7) If, after considering the representations, the Minister still believes it is appropriate to name the person in the report, the Minister may do so.

(8) The Minister must give the occupier written notice of the decision stating the following—

- (a) that the Minister has decided to name the occupier in the report as a person who the Minister is satisfied has failed to comply with section 38S, and the reasons for the decision;
- (b) that the occupier may, within 30 days after receiving the notice, appeal against the Minister’s decision to name the occupier in the report.

(9) In this section—

“**council**” means the National Environment Protection Council under the *National Environment Protection Council (Queensland) Act 1994*.

Division 5—Miscellaneous

Industry handbooks

38U. A person may, free of charge, inspect or obtain a copy of an industry handbook at the department’s head office²³ when it is open to the public.

PART 4—ADMINISTRATION

Division 1—Devolutions

Devolution of powers—environmentally relevant activities

39.(1) The administration and enforcement of the Act in relation to an environmentally relevant activity mentioned in the following items of schedule 1 are devolved to the local government for the area where the activity is, or is to be, carried out—

- items 4, 11(a), 14, 20(a), 22(a), 23, 24, 25(a) and (b), 26 to 28, 38, 39, 43, 47, 51, 52, 59, 62, 65(a), 68 to 70, 73 and 76(a) and (b).

(2) However, the administration and enforcement of the Act in relation to an activity carried out, or to be carried out, at a place in a local government area is not devolved to the local government for the area if—

- (a) the activity includes carrying out another activity at the same place; and

²³ The department’s head office is at 160 Ann Street, Brisbane.

(b) the administration and enforcement of the Act for the other activity is not devolved to the local government.

(3) Also, subsection (1) does not apply to the following—

(a) an activity carried out, or to be carried out, by a local government or the State;

(b) an itinerant activity carried out, or to be carried out, by a person in more than 1 local government area.

(4) To remove any doubt, it is declared that the administration and enforcement of parts 3 and 3A are not devolved to a local government, regardless of whether an activity dealt with in the parts is an environmentally relevant activity.

Devolution of powers—other activities

40. The administration and enforcement of the Act in relation to an activity that—

(a) would, apart from section 4(2), be an environmentally relevant activity; and

(b) would have been devolved to local government under section 39;

are devolved to the local government for the area where the activity is carried out.

Devolution of Act includes statutory instruments under Act

40A. To remove any doubt, it is declared that the devolution, under section 39(1) or section 40, of the administration and enforcement of the Act to a local government in relation to an activity includes the administration and enforcement of statutory instruments made under the Act in relation to the activity.²⁴

²⁴ Under the *Acts Interpretation Act 1954*, section 7 and the *Statutory Instruments Act 1992*, section 14, the reference to ‘the Act’ includes a reference to a statutory instrument under the Act, including, for example, an environmental protection policy.

Devolution of powers—residential land

40B.(1) The administration and enforcement of part 2A in relation to any emission from residential land is devolved to the local government for the area where the land is situated.

(2) In this section—

“relevant building” means—

- (a) a class 1, 3 or 10 building under the Building Code of Australia; or
- (b) a class 2 building under the code if the building has less than 10 storeys.²⁵

“residential land” means—

- (a) the part of a lot of land on which a relevant building is constructed and any other part of the lot that—
 - (i) is adjacent to the building; and
 - (ii) has an area of no more than 1 000 m²; or
- (b) vacant land not used for agriculture on which a relevant building may lawfully be constructed.

Division 2—Integrated environmental management systems**Application of division**

41. This division applies if—

- (a) an application is made to carry out an itinerant activity in more than 1 local government area; or
- (b) a single application is made for an environmental authority for different activities to be carried out by the applicant or activities to be carried out by the applicant at different places.²⁶

²⁵ For classes of building under the Building Code of Australia, see appendix C (Classification of Buildings and Structures), paragraph C3 (Classifications).

²⁶ See section 61 (Single applications and environmental authorities) of the Act.

Integrated environmental management system

42.(1) The application must be accompanied by a submission detailing how the applicant proposes to manage the environmental impacts of the carrying out of the activities (the “**integrated environmental management system**”).

(2) The integrated environmental management system must address the following matters about the carrying out of the activities—

- (a) the monitoring of releases of contaminants into the environment and an environmental assessment of the releases;
- (b) staff training and awareness of environmental issues;
- (c) the conduct of environmental and energy audits;
- (d) waste prevention, treatment and disposal;
- (e) a program for continuous improvement;
- (f) reporting arrangements on the effectiveness of the environmental management of the activities.

Standard criteria for environmental authority for activities

43. For the definition “standard criteria”, paragraph (j), in schedule 4 of the Act, the integrated environmental management system is a prescribed matter for the environmental authority for the activities.

*Division 3—Fees***Fees—general**

44.(1) Fees payable under the Act for or in relation to an environmental authority (other than annual licence fees) or development application are in schedule 6.²⁷

²⁷ Under section 50, application may be made to the administering authority for it to waive, wholly or partially, application and annual licence fees.

(2) However, if the local government to which a fee is payable for a matter mentioned in schedule 6, part 1 has made a resolution or local law prescribing a lower fee for the matter, the fee payable is the prescribed fee.

(3) Also, the application fee for an approval in schedule 6, item 1, is not payable for an application to explore for or mine minerals under a mining claim or prospecting permit granted under the *Mineral Resources Act 1989*.

Application fee for environmental authority not payable if prior application for development approval made

44A.(1) This section applies if—

- (a) before a person starts carrying out an environmentally relevant activity, the person applies for a development approval for development for the activity; and
- (b) before approval of the development application, the person applies for an environmental authority to carry out the activity.

(2) The application fee payable under this regulation for the environmental authority is not payable.

Fees for contaminated land

44B. The fees payable for contaminated land are in schedule 6, part 2.

Refund of fees

45.(1) If an administering authority refuses an application for a licence, the authority must refund to the applicant the annual licence fee component of the application fee paid by the applicant.

(2) The refund must accompany the administering authority's notice of refusal of the application given to the applicant.

Annual licence fees for non-devolved activities

46. The annual licence fee for a non-devolved activity is set out opposite the activity in schedule 1, column 3.

Annual licence fees for devolved activities

47. The annual licence fee for a devolved activity is—

- (a) if the local government to which the fee is payable has made a resolution or local law prescribing the annual licence fee for the activity—the prescribed fee; or
- (b) if paragraph (a) does not apply—the fee set out opposite the activity in schedule 1, column 3.

Annual licence fees for single licences, Act—s 61

48.(1) If an administering authority issues 1 licence for 2 or more environmentally relevant activities, the annual licence fee is the higher or highest of the fees for the activities under the licence.

(2) To remove any doubt, it is declared that subsection (1) applies to devolved and non-devolved activities.

Application for waiver of application and annual licence fees

49.(1) A person may apply to the administering authority for it to waive, wholly or partially, payment by the person of the licence application fee or annual licence fee for an environmentally relevant activity.

(2) The application may only be made—

- (a) for a waiver of an amount of the licence application fee—when the application for the licence is made; or
- (b) for a waiver of an amount of the annual licence fee—when giving an annual return under section 68 of the Act.

(3) If the application is made under subsection (2)(a), the annual licence fee component of the application fee is not required to accompany the application.

(4) For section 60G(2) of the Act, an application for the waiver of an application fee is a prescribed circumstance.

(5) In addition, for section 68(1)(b) of the Act, an application for the waiver of an annual licence fee is a prescribed circumstance.

Criteria for deciding application for waiver of fees

50.(1) The administering authority may waive payment of an amount of a fee only if it is satisfied—

- (a) payment of the amount would cause the person financial hardship; or
- (b) the person holds a concurrent authority for the activity; or
- (c) the risk of material or serious environmental harm from the activity is significantly smaller than the risk associated with most other activities of its type; or
- (d) the risk of environmental harm or environmental nuisance from the activity is insignificant.

(2) In deciding whether to waive payment under subsection (1)(b), the administering authority must consider the extent to which, compared to the *Environmental Protection Act 1994*—

- (a) the activity's effects on environmental values were considered in deciding whether to issue the concurrent authority; and
- (b) the activity is controlled under the Act under which the concurrent authority was issued.

(3) In deciding whether to waive payment under subsection (1)(c) or (d), the administering authority must consider the following—

- (a) the matters it must consider if it were deciding whether to grant an application for the licence;²⁸
- (b) any relevant approved code of practice;
- (c) any relevant cleaner production techniques;
- (d) any relevant waste minimisation practices;
- (e) whether the activity is, or will be, carried out under an environmental management program;
- (f) any contingency plans to manage abnormal or emergency situations that may arise in carrying out the activity.

²⁸ See section 44 (Criteria for deciding application) of the Act.

(4) Also, the administering authority may waive payment of an amount of a fee only if it is satisfied the activity is being, or will be, carried out in a way that complies with the licence.

(5) In this section—

“**concurrent authority**”, for an activity, means an authority (however described) issued under another Act to carry out the activity after a consideration of the activity’s effects on 1 or more environmental values.

Effect of decision on application for waiver of fee

51.(1) If, on an application for waiver of an amount of a fee, the administering authority waives payment of an amount paid by the applicant, it must repay the amount to the applicant.

(2) If, on an application for waiver of an amount of a licence application fee, the administering authority refuses the application for the fee to be waived or waives the payment partially, the applicant must pay the outstanding amount of the fee before the licence is issued.

(3) If, on application for waiver of an annual licence fee, the administering authority refuses the application for the fee to be waived or waives the payment partially, the administering authority must give the licensee a notice stating—

- (a) the due day for payment of the fee, or the outstanding amount of the fee; and
- (b) if the licensee fails to pay the fee, or the outstanding amount of the fee, by the due day—the licence is cancelled under section 68(4) of the Act.

Fees for environmental management programs

52.(1) The fee for an administering authority’s consideration of a draft environmental management program is the amount that—

- (a) the authority considers to be reasonable; and
- (b) is not more than the reasonable cost of deciding the application for approval of the program.

(2) The holder of an approval of an environmental management program must pay to the administering authority a fee for its assessment of the holder's annual returns and monitoring compliance with the program.

(3) The fee is the amount that—

- (a) the authority considers to be reasonable; and
- (b) is not more than the reasonable cost of the assessment and monitoring.

Division 4—Registers

Register of licences

53. An administering authority must record the industry code for the activity carried out under each licence in its register of licences.²⁹

Register of approvals

54. An administering authority must record the industry code for the activity carried out under each approval in its register of approvals.³⁰

Register of environmental reports

55. An administering authority must record the following details in its register of environmental reports for each environmental evaluation conducted or commissioned by it—

- (a) recipient's name;
- (b) type of the evaluation;
- (c) date of issue of the notice requiring the evaluation;
- (d) if it is an evaluation of an activity the recipient has carried out, is carrying out or is proposing to carry out—
 - (i) type of activity; and

²⁹ Under sections 45 and 47 of the Act, licences are inserted in the register.

³⁰ Under section 45 of the Act, approvals are inserted in the register.

- (ii) if the activity is an environmentally relevant activity—the environmental authority number for the activity; and
 - (iii) industry code for the activity; and
 - (iv) address or description of the place where the activity has been carried out, is being carried out or is proposed to be carried out;
- (e) if it is an evaluation of an event—its nature and where it happened;
 - (f) name of auditor or investigator;
 - (g) date of submission of the report;
 - (h) authority's decision on the report;
 - (i) action taken by authority after deciding whether or not to accept the report.

Register of monitoring program results

56. An administering authority must record the following details in its register of results of monitoring programs for each program carried out under the Act—

- (a) name of person carrying out the activity to which the program relates;
- (b) type of the activity;
- (c) if the activity is an environmentally relevant activity—the environmental authority number for the activity;
- (d) requirement for the program;
- (e) monitoring requirements of the program;
- (f) name of person carrying out the program;
- (g) period covered by the program;
- (h) action taken by the authority because of results of the program.

Register of environmental management programs

57.(1) An administering authority must record the following details in its register of environmental management programs for each program—

- (a) name of person or public authority submitting or required to submit program;
- (b) type of activity the recipient has carried out, is carrying out or is proposing to carry out for which the program is required or submitted;
- (c) if the activity is an environmentally relevant activity—the environmental authority number for the activity;
- (d) industry code for the activity;
- (e) address or description of the place where the activity has been carried out, is being carried out or is proposed to be carried out;
- (f) requirement for the program;
- (g) aim of the program;
- (h) matters to be addressed by the program;
- (i) period over which the program is to be carried out;
- (j) date of submission of the program;
- (k) date of issue of certificate of approval of the program;
- (l) compliance or noncompliance with the program.

(2) Also, if, under the certificate of approval, it is a condition that the certificate holder prepare a public statement about the holder's environmental management of the activity, the administering authority must insert a copy of the statement in the register.

Register of environmental protection orders

58. An administering authority must record the following details in its register of environmental protection orders for each order issued by it—

- (a) recipient's name;
- (b) type of activity to which the order relates;

- (c) if the activity is an environmentally relevant activity—the environmental authority number for the activity;
- (d) industry code for the activity;
- (e) address or description of the place where the activity has been carried out, is being carried out or is proposed to be carried out;
- (f) ground for issuing, and requirements under, the order;³¹
- (g) date of issue of the order;
- (h) compliance or noncompliance with order.

Register of authorised persons

59. An administering authority must record details of any limitations stated in an authorised person's instrument of appointment in its register of authorised persons.

Register of approved codes of practice

60.(1) The administering authority must, for its administration under the Act, keep a register of approved codes of practice.

(2) The administering authority must insert in the register—

- (a) a copy of each approved code of practice; and
- (b) a copy of the gazette notice by which the code was approved.

Environmental management register and contaminated land register

60A. If the administering authority records particulars of land in the environmental management register or contaminated land register, the particulars recorded must include the real property description of the land.

³¹ Section 109 of the Act states when an environmental protection order may be issued.

Division 5—General

Approved training courses and qualified persons

61.(1) The chief executive may, by gazette notice, approve a course provided by a stated entity (an “**approved training course**”) for training people to engage in either of the following activities—

- (a) installing, commissioning, servicing or decommissioning a controlled article;
- (b) handling or using a controlled substance.

(2) A person who successfully completes an approved training course for an activity is a “**qualified person**” for the activity.

(3) Also, a qualified person who successfully completes an approved training course for training people to engage in an activity involving handling or using a CFC is a qualified person to engage in the activity involving handling or using a HCFC.

(4) In addition, a qualified person who successfully completes an approved training course for training people to install, commission, service or decommission a commercial air conditioner using a CFC in its operation is a qualified person to install, commission, service or decommission a domestic air conditioner using a HCFC in its operation.

Review of decisions and appeal

62.(1) Chapter 6, part 3³² of the Act applies to the following decisions—

- (a) a decision of the chief executive to—
 - (i) refuse an application for a certificate of approval; or
 - (ii) impose conditions on a certificate of approval; or
 - (iii) cancel a certificate of approval;
- (b) a decision of the administering authority to refuse to waive the payment of a licence application fee or annual licence fee;
- (c) a decision of the chief executive, under part 3A, to—

³² Chapter 6, part 3 of the Act deals with review of, and appeals against, decisions.

- (i) request information for assessing the integrity of emission data given by an occupier of a reporting facility; or
 - (ii) request information to decide an application for approval of an estimation technique; or
 - (iii) refuse to approve an estimation technique, or approve it subject to a modification; or
 - (iv) request information to decide a claim for an exemption on the ground of commercial confidentiality; or
 - (v) refuse to grant a claim for exemption on the ground of commercial confidentiality;
- (d) a decision of the chief executive, under part 3A, about an annual reporting period for a reporting facility;
 - (e) a decision of the administering authority to reject a nuisance complaint;
 - (f) a decision of the administering authority to give a nuisance abatement notice.

(1A) Chapter 6, part 3, divisions 1 and 3 of the Act apply to a decision of the Minister, under part 3A, to name an occupier of a reporting facility in the Minister's report to the Council as if the Minister's decision were a review decision and the occupier were a dissatisfied person.

(2) For subsection (1) or (1A), the dissatisfied person is—

- (a) for a decision mentioned in subsection (1)(a)(i) or (1)(b)—the applicant; or
- (b) for a decision mentioned in subsection (1)(a)(ii) or (iii)—the holder of the certificate of approval; or
- (c) for a decision mentioned in subsection (1)(c) or (d) or (1A)—the occupier of the facility concerned; or
- (d) for a decision mentioned in subsection (1)(e)—each person who made the complaint; or
- (e) for a decision mentioned in subsection (1)(f)—each person to whom the nuisance abatement notice is given.

Authorised persons—Act, s 128(1)(c)

63. Employees of a local government who are appointed as authorised persons by the local government's chief executive officer are an approved class of persons for section 128 of the Act.

PART 4A—MISCELLANEOUS**Development for sch 8, pt 1, s 6 of the Integrated Planning Act**

63A. For schedule 8, part 1, section 6 of the Integrated Planning Act, a material change of use of premises for an environmentally relevant activity is prescribed as development for carrying out the activity.

Development for ch 3, pt 4B, div 3 of the Act

63B. Carrying out works for construction or alteration of premises, or for the installation or alteration of plant or equipment in premises, for carrying out a level 1 environmentally relevant activity is development for chapter 3, part 4B, division 3 of the Act if the construction, alteration or installation will result in an increase of 10% or more in the release of contaminant into the environment.

Prescribed organisations in relation to site investigation

63C. The organisations in schedule 8A are prescribed for sections 118O, 118ZC and 118ZR of the Act.³³

³³ Section 118O of the Act provides that a site investigation must be conducted by a person who is a member of an organisation prescribed under a regulation. Section 118ZC of the Act provides that a validation report must be prepared by a person who is a member of an organisation prescribed under a regulation. Section 118ZR of the Act provides that a site management plan must be prepared by a person who is a member of an organisation prescribed under a regulation.

Postponed commencement of uncommenced provisions—Environmental and Other Legislation Amendment Act

63D.(1) In this section—

“**postponed law**” means the *Environmental and Other Legislation Amendment Act 1997*, section 20.

(2) The period before automatic commencement, under the *Acts Interpretation Act 1954*, section 15DA(2), of the postponed law is extended to the end of 5 December 1999.³⁴

PART 5—REPEAL AND TRANSITIONAL PROVISIONS*Division 1—Repeal***Repeal of Environmental Protection (Interim) Regulation 1995**

64. The *Environmental Protection (Interim) Regulation 1995* is repealed.

*Division 2—Definitions***Definitions for pt 5**

65. In this part—

“**annual licence fee**”, for an activity, includes the annual licence fee component of the application fee for carrying out the activity.

“**affected person**”, for division 5, means a person who, immediately before the commencement of the division, held—

- (a) a licence to carry out a prescribed activity; or
- (b) a licence to carry out an activity—

³⁴ This postponed law now automatically commences on 6 December 1999.

- (i) to which division 4, subdivision 2, applies; and
- (ii) that is a prescribed activity for division 5.

“prescribed activity”, for division 5, means an activity to which the division applies.

“repealed regulation” means the *Environmental Protection (Interim) Regulation 1995*.

Division 3—Transitional provision about unchanged environmentally relevant activities

Application of div 3

66. This division applies to an environmentally relevant activity prescribed under 1 of the following items of schedule 1 of the repealed regulation—

- item 4, 5, 8, 15 to 18, 20 to 22, 25, 26, 29 to 31, 33 to 38, 41, 42, 44, 46 to 48, 52 to 59, 61, 62, 64, 69 or 82.

Applications for environmental authorities

67. An application for an environmental authority, or to amend or transfer an environmental authority, to carry out an environmentally relevant activity to which this division applies is taken to be an application for, or to amend or transfer, an environmental authority to carry out the equivalent activity prescribed under schedule 1 of this regulation.

Certain environmental authorities continued in force

68.(1) This section applies if, immediately before the commencement of this section, a person held an environmental authority to carry out an environmentally relevant activity to which this division applies.

(2) The person’s environmental authority to carry out the activity is taken to have been issued under this regulation.

Division 4—Transitional provisions about changes in environmentally relevant activities from 1 March 1998

Subdivision 1—Transitional provisions about applications for, and amendment and transfer of, environmental authorities

Application of sdiv 1

69. This subdivision applies to an activity that, under the repealed regulation was an environmentally relevant activity but is not an environmentally relevant activity under this regulation.

Applications for environmental authorities

70.(1) This section applies if—

- (a) under the repealed regulation, a person made application for an environmental authority to carry out the activity; and
- (b) immediately before the commencement of this section, the administering authority—
 - (i) had not decided the application; or
 - (ii) had decided the application but had not issued an environmental authority to the person; or
 - (iii) had decided the application and issued an environmental authority to the person effective from a date on or after the commencement.

(2) As soon as practicable after the commencement of this section, the administering authority must—

- (a) give written notice to the person stating that, under this regulation, the activity is no longer an environmentally relevant activity; and
- (b) refund to the person—
 - (i) if the application was for a licence—the annual licence fee component of the application fee and, if the application had not been decided, the amount of the remaining part of the application fee the administering authority considers is

reasonable in the circumstances having regard to the authority's reasonable costs in its consideration of the application; or

- (ii) if the application was for an approval and had not been decided—the amount of the application fee the administering authority considers is reasonable in the circumstances having regard to the authority's reasonable costs in its consideration of the application.

(3) A decision about the amount of the refund is a decision to which chapter 6, part 3³⁵ of the Act applies.

(4) For subsection (3)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state that the person may apply for a review of, or appeal against, the decision within 14 days after receipt of the notice.

Undecided applications for amendment or transfer of licences

71.(1) This section applies if—

- (a) under the repealed regulation, a person made application for an amendment or transfer of the person's licence to carry out the activity; and
- (b) immediately before the commencement, the administering authority had not decided the application.

(2) As soon as practicable after the commencement of this section, the administering authority must—

- (a) give written notice to the person stating that, under this regulation, the activity is no longer an environmentally relevant activity; and
- (b) refund to the person the amount of the application fee the administering authority considers is reasonable in the

³⁵ Chapter 6, part 3 of the Act deals with reviews of, and appeals against, decisions.

circumstances having regard to the authority's reasonable costs in its consideration of the application.

(3) A decision about the amount of the refund is a decision to which chapter 6, part 3 of the Act applies.

(4) For subsection (3)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state that the person may apply for a review of, or appeal against, the decision within 14 days after receipt of the notice.

Subdivision 2—Special transitional provisions for certain environmentally relevant activities

Application of sdiv 2

72. This subdivision applies if, immediately before the commencement of this section, a person held an environmental authority to carry out an environmentally relevant activity prescribed under 1 of the following items of schedule 1 of the repealed regulation—

- item 1 to 3, 6, 7, 9 to 14, 19, 23, 24, 28, 32, 39, 40, 43, 45, 49 to 51, 60, 63, 65 to 68, 70 to 81 or 83 to 85.

Person taken to have authority to carry out activity

73.(1) The person is taken to have an environmental authority to carry out the person's activity subject to the conditions stated in the environmental authority issued under the repealed regulation.

(2) Also, if, under section 74, the administering authority gives the person a notice stating it has decided the environmental authority required by the person to carry out the person's activity is an approval, the approval is taken to continue in force until 28 February 2001.

(3) However, if, under section 74, the administering authority gives the person a notice stating it has decided the person no longer needs an environmental authority to carry out the person's activity, subsection (1) ceases to apply to the person on the giving of the notice.

Administering authority to decide whether person's activity is environmentally relevant activity

74.(1) As soon as practicable after the commencement of this section, the administering authority must—

- (a) decide whether the person's activity is an environmentally relevant activity under this regulation and, if so, the item of schedule 1 applicable to the person's activity; and
- (b) give written notice to the person stating—
 - (i) the person no longer needs an environmental authority to carry out the person's activity; or
 - (ii) the person needs an approval instead of a licence to carry out the person's activity; or
 - (iii) the person still needs an environmental authority to carry out the person's activity even though the person's activity is no longer the environmentally relevant activity described in the person's environmental authority.

Examples of paragraph (b)(i)—

1. Under schedule 1, items 6 and 7, a licence is no longer required to manufacture, process, mix or store some chemicals because of the definition of "chemical" in this regulation.

2. Under schedule 1, item 15, a licence is no longer required to operate a standard sewage treatment works having a peak design capacity to treat sewage of less than 21 average persons because of a change to the lower threshold applying to the activity.

3. Under schedule 1, item 81, a licence is no longer required to recycle or reprocess regulated waste if the waste was recycled or reprocessed because of additional exemptions now applying to the activity.

Examples of paragraph (b)(ii)—

1. Under schedule 1, item 10, an approval is now required to manufacture waterbased paint in works having a design capacity of more than 10 000 l per year instead of a licence because of the categories of the activity of manufacturing paint.

2. Under schedule 1, item 50, an approval is now required for a rendering operation in works having a design production capacity of more than 10 t but less than 300 t per year instead of a licence because of a change in the thresholds for the activity of rendering operations.

Environmental Protection Regulation 1998

Examples of paragraph (b)(iii)—

1. Under schedule 1, item 2, a person carrying out the activity of cattle feedlotting may still need a licence based on new thresholds prescribed for the activity. Also, a person may still need a licence because of the change in the unit of measurement for carrying out the activity.

2. Under schedule 1, item 51, plastic manufacturing is still a level 1 environmentally relevant activity for which a licence is required but categories based on design production capacity now apply to the activity.

(2) Also, if the authority decides the person needs an environmental authority to carry out the person's activity, the notice must—

- (a) state the item of schedule 1 applicable to the person's activity; and
- (b) state whether the environmental authority needed is a licence or approval; and
- (c) state the person is, under this subdivision, taken to have an environmental authority to carry out the activity; and
- (d) if the environmental authority needed is a licence—explain the procedures for amending the person's environmental authority under section 50³⁶ of the Act; and
- (e) if the environmental authority needed is an approval—
 - (i) state the approval is taken to continue in force until 28 February 2001; and
 - (ii) state that if the person wishes to continue to carry out the activity after 28 February 2001, the person should apply for a new approval to carry out the activity.

(3) In addition, if, under section 75, the person is entitled to a refund of an amount of annual licence fee for the activity paid by the person, the notice must state the amount of the refund decided by the administering authority.

(4) In making a decision under subsection (1), the authority must have regard to the following matters—

- (a) the person's application for the environmental authority to carry out the person's activity;

³⁶ Under section 50 of the Act, the administering authority may amend a licence at any time if the licensee agrees to the amendment or if the authority considers it necessary or desirable in certain circumstances.

- (b) the information given to the authority in support of the application;
- (c) any annual returns given to the authority under section 68 of the Act;
- (d) other relevant information, including, for example, information given under section 134³⁷ of the Act.

(5) A decision under subsection (1) and a decision about the amount of the refund is a decision to which chapter 6, part 3³⁸ of the Act applies.

(6) For subsection (5)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state that the person may apply for a review of, or appeal against, the decision within 14 days after receipt of the notice.

Annual licence fee—continuing level 1 environmentally relevant activities

75.(1) This section applies if—

- (a) under the repealed regulation, the person's activity was a level 1 environmentally relevant activity for which the person had paid an amount of the annual licence fee for the activity for a period ending after the commencement of this section; and
- (b) the authority decides the person's activity is a level 1 environmentally relevant activity for which the annual licence fee prescribed under this regulation is less than the fee prescribed for the person's activity under the repealed regulation.

(2) As soon as practicable after the commencement of this section, the administering authority must refund to the person the amount of the annual licence fee that is reasonable in the circumstances.

³⁷ Under section 134 of the Act, the administering authority may, by written notice, require a person to give the authority information relevant to the administration or enforcement of the Act.

³⁸ Chapter 6, part 3 of the Act deals with reviews of, and appeals against, decisions.

(3) In deciding the amount of the refund, the administering authority must have regard to—

- (a) the amount of the fee payable under the repealed regulation; and
- (b) the amount of the fee paid; and
- (c) the amount of the fee (if any) payable under this regulation; and
- (d) the period elapsed since the later of the following—
 - (i) the issue of the licence;
 - (ii) the last anniversary day for the licence under section 68 of the Act; and
- (e) the period before the next anniversary day for the licence under section 68 of the Act.

(4) A decision about the amount of the refund is a decision to which chapter 6, part 3³⁹ of the Act applies.

(5) For subsection (4)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the administering authority must give the person a notice stating that the person may apply for a review of, or appeal against, the decision within 14 days after receipt of the notice.

Annual licence fee—other environmentally relevant activities

76.(1) This section applies if—

- (a) under the repealed regulation, the person's activity was a level 1 environmentally relevant activity for which the person had paid an amount of the annual licence fee for the activity for a period ending after the commencement of this section; and
- (b) the authority decides the person's activity—
 - (i) is no longer an environmentally relevant activity; or
 - (ii) is a level 2 environmentally relevant activity.

³⁹ Chapter 6, part 3 of the Act deals with reviews of, and appeals against, decisions.

(2) As soon as practicable after the commencement of this section, the administering authority must refund to the person the amount worked out using the following formula—

$$\mathbf{AR} = \frac{\mathbf{FP} \times \mathbf{D}}{365}$$

where—

AR is the amount of refund

FP is the amount of the annual licence fee paid by the person

D is the number of days from 1 March 1998 to the next anniversary day for the licence.

Administering authority to endorse registers

77.(1) This section applies if, under section 74, the authority—

- (a) decides the person's activity is no longer an environmentally relevant activity; or
- (b) if the person's activity was a level 1 environmentally relevant activity—decides the person's activity is a level 2 environmentally relevant activity.

(2) For giving effect to this subdivision, the administering authority must—

- (a) make an endorsement on the person's environmental authority about the effect of this subdivision; and
- (b) if this section applies to the person under subsection (1)(b)—record details of the person's approval in the register of approvals.⁴⁰

⁴⁰ After issuing an environmental authority, the authority is required under section 45 of the Act to insert the authority in the appropriate register kept by it under section 213 of the Act.

Division 5—Transitional provisions about changes to environmentally relevant activities from 1 July 1998

Application of div 5

78. This division applies in relation to an activity that, under section 4(3), becomes a level 2 environmentally relevant activity on 1 July 1998.

Affected persons taken to have approval to carry out activity

79.(1) An affected person is taken to have an approval to carry out the person's activity subject to the conditions stated in the person's licence.

(2) The approval is taken to continue in force until 30 June 2001.

(3) For giving effect to subsections (1) and (2), the administering authority must make an endorsement on the person's licence about the effect of the subsections and record details of the person's approval in the register of approvals.⁴¹

Administering authority to give affected person notice about change

80.(1) As soon as practicable after the commencement of this section, the administering authority must—

- (a) give written notice to the affected person stating that—
 - (i) from 1 July 1998, the activity is a level 2 environmentally relevant activity and the person is taken to have an approval to carry out the activity, subject to the conditions stated in the licence, until 30 June 2001; and
 - (ii) if the person wishes to continue to carry out the activity after 30 June 2001, the person should apply for a new approval to carry out the prescribed activity; and
- (b) if the person had paid an amount of the annual licence fee for the person's activity for a period ending after the commencement of

⁴¹ After issuing an environmental authority, the authority is required under section 45 of the Act to insert the authority in the appropriate register kept by it under section 213 of the Act.

this section—refund to the person the amount worked out using the following formula—

$$\mathbf{AR} = \frac{\mathbf{FP} \times \mathbf{D}}{365}$$

where—

AR is the amount of refund

FP is the amount of the annual licence fee paid by the person

D is the number of days from 1 July 1998 to the next anniversary day for the licence.

(2) Despite section 44, no application fee is payable by the person for an application made under subsection (1)(a)(ii) for the approval to carry out the prescribed activity.

Licences for decided applications issued for prescribed activities effective on or after 1 July 1998

81.(1) This section applies if, before the commencement of this section—

- (a) a person made application for a licence to carry out a prescribed activity; and
- (b) the administering authority had decided the application and issued a licence to the person effective from a date on or after the commencement (the “**effective date**”).

(2) The person is taken to have an approval to carry out the activity subject to the conditions stated in the licence.

(3) The approval takes effect from the effective date and is taken to continue in force until 30 June 2001.

(4) As soon as practicable after the commencement, the administering authority must—

- (a) give written notice to the person stating that—
 - (i) from 1 July 1998, the activity is a level 2 environmentally relevant activity and the person is taken to have an approval to carry out the activity, subject to the conditions stated in the licence, from the effective date until 30 June 2001; and

- (ii) if the person wishes to continue to carry out the activity after 30 June 2001, the person should apply for a new approval to carry out the activity; and
- (b) if the person paid the authority the annual licence fee component of the application fee—refund the amount to the person.

(5) For giving effect to subsections (2) and (3), the administering authority must make an endorsement on the person's licence about the effect of the subsections and record details of the person's approval in the register of approvals.⁴²

Undecided applications for amendment or transfer of licences for prescribed activities

82.(1) This section applies if—

- (a) before the commencement of this section, a person made application for an amendment or transfer of the person's licence to carry out a prescribed activity; and
- (b) immediately before the commencement, the administering authority had not decided the application.

(2) As soon as practicable after the commencement of this section, the administering authority must refund to the person the amount of the application fee the administering authority considers is reasonable in the circumstances having regard to the authority's reasonable costs in its consideration of the application.

(3) A decision about the amount of the refund is a decision to which chapter 6, part 3⁴³ of the Act applies.

(4) For subsection (3)—

- (a) the person is the dissatisfied person for the decision; and
- (b) the notice must state that the person may apply for a review of, or

⁴² After issuing an environmental authority, the authority is required under section 45 of the Act to insert the authority in the appropriate register kept by it under section 213 of the Act.

⁴³ Chapter 6, part 3 of the Act deals with reviews of, and appeals against, decisions.

appeal against, the decision within 14 days after receipt of the notice.

Division 6—Transitional provision for part 2A and Environmental Protection (Noise) Amendment Policy (No. 1) 1999

Noise policy applies to existing noise complaints

82A.(1) This section applies if, immediately before this section commenced, a complaint was made under the noise policy, section 20.

(2) The noise policy, part 4 and schedule 4, continue to apply to the noise the subject of the complaint.

(3) However, subsection (2) does not prevent the person who made the complaint from making a nuisance complaint about noise made on or from the commencement.

Division 7—Miscellaneous transitional provisions

Subdivision 1—Transitional provision about environmentally relevant activities

Prescribed circumstance for Act, s 50

83. The application of this division or division 3, 4 or 5 to an environmental authority or activity is prescribed as a circumstance for section 50(1)(b)(viii)⁴⁴ of the Act.

⁴⁴ Under section 50(1)(b)(viii) of the Act, the administering authority may amend a licence at any time if the authority considers it necessary or desirable in circumstances by regulation.

Subdivision 2—Other transitional provisions**Applications, approvals and notices under repealed regulation**

84. An application, decision, representation, certificate of approval or notice made, granted, issued or given under part 3 or 4 of the repealed regulation, and in force immediately before the commencement of this section, is taken to have been made, granted, issued or given under this regulation.

Approved training courses

85. An approved training course under the repealed regulation is taken to be an approved training course under this regulation.

SCHEDULE 1

**LEVELS 1 AND 2 ENVIRONMENTALLY RELEVANT
ACTIVITIES AND LICENCE FEES**

sections 4, 46 and 47

Environmentally relevant activity	Level	Annual licence fee \$
Aquacultural and agricultural activities		
1. Aquaculture—cultivating or holding marine, estuarine or freshwater organisms (other than molluscs) in ponds or enclosures in waters—		
(a) if the total area of the ponds or enclosures is 5 ha or more and no wastes are released to waters	2	—
(b) if the total area of the ponds or enclosures is less than 5 ha and wastes are released to waters	1	500.00
(c) if the total area of the ponds or enclosures is 5 ha or more but less than 10 ha and wastes are released to waters	1	1 000.00
(d) if the total area of the ponds or enclosures is 10 ha or more but less than 20 ha and wastes are released to waters	1	2 000.00
(e) if the total area of the ponds or enclosures is 20 ha or more and wastes are released to waters	1	3 300.00
2. Cattle feedlotting—feeding cattle prepared or manufactured stockfeed at levels greater than necessary for survival in a confined area having a capacity of—		
(a) 150 or less standard cattle units	2	—

SCHEDULE 1 (continued)

(b) more than 150, but less than 500, standard cattle units	1	500.00
(c) 500 or more, but less than 1 000 standard cattle units	1	625.00
(d) 1 000 or more standard cattle units	1	2 000.00
3. Pig farming—farming pigs in a piggery having a capacity of—		
(a) less than 5 000 standard pig units	2	—
(b) 5 000 standard pig units or more	1	500.00
4. Poultry farming—farming poultry, including egg and fertile egg production, the rearing of hatchlings, starter pullets, layers and poultry for meat in facilities having a total holding capacity of—		
(a) more than 1 000 birds but less than 200 000 birds	2*	—
(b) 200 000 birds or more	1*	400.00
Chemical, coal and petroleum products activities		
5. Alcohol distilling—commercially distilling alcohol in works having a design production capacity of more than 2 500 l per year		
	1	5 540.00
6. Chemical manufacturing, processing or mixing—manufacturing or processing an inorganic chemical, organic chemical or chemical product, or mixing inorganic chemicals, organic chemicals or chemical products (other than mixing non-combustible or non-flammable chemicals or chemical products by dilution with water), in a plant or works having a design production capacity of—		
(a) 200 t or more but less than 20 000 t per year	1	4 420.00

SCHEDULE 1 (continued)

(b) 20 000 t or more but less than 100 000 t per year	1	5 200.00
(c) 100 000 or more tonnes per year	1	5 820.00
 7. Chemical storage—storing chemicals (other than crude oil, natural gas and petroleum products), including ozone depleting substances, gases or dangerous goods under the dangerous goods code in containers having a design storage volume of—		
(a) more than 10 m ³ but less than 1 000 m ³ . . .	2	—
(b) 1 000 m ³ or more	1	1 740.00
 8. Coke producing—producing, quenching, cutting, crushing or grading coke		
	1	4 260.00
 9. Gas producing—commercially producing hydrocarbon gas by any method, including the reforming of hydrocarbon gas, but not including collecting hydrocarbon gas in carrying out an activity under item 15 or 75		
	1	4 420.00
 10. Paint manufacturing—manufacturing—		
(a) organic solvent based paint in works having a design capacity of—		
(i) 10 000 l or more, but less than 1 000 000 l, per year	1	600.00
(ii) 1 000 000 l or more, but less than 100 000 000 l, per year	1	1 740.00
(iii) 100 000 000 l or more per year	1	5 200.00
(b) water based paint in works having a design capacity of more than 10 000 l per year	2	—
 11. Crude oil or petroleum product storing—storing crude oil or a petroleum product in tanks or containers having a combined total storage capacity of—		

SCHEDULE 1 (continued)

(a) 10 000 l or more but less than 500 000 l	2*	—
(b) 500 000 l or more	1	1 740.00
12. Oil refining or processing—refining or processing crude oil or shale oil in works having a design production capacity of—		
(a) less than 500 000 l per year	1	2 054.00
(b) 500 000 l or more, but less than 150 000 000 l, per year	1	5 200.00
(c) 150 000 000 l or more per year	1	20 540.00
13. Fuel gas refining or processing—refining or processing of fuel gas in works having a design production capacity at standard temperature and pressure of—		
(a) less than 200 000 000 cubic metres per year	2	—
(b) 200 000 000 cubic metres or more per year	1	20 540.00
Community infrastructure and services		
14. Crematorium—cremating human, pet or animal remains	1*	400.00
15. Sewage treatment—operating—		
(a) a standard sewage treatment works having a peak design capacity to treat sewage of 21 or more equivalent persons but less than 100 equivalent persons	1	500.00
(b) a standard sewage treatment works having a peak design capacity to treat sewage of 100 or more equivalent persons but less than 1 500 equivalent persons	1	1 500.00
(c) a standard sewage treatment works having a peak design capacity to treat sewage of 1 500 or more equivalent persons but less than 4 000 equivalent persons	1	1 980.00

SCHEDULE 1 (continued)

(d) a standard sewage treatment works having a peak design capacity to treat sewage of 4 000 or more equivalent persons but less than 10 000 equivalent persons	1	3 960.00
(e) a standard sewage treatment works having a peak design capacity to treat sewage of 10 000 or more equivalent persons but less than 50 000 equivalent persons	1	7 920.00
(f) a standard sewage treatment works having a peak design capacity to treat sewage of 50 000 or more average persons but less than 100 000 equivalent persons	1	10 140.00
(g) a standard sewage treatment works having a peak design capacity to treat sewage of 100 000 or more equivalent persons	1	15 210.00
(h) a special sewage treatment works having a peak design capacity to treat sewage of 21 or more equivalent persons	1	500.00

Electricity, fuel burning and water supply activities

16. Municipal water treatment plant—treating water for domestic use (other than treatment that only involves disinfection)	2†	—
17. Fuel burning—any process involving the use of fuel burning equipment (including, for example, a standby power generator) that is capable of burning (whether alone or in total) 500 kg or more of fuel per hour	1	3 000.00
18. Power station—generating power by consuming fuel at a rated capacity of 10 MW electrical or more—		
(a) if the fuel used is natural gas	1	4 420.00
(b) for any other fuel	1	14 940.00

SCHEDULE 1 (continued)

Extractive activities and mining

19. Dredging material—dredging material from the bed of any waters (other than dredging by a port authority of material for which a royalty or similar charge is not payable) using plant or equipment having a design capacity of—

(a) not more than 5 000 t per year	1	700.00
(b) 5 000 t or more, but less than 100 000 t, per year	1	3 960.00
(c) 100 000 t or more per year	1	4 880.00

20. Extracting rock or other material—extracting rock (other than rock mined in block or slab form for building purposes), sand (other than foundry sand), clay (other than clay used for its ceramic properties, kaolin or bentonite), gravel, loam or other material (other than gravel, loam or other material under a mining authority) from a pit or quarry using plant or equipment having a design capacity of—

(a) not more than 5 000 t per year	2*	—
(b) 5 000 t or more, but less than 100 000 t, per year	1	3 960.00
(c) 100 000 t or more per year	1	4 880.00

21. Mineral exploration or mining—exploring for or mining minerals under a mining authority . . .

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22. Screening etc. materials—screening, washing, crushing, grinding, milling, sizing or separating material extracted from the earth (other than under a mining authority) or by dredging using plant or equipment having a design capacity of—

(a) more than 50 t but less than 5 000 t per year	2*	—
(b) 5 000 t or more, but less than 100 000 t, per year	1	3 960.00
(c) 100 000 t or more per year	1	4 880.00

SCHEDULE 1 (continued)

Fabricated metal product activities

23. Abrasive blasting—commercially cleaning equipment or structures using a stream of abrasives—		
(a) if the activity is carried out at a permanent location	1*	400.00
(b) if the activity is an itinerant activity	1*	650.00
(c) if the activity is carried out at a permanent location and includes an itinerant activity . . .	1*	650.00
 24. Boiler making or engineering—commercial boiler making, electrical machine manufacturing or building or assembly of agricultural equipment, motor vehicles, trains, trams or heavy machinery	 2*†	 —
 25. Metal surface coating—commercial spray painting (other than spray painting motor vehicles), powder coating, enamelling, electroplating, anodising or galvanising in works having an annual throughput of metal products of—		
(a) less than 2 000 t	1*	450.00
(b) 2 000 t or more but less than 10 000 t	1*	600.00
(c) 10 000 t or more but less than 30 000 t	1	1 200.00
(d) 30 000 t or more	1	2 800.00
 26. Metal forming—pressing, forging, extending, extruding or rolling metal, forming metal into plate, wire or rods or fabricating sheet metal	 2*†	 —
 27. Metal recovery—commercially operating a scrap metal yard or dismantling automotive or mechanical equipment, including debonding brake or clutch components	 1*	 500.00
 28. Motor vehicle workshop—operating a workshop or mobile workshop in the course of		

SCHEDULE 1 (continued)

which motor vehicle mechanical or panel repairs are carried out in the course of a commercial or municipal enterprise (other than on a farm) or on a commercial basis	1*	500.00
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Food processing

29. Beverage production—commercially producing—

(a) any non-alcoholic beverage in works having a production output of—		
(i) 200 000 l or more, but less than 2 000 000 l, per year	1	715.00
(ii) 2 000 000 l or more, but less than 14 500 000 l, per year	1	1 430.00
(iii) 14 500 000 l or more per year	1	2 860.00
(b) any beer or other alcoholic beverage in works having a design production capacity of more than 400 000 l per year	1	4 740.00

30. Edible oil processing—commercial vegetable oil or oilseed processing in works having a design production capacity of 1 000 t or more per year .	1	3 740.00
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31. Flour milling—commercial processing of grain crops by crushing, grinding, milling, separating or sizing in works having a design production capacity of 1 000 t or more per year .	2†	—
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32. Meat processing—slaughtering animals for commercially producing meat or meat products for human consumption, or processing (other than smoking mentioned in item 35) or packaging of meat or meat products for human consumption—

(a) if an integral part of the activity involves the operation of a rendering plant with a design production capacity of more than 300 t per year—in works (other than a retail		
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SCHEDULE 1 (continued)

butcher shop) having a design production capacity of—		
(i) 1 000 t or more but less than 3 000 t per year	1	1 000.00
(ii) 3 000 t or more but less than 6 000 t per year	1	3 000.00
(iii) 6 000 t or more per year	1	6 020.00
(b) if paragraph (a) does not apply—in works (other than a retail butcher shop) having a design production capacity of—		
(i) 1 000 t or more but less than 3 000 t per year	1	875.00
(ii) 3 000 t or more but less than 6 000 t per year	1	2 600.00
(iii) 6 000 t or more per year	1	5 200.00
33. Milk processing—separating, evaporating or processing milk (other than on a farm) or manufacturing evaporated or condensed milk, cheese, butter, ice cream or other dairy product in works having a design production capacity of 200 t or more per year	1	4 100.00
34. Seafood processing—commercially processing seafood, including removing the scales, gills, intestines or shells, filleting, chilling, freezing or packaging seafood in works having a design production capacity of more than 100 t per year	1	2 840.00
35. Smoking, drying or curing works—smoking, drying or curing meat, fish or other edible products by applying heat, smoke or other dehydration method in works (other than a retail butcher shop or chicken outlet) having a design production capacity of 200 t or more per year . . .	2†	—

SCHEDULE 1 (continued)

36. Sugar milling or refining—crushing sugar cane or manufacturing sugar or sugar cane products from sugar cane (other than on a farm) .	1	10 160.00
37. Bottling or canning—bottling or canning food (other than a type of activity mentioned in items 29 to 36) in works having a design production capacity of 200 t or more per year . . .	1	4 440.00
<i>Land development and construction activities</i>		
38. <i>Land development—clearing (other than for agricultural purposes) or reclaiming land having an area of more than 20 000 m² ¹</i>	2*	—
39. <i>Constructing premises or civil engineering structures—constructing or demolishing—</i>		
(a) <i>residential premises (other than a class 1 or 2 building, containing not more than 2 dwelling units, or a class 10 building, under the Standard Building Law) or commercial or industrial premises</i>	2*	—
(b) <i>bridges, roads or other engineering structures (other than roads, bridges or other engineering structures on rural properties used for primary production, railways or road maintenance or repairs) ²</i>	2*	—
Metal products activities		
40. Metal foundry—commercially producing metal castings—		
(a) using ferrous metals in works having an average annual metal tonnage output of—		
(i) less than 20 t	2	—
(ii) 20 t or more but less than 100 t	1	300.00

¹ This provision had not commenced on or before the reprint date.

² This provision had not commenced on or before the reprint date.

SCHEDULE 1 (continued)

(iii) 100 t or more but less than 300 t	1	500.00
(iv) 300 t or more but less than 1 000 t	1	1 350.00
(v) 1 000 t or more but less than 5 000 t . . .	1	2 600.00
(vi) 5 000 t or more but less than 10 000 t . .	1	3 600.00
(vii) 10 000 t or more	1	5 400.00
(b) using non-permanent moulds and non-ferrous metals in works having an average annual metal tonnage output of—		
(i) less than 20 t	2	—
(ii) 20 t or more but less than 100 t	1	300.00
(iii) 100 t or more but less than 200 t	1	500.00
(iv) 200 t or more but less than 1 000 t	1	1 200.00
(v) 1 000 t or more but less than 5 000 t . . .	1	1 800.00
(vi) 5 000 t or more	1	2 400.00
(c) using permanent moulds and non-ferrous metals in works	2	—
41. Metal works—commercially smelting or processing ores or ore concentrates to produce metal in works having a design production capacity of—		
(a) more than 10 t but less than 100 t per year .	1	9 860.00
(b) 100 t or more per year but less than 10 000 t per year	1	12 380.00
(c) 10 000 t or more per year	1	16 340.00
42. Mineral processing—commercially processing, classification, mixing or concentration of mineral ores to produce mineral concentrates in works having a design production capacity of—		
(a) more than 1 000 t but less than 100 000 t per year	1	3 140.00
(b) more than 100 000 t per year	1	16 340.00

Miscellaneous activities

43. Animal housing—commercially operating a boarding or breeding kennel, dog pound,

SCHEDULE 1 (continued)

greyhound training facility or veterinary clinic in which animals are boarded other than overnight for treatment	2*†	—
44. Battery manufacturing—manufacturing batteries of any kind	1	1 880.00
45. Crushing, milling or grinding—processing products (other than agricultural products and materials mentioned in item 22), including, for example, uncured rubber and chemicals, by crushing or grinding or milling in works having a design production capacity of 5 000 t or more per year	2†	—
46. Mushroom growing substrate manufacturing—commercially manufacturing substrate for mushroom growing	1	400.00
47. Pet, stock or aquaculture food manufacturing—commercially manufacturing or processing pet, stock or aquaculture food (other than an abattoir, slaughter house, rendering works or animal glue or gelatine works)	1*	500.00
48. Plaster manufacturing—manufacturing or processing plaster in works having a design production capacity of 200 t or more per year . . .	1	3 000.00
49. Pulp or paper manufacturing—manufacturing pulp or paper in works having a design production capacity of more than 100 t per year	1	6 180.00
50. Rendering operation—commercially processing or extracting substances, including, for example, fat, tallow, derivatives of fat or tallow or proteinaceous matter, from animal wastes or		

SCHEDULE 1 (continued)

by-products (other than an operation using wastes solely derived from an activity mentioned in item 32(a) or 47) in works having a design production capacity of—		
(a) more than 10 t but less than 300 t per year	2	—
(b) 300 t or more per year	1	6 020.00
51. Plastic manufacturing—commercially manufacturing plastic or plastic products in works having a design production capacity of—		
(a) more than 1 t but less than 5 t per year	1*	300.00
(b) 5 t or more per year	1*	450.00
52. Printing—commercially screen printing or printing (other than photocopying and photographic printing), including advertising material, magazines, newspapers, packaging and stationery	2*†	—
53. Soil conditioner manufacturing—commercially manufacturing soil conditioners (other than spent mushroom growing substrate by a mushroom grower) by receiving and blending, storing, processing, drying or composting organic material or organic waste, including, for example, animal manures, sewage, septic sludges and domestic waste, in works having a design production capacity of 200 t or more per year	1	400.00
54. Tanning—commercially operating a tannery or works for curing animal skins or hides, or commercially finishing leather	1	4 740.00
55. Textile manufacturing—commercial carpet manufacturing, wool scouring or carbonising, cotton milling, or textile bleaching, dyeing or finishing	1	4 740.00

SCHEDULE 1 (continued)

56. Tobacco processing—processing tobacco (other than drying tobacco on a tobacco farm) or manufacturing products from tobacco or a tobacco derivative	1	3 340.00
57. Tyre manufacturing or retreading—		
(a) tyre manufacturing	1	1 800.00
(b) tyre retreading	1	500.00
Non-metallic mineral product manufacture		
58. Asbestos products manufacturing—manufacturing an asbestos product	1	800.00
59. Asphalt manufacturing—manufacturing asphalt	2*†	—
60. Cement manufacturing—manufacturing cement	1	7 620.00
61. Clay or ceramic products manufacturing—manufacturing a clay or ceramic product, including bricks, tiles, pipes, pottery goods and refractories, in works having a design production capacity of more than 200 t per year	1	4 740.00
62. Concrete batching—producing concrete or a concrete product by mixing cement, sand, rock, aggregate or other similar materials in works (including mobile works) having a design production capacity of more than 100 t per year	1*	650.00
63. Glass or glass fibre manufacturing—manufacturing glass or glass fibre in works having a design capacity of more than 200 t per year	1	4 740.00

SCHEDULE 1 (continued)

64. Mineral wool or ceramic fibre manufacturing— manufacturing mineral wool or ceramic fibre	1	2 680.00
Recreational and sporting activities		
65. Motor racing—		
(a) conducting motor races other than international motor races	2*	—
(b) conducting an international motor races	2	—
Sawmilling, woodchipping and wooden product manufacturing		
66. Chemically treating timber—commercially treating timber for preservation using chemicals, including, for example, copper, chromium, arsenic, borax and creosote	1	2 860.00
67. Sawmilling or woodchipping—sawing, cutting, chipping, compressing, milling or machining logs, drying logs in a kiln or manufacturing secondary wooden products, in a mill or works having a design production capacity of—		
(a) 500 t or more but less than 5 000 t per year .	1	300.00
(b) 5 000 t or more but less than 10 000 t per year	1	500.00
(c) 10 000 t or more but less than 20 000 t per year	1	700.00
(d) 20 000 t or more per year	1	800.00
68. Wooden product manufacturing—commercially manufacturing or fabricating (other than as mentioned in items 66 and 67) a wooden product, including, for example, a product made by a cabinet-maker, joiner or other woodworker, in a facility having a design production capacity of more than 1 t per year	2*†	—

SCHEDULE 1 (continued)

Transport and maritime services

69. Boat maintaining or repairing facility—operating a commercial facility for maintaining or repairing any type of boat or inboard or outboard marine engine	1*	650.00
70. Heliport—operating a facility for landing helicopters (other than a facility forming part of an aerodrome used for general aviation or for sole use in emergency circumstances)	2*	—
71. Port—operating a port (other than an airport) under the <i>Transport Infrastructure Act 1994</i> . . .	2	—
72. Railway facility—operating any railway facility for refuelling and maintaining or repairing rolling stock	1	5 040.00
73. Marina or seaplane mooring—operating a commercial marina or facility for mooring seaplanes, including any land-based buildings or works used in association with the marina or mooring—		
(a) for less than 20 berths or moorings	2*	—
(b) for 20 or more berths or moorings but less than 100 berths or moorings	1*	300.00
(c) for 100 or more berths or moorings	1*	500.00
74. Stockpiling, loading or unloading goods in bulk—commercially loading, unloading or stockpiling materials or goods, in association with an activity mentioned in item 71, using a crane, conveyor, pump or other similar way at a rate of more than 100 t per day	1	3 000.00

SCHEDULE 1 (continued)

Waste management**75. Waste disposal—operating a facility for—**

(a) disposing of only general waste or limited regulated waste, if the facility is designed to receive waste at the rate of—		
(i) more than 50 t but not more than 2 000 t per year	1	500.00
(ii) 2 000 t or more, but less than 5 000 t, per year	1	750.00
(iii) 5 000 t or more, but less than 10 000 t, per year	1	1 000.00
(iv) 10 000 t or more, but less than 20 000 t, per year	1	1 500.00
(v) 20 000 t or more, but less than 50 000 t, per year	1	2 000.00
(vi) 50 000 t or more, but less than 75 000 t, per year	1	2 500.00
(vii) 75 000 t or more, but less than 100 000 t, per year	1	5 000.00
(viii) 100 000 t or more, but less than 200 000 t, per year	1	7 500.00
(ix) 200 000 t or more per year	1	10 000.00
(b) disposing of regulated waste (other than limited regulated waste) whether alone or in combination with any waste mentioned in paragraph (a), if the facility is designed to receive waste at the rate of—		
(i) less than 50 000 t per year	1	3 000.00
(ii) 50 000 t or more, but less than 100 000 t, per year	1	5 220.00
(iii) 100 000 t or more, but less than 200 000 t, per year	1	7 500.00
(iv) 200 000 t or more per year	1	10 000.00

76. Incinerating waste—operating a waste incineration facility for incinerating—

(a) vegetation	2*	—
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SCHEDULE 1 (continued)

(b) clean paper or cardboard	2*	—
(c) general waste (other than vegetation or clean paper or cardboard) whether alone or in combination with vegetation or clean paper or cardboard, designed to incinerate waste at the rate of—		
(i) not more than 5 000 tonnes per year . . .	1	2 280.00
(ii) 5 000 tonnes or more per year	1	5 000.00
(d) infectious substances or quarantine waste . .	1	4 750.00
(e) regulated waste (other than waste mentioned in paragraph (d))	1	6 000.00
77. Battery recycling—operating a facility for receiving and recycling or reprocessing any kind of battery	2†	—
78. Chemical or oil recycling—operating a facility for receiving and commercially recycling or reprocessing used chemicals, oils or solvents to produce saleable products	1	3 820.00
79. Drum reconditioning—operating a facility for receiving and commercially reconditioning metal or plastic drums	2†	—
80. Tyre recycling—operating a facility for receiving and commercially recycling or reprocessing tyres (other than retreading tyres) . .	2†	—
81. Recycling or reprocessing regulated waste—operating a facility for receiving and recycling or reprocessing regulated waste (other than waste recycled or reprocessed under item 32(a), 46, 47, 50, 53 or 77 to 80) to produce saleable products	1	2 280.00

SCHEDULE 1 (continued)

82. Waste transfer station—operating a waste transfer station designed to receive waste at the rate of 20 000 t or more of waste per year	1	900.00
83. Regulated waste transport—transporting regulated waste commercially or in quantities of more than 250 kg in a load—		
(a) for tyres	2	—
(b) for other regulated waste—		
(i) for 1 or more licensed vehicles but not more than 35 licensed vehicles	1	400.00 plus 100.00 for each vehicle
(ii) for 36 or more licensed vehicles	1	4 000.00
84. Regulated waste storage—operating a facility for receiving and storing—		
(a) more than 500 tyres in whole or equivalent parts (other than tyres stored for recycling or reprocessing under item 80)	1	1 400.00
(b) other regulated waste, other than waste stored—		
(i) on a farm for use as a soil conditioner or fertiliser in carrying out an agricultural activity; or		
(ii) for use in manufacturing a saleable product under another item of this schedule; or		
(iii) for incineration under item 76; or		
(iv) recycling, reprocessing or reconditioning under items 77 to 79 or 81)	1	2 000.00

SCHEDULE 1 (continued)

85. Regulated waste treatment—operating a facility for receiving and treating regulated waste to render it less or non-hazardous, other than by—		
(a) manufacturing a saleable product under another item of this schedule; or		
(b) incineration under item 76; or		
(c) recycling, reprocessing or reconditioning under items 77 to 79 or 81)	1	4 750.00

* Indicates administration and enforcement of the Act for the activity is devolved to local government—see s 39 (Devolution of powers—environmentally relevant activities).

† Indicates that, even though the activity mentioned in the item is shown as a level 2 environmentally relevant activity, the activity is, under the transitional provision in section 4(3), a level 1 environmentally relevant activity until 30 June 1998.

SCHEDULE 2**CONDITIONS APPLYING TO PARTICULAR
ACTIVITIES INVOLVING CONTROLLED
SUBSTANCES**

sections 12, 14 and 17

Sale of controlled substances**1.(1)** A seller of controlled substances must—

- (a) ensure a person employed or engaged by the seller to transfer the substance between vessels—
 - (i) is trained in the procedures contained in the applicable industry code of practice for the handling and storage of the substance; and
 - (ii) transfers the substance in the way required by the industry code of practice; and
- (b) if asked by a buyer of controlled substances, provide a suitable container clearly labelled with—
 - (i) the word ‘reclaimed’; and
 - (ii) the designation number of the substance and its colour code as specified in Australian Standard AS 1942–1987, ‘Refrigerant Gas Cylinder Identification’ or, if no designation number is specified in Australian Standard AS 1942–1987, the common name mentioned in schedule 9; and
 - (iii) the name and address of the seller; and
 - (iv) a statement that the container must be used only for the storage and return of the substance specified; and
- (c) not sell a controlled substance in a container that cannot be recharged or refilled.

SCHEDULE 2 (continued)

(2) A seller of controlled substances must accept a controlled substance returned to the seller in a suitable container, if the contents comply with details specified on the label of the container.

(3) Subsections (1)(b) and (2) do not apply if the controlled substance is a halon.

Buying controlled substances

2. A buyer of controlled substances must not return to a seller a container marked as required by section 1(1)(b) if it contains a substance other than the substance specified on the container, unless the container is clearly marked to show—

- (a) it contains a mixture of substances; or
- (b) the contents are contaminated, or suspected of being contaminated, with a substance other than refrigerant oil, moisture, acid or non-condensable gases.

Handling or use of controlled substances

3. A person engaging in a schedule 3 activity mentioned must—

- (a) reclaim into an appropriate container only the controlled substance specified on the container's label; and
- (b) use a container that—
 - (i) complies with the labelling requirements of section 1(1)(b); and
 - (ii) is suitable to store the reclaimed controlled substance; and
- (c) ensure that a label complying with the requirements of section 8 of this regulation is attached, when the controlled article is installed, commissioned or serviced.

SCHEDULE 2 (continued)

Reclaiming of controlled substances

4. A person reclaiming a controlled substance or accepting the return of a controlled substance must—

- (a) return the substance to a person who sells controlled substances;
or
- (b) re-use, re-process, recycle or securely store the substance; or
- (c) resell the substance; or
- (d) if the person is a seller of controlled substances—destroy the substance in the way directed by the chief executive.

SCHEDULE 3**ACTIVITIES INVOLVING HANDLING OR USE OF
CONTROLLED SUBSTANCES**

schedule 9, definition “schedule 3 activity”

1. Manufacturing, installing, operating, servicing, maintaining or decommissioning dry cleaning equipment
2. Manufacturing, installing, servicing, maintaining or decommissioning motor vehicle airconditioning equipment
3. Manufacturing, installing, servicing, maintaining or decommissioning commercial or industrial refrigeration or airconditioning equipment
4. Manufacturing, installing, servicing, maintaining or decommissioning domestic airconditioning equipment
5. Manufacturing, servicing, maintaining or decommissioning domestic refrigerators
6. Manufacturing, installing, servicing, maintaining or decommissioning halon or HCFC fire extinguishing devices

SCHEDULE 4**ESSENTIAL USE CRITERIA FOR INSTALLING,
BUYING, KEEPING OR REFILLING OF HALON
FIRE EXTINGUISHING DEVICES**

sections 25 and 30

1. There is no acceptable alternative type of fire protection.
2. The availability of the device is essential—
 - (a) to protect persons in a situation where human occupancy is essential and timely evacuation is not possible; or
 - (b) to continue the operation of equipment necessary to protect human life; or
 - (c) to protect a facility essential to the community from the substantial loss of property or function that could be caused by a fire in the facility.

SCHEDULE 5**INDUSTRY CODES OF PRACTICE**

schedule 9, definition “industry code of practice”

1. The Australian Refrigeration and Air Conditioning Code of Good Practice: Reduction of emissions of controlled ozone-depleting refrigerants in commercial and industrial refrigeration and air conditioning applications prepared by AFCAM (SAA HB40.1-1997).
2. The Australian Refrigeration and Air Conditioning Code of Good Practice: Reduction of emissions of fluorocarbons in residential airconditioning applications prepared by AFCAM (SAA HB40.2-1997).
3. The Australian Refrigeration and Air Conditioning Code of Good Practice: Reduction of emissions of fluorocarbons in domestic refrigeration applications prepared by AFCAM (SAA HB40.3-1997).
4. Code of Practice for the Minimisation of Chlorofluorocarbon (CFC) Emissions from Dry Cleaning Plants using CFC113 Solvent, prepared by the Dry Cleaning Institute of Australia Ltd, dated December 1989 and first printed in May 1990.
5. The Australian Automotive Code of Practice for the Reduction of Emissions of Fluorocarbons in Motor Vehicle Air Conditioners, prepared by the Motor Trades Association of Australia and issued in November 1997.
6. Code of Practice for the Minimisation of Chlorofluorocarbon (CFC) Emissions from Degreasing/Cleaning Plants using CFC113 Solvents, prepared by AFCAM and endorsed by ANZECC on 4 May 1990.
7. Code of Practice, Methyl Chloroform (1, 1, 1-Trichloroethane), prepared by AFCAM and endorsed by ANZECC on 20 May 1992.
8. Code of Practice for Manufacture and Use of Ethylene Oxide/CFC-12 Mixtures for Sterilisation Processes, prepared by AFCAM on 15 October 1993.

SCHEDULE 5 (continued)

9. Halon and Fire Protection Codes of Practice prepared by the Fire Protection Industry Association of Australia and endorsed by ANZECC on 25 October 1990 and issued on 1 November 1990.

SCHEDULE 6**FEES****PART 1—GENERAL FEES**

	section 44
	\$
1. Application for approval (s 41 of the Act)	200.00
2. Application for licence (ss 41 and 60G of the Act)	200.00 plus an amount equal to the annual licence fee for the activity
3. Application for single environmental authority to carry out multiple activities (ss 41, 60G and 61 of the Act)	200.00 plus an amount equal to the higher or highest annual licence fee for the activities
4. Application for assessment of development application under part 4B of the Act (other than an application to which section 60ZE of the Act applies)	200.00 plus an amount equal to the annual

SCHEDULE 6 (continued)

	licence fee for the activity
5. Application for assessment of development application to which section 60ZE of the Act applies	200.00 plus an amount equal to the higher or highest annual licence fee for the activity
6. Application for amendment of licence (s 49 of the Act) . . .	150.00
7. Application for transfer of licence (s 55 of the Act)	50.00
8. Late payment fee (s 68(3)(b)(ii) of the Act)	50.00

PART 2—FEES IN RELATION TO CONTAMINATED LAND

section 44B

\$

9. Consideration of a site investigation report in relation to—	
(a) land that—	
(i) is used exclusively for residential purposes; and	
(ii) is not the subject of a development application (per lot)	400.00
(b) any other land (per lot)	900.00

SCHEDULE 6 (continued)

10. Extract from the environmental management register or contaminated land register (per lot)	30.00
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SCHEDULE 7**REGULATED WASTES**

schedule 9, definition “regulated waste”

Abattoir effluent

Acids and acid solutions

Adhesives (other than solid inert polymeric materials)

Alkalis and alkaline solutions

Antimony

Arsenic

Asbestos (all chemical forms)

Azides

Barium

Batteries

Beryllium

Biocides

Boiler blowdown sludge

Boron

Cadmium

Caustic solutions

Chlorates

Chromium

Copper compounds

Cytotoxic wastes

Detergents

SCHEDULE 7 (continued)

Distillation residues

Dyes

Electroplating effluent and residues

Filter backwash waters

Filter cake sludges and residues

Fish processing waste

Fly ash

Food processing waste

Grease interceptor trap effluent and residues

Halogen compounds (other than solid inert polymeric materials)

Heat treatment salts

Heterocyclic organic compounds containing oxygen, nitrogen or sulphur

Hydrocarbons (oxygen, nitrogen or sulphur)

Industrial plant wash down waters

Infectious substances

Inks

Inorganic cyanides and cyanide complexes

Inorganic sulphur compounds

Isocyanate compounds (other than solid inert polymeric materials)

Laboratory chemicals

Lead

Lime neutralised sludges

Lime sludges

Materials or equipment contaminated with infectious substances

Mercaptans

Mercury and anything containing mercury

SCHEDULE 7 (continued)

Metal finishing effluent and residues
Methacrylate compounds (other than solid inert polymeric materials)
Nickel
Nightsoil
Oil interceptor sludges
Oil water emulsions and mixtures
Oils
Organic solvents
Oxidising agents
Ozone depleting substances
Paint sludges and residues
Perchlorates
Pesticides
Petroleum tank sludges
Pharmaceutical substances
Phenolic compounds (other than solid inert polymeric materials)
Phosphorus
Pickling liquors
Polychlorinated biphenyls and related substances and anything containing polychlorinated biphenyls or related substances
Polymeric lattices
Poultry processing wastes
Quarantine waste
Reactive chemicals
Reducing agents
Resins (other than solid inert polymeric materials)

SCHEDULE 7 (continued)

Saline effluent and residues

Selenium

Silver compounds

Solvent recovery residues

Surfactants

Tallow

Tannery effluent and residues

Tars and tarry residues

Tellurium

Textile effluent and residues

Thallium

Timber preservative effluent and residues

Treatment tank sludges and residues (including sewage tank sludges and residues)

Tyres

Vanadium

Vegetable oils

Vehicle wash down waters

Wool scouring effluent and residues

Zinc compounds

SCHEDULE 8**OZONE DEPLETING SUBSTANCES**

schedule 9, definition “ozone depleting substance”

PART A—CHLOROFLUOROCARBONS (CFC’s)

Substance	Common name	Chemical formula
Trichlorofluoromethane	CFC-11	CFCl_3
Dichlorodifluoromethane	CFC-12	CF_2Cl_2
Chlorotrifluoromethane	CFC-13	CF_3Cl
Pentachlorofluoroethane	CFC-111	C_2FCl_5
Tetrachlorodifluoroethane	CFC-112	$\text{C}_2\text{F}_2\text{Cl}_4$
Trichlorotrifluoroethane	CFC-113	$\text{C}_2\text{F}_3\text{Cl}_3$
Dichlorotetrafluoroethane	CFC-114	$\text{C}_2\text{F}_4\text{Cl}_2$
Monochloropentafluoroethane	CFC-115	$\text{C}_2\text{F}_5\text{Cl}$
Heptachlorofluoropropane	CFC-211	C_3FCl_7
Hexachlorodifluoropropane	CFC-212	$\text{C}_3\text{F}_2\text{Cl}_6$
Pentachlorotrifluoropropane	CFC-213	$\text{C}_3\text{F}_3\text{Cl}_5$
Tetrachlorotetrafluoropropane	CFC-214	$\text{C}_3\text{F}_4\text{Cl}_4$
Trichloropentafluoropropane	CFC-215	$\text{C}_3\text{F}_5\text{Cl}_3$
Dichlorohexafluoropropane	CFC-216	$\text{C}_3\text{F}_6\text{Cl}_2$
Monochloroheptafluoropropane	CFC-217	$\text{C}_3\text{F}_7\text{Cl}$

SCHEDULE 8 (continued)

PART B—HALONS

Substance	Common name	Chemical formula
Bromochlorodifluoromethane	Halon 1211	CF ₂ BrCl
Bromotrifluoromethane	Halon 1301	CF ₃ Br
Dibromotetrafluoroethane	Halon 2402	C ₂ F ₄ Br ₂

**PART C—HYDROCHLOROFLUOROCARBONS
(HCFC's)**

Substance	Common name	Chemical formula
Dichlorofluoromethane	HCFC-21	CHFCl ₂
Monochlorodifluoromethane	HCFC-22	CHF ₂ Cl
Monochlorofluoromethane	HCFC-31	CH ₂ FCl
Tetrachlorofluoroethane	HCFC-121	C ₂ HFC ₄
Trichlorodifluoroethane	HCFC-122	C ₂ HF ₂ Cl ₃
Dichlorotrifluoroethane	HCFC-123	C ₂ HF ₃ Cl ₂
Monochlorotetrafluoroethane	HCFC-124	C ₂ HF ₄ Cl
Trichlorofluoroethane	HCFC-131	C ₂ H ₂ FC ₃
Dichlorodifluoroethane	HCFC-132	C ₂ H ₂ F ₂ Cl ₂
Monochlorotrifluoroethane	HCFC-133	C ₂ H ₂ F ₃ Cl
Dichlorofluoroethane	HCFC-141	C ₂ H ₃ FC ₂

SCHEDULE 8 (continued)

Monochlorodifluoroethane	HCFC-142	$C_2H_3F_2Cl$
Chlorofluoroethane	HCFC-151	C_2H_4FCl
Hexachlorofluoropropane	HCFC-221	C_2HFCl_6
Pentachlorodifluoropropane	HCFC-222	$C_3HF_2Cl_5$
Tetrachlorotrifluoropropane	HCFC-223	$C_3HF_3Cl_4$
Trichlorotetrafluoropropane	HCFC-224	$C_3HF_4Cl_3$
Dichloropentafluoropropane	HCFC-225	$C_3HF_5Cl_2$
Monochlorohexafluoropropane	HCFC-226	C_3HF_6Cl
Pentachlorofluoropropane	HCFC-231	$C_3H_2FCl_5$
Tetrachlorodifluoropropane	HCFC-232	$C_3H_2F_2Cl_4$
Trichlorotrifluoropropane	HCFC-233	$C_3H_2F_3Cl_3$
Dichlorotetrafluoropropane	HCFC-234	$C_3H_2F_4Cl_2$
Monochloropentafluoropropane	HCFC-235	$C_3H_2F_5Cl$
Tetrachlorofluoropropane	HCFC-241	$C_3H_3FCl_4$
Trichlorodifluoropropane	HCFC-242	$C_3H_3F_2Cl_3$
Dichlorotrifluoropropane	HCFC-243	$C_3H_3F_3Cl_2$
Monochlorotetrafluoropropane	HCFC-244	$C_3H_3F_4Cl$
Trichlorofluoropropane	HCFC-251	$C_3H_4FCl_3$
Dichlorodifluoropropane	HCFC-252	$C_3H_4F_2Cl_2$
Monochlorotrifluoropropane	HCFC-253	$C_3H_4F_3Cl$
Dichlorofluoropropane	HCFC-261	$C_3H_5FCl_2$
Monochlorodifluoropropane	HCFC-262	$C_3H_5F_2Cl$
Monochlorofluoropropane	HCFC-271	C_3H_6FCl

SCHEDULE 8 (continued)

**PART D—MISCELLANEOUS CONTROLLED
SUBSTANCES**

Substance	Common name	Chemical formula
Tetrachloromethane	Carbon tetrachloride	CCl_4
1, 1, 1 – Trichloroethane	Methyl Chloroform	$\text{C}_2\text{H}_3\text{Cl}_3$

SCHEDULE 8A**PRESCRIBED ORGANISATIONS FOR
CONTAMINATED LAND MATTERS**

section 63C

1. Australasian Radiation Protection Society
2. Australian Institute of Agricultural Science and Technology
3. Australian Institute of Environmental Health
4. Australian Institute of Geoscientists
5. Australian Society of Soil Science
6. Environment Institute of Australia
7. Institute of Explosives Engineers
8. Institution of Chemical Engineers Australia
9. Institution of Engineering and Mining Surveyors Australia
10. Royal Australian Planning Institute
11. South Pacific Environmental Radioactivity Association
12. The Australasian Institute of Mining and Metallurgy
13. The Institution of Engineers Australia
14. The Institution of Surveyors Australia
15. The Royal Australian Chemical Institute

SCHEDULE 9**DICTIONARY**

section 3

“aerosol product” means a container that holds a substance packed under pressure either—

- (a) as the propellant for the expulsion of the contents of the container; or
- (b) as the contents to be expelled.

“AFCAM” means the Association of Fluorocarbon Consumers and Manufacturers.

“affected building”, for noise, for part 2A, see section 6D.

“affected person”, for part 5, division 5, see section 65.

“annual licence fee”, for an activity, for part 5, see section 65.

“ANZECC” means the Australian and New Zealand Environment and Conservation Council.

“approved training course” see section 61.

“aquaculture”, for schedule 1, item 1, does not include cultivating or holding organisms in an aquaria.

“AS” means an Australian Standard published by Standards Australia.

“AS 1055”, for part 2A, see section 6D.

“at”, a place or premises, for part 2A, see section 6D.

“audible noise”, for part 2A, see section 6E.

“background noise level”, for part 2A, see section 6D.

“builder”, for part 2A, see section 6D.

“building”, for part 2A, see section 6D.

“Building Code of Australia” means the Building Code of Australia

SCHEDULE 9 (continued)

including the Queensland Appendix, made by the Australian Building Codes Board.

“building contractor”, for part 2A, see section 6D.

“building site”, for part 2A, see section 6D.

“building work”, for part 2A, see section 6D

“buy” includes—

- (a) acquire by exchange; and
- (b) accept under an agreement; and
- (c) agree, offer or attempt to buy.

“certificate of approval” means a certificate of approval issued under section 25 or 33.⁴⁵

“CFC” means a chlorofluorocarbon mentioned in schedule 8, part A, and includes all isomers of a chlorofluorocarbon.

“chemical” means—

- (a) an agricultural chemical product or veterinary chemical product within the meaning of the *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth); or
- (b) a dangerous good under the dangerous goods code; or
- (c) a lead hazardous substance within the meaning of the *Workplace Health and Safety Regulation 1997*; or
- (d) a drug or poison in the Standard for the Uniform Scheduling of Drugs and Poisons prepared by the Australian Health Ministers' Advisory Council and published by the Commonwealth; or
- (e) any substance used as, or intended for use as—
 - (i) a pesticide, insecticide, fungicide, herbicide, rodenticide, nematocide, miticide, fumigant or related product; or

⁴⁵ Section 25 (Restriction on installing, keeping and refilling fixed halon system) or 30 (Approval to buy or refill a portable halon fire extinguisher)

SCHEDULE 9 (continued)

- (ii) a surface active agent, including, for example, soap and detergent; or
- (iii) a paint solvent, pigment, dye, printing ink, industrial polish, adhesive, sealant, food additive, bleach, sanitiser, disinfectant, or biocide; or
- (iv) a fertiliser for agricultural, horticultural or garden use (other than mushroom growing substrate or compost mentioned in item 46 or 53); or
- (f) a substance used for, or intended for use for—
 - (i) mineral processing or treatment of metal, pulp and paper, textile, timber, water or wastewater; or
 - (ii) manufacture of plastic or synthetic rubber.

“chemical storage”, for schedule 1, item 7, does not include in-transit storage of a chemical.

“commercial”, for an activity mentioned in schedule 1,⁴⁶ means carried out for a fee or reward.

“commercial or industrial airconditioning equipment” means airconditioning equipment that—

- (a) has a cooling or heating capacity more than 18 kW; or
- (b) has a cooling or heating capacity less than 18 kW and is used other than for domestic purposes.

“commercial or industrial refrigeration equipment” means refrigeration equipment that—

- (a) is designed to operate with a charge of 1 kg or more of a controlled substance; or
- (b) is designed to operate with a charge of less than 1 kg of a controlled substance and is used other than for domestic purposes.

⁴⁶ Schedule 1 (Levels 1 and 2 environmentally relevant activities and licence fees)

SCHEDULE 9 (continued)

“commission”, for a controlled article, means to bring the article into operation in a way that involves the handling and use of a controlled substance.

“complainant”, for part 2A, see section 6D.

“controlled article” means an article, or the part of an article, that contains or uses a controlled substance as a working fluid in the operation or structure of the article, but does not include foam manufacturing equipment.

“controlled substance” means an ozone depleting substance (whether existing alone or mixed with another substance), and includes the refrigerants R500 and R502, but does not include a substance containing less than 1% of an ozone depleting substance.

“dangerous goods code” means the sixth edition of the Australian Code for the Transport of Dangerous Goods by Road and Rail.⁴⁷

“decommission” a controlled article means to dismantle the article before its relocation, disposal or use for another purpose.

“devolved activity” means an environmentally relevant activity in relation to which the administration and enforcement of the Act is devolved to local government.⁴⁸

“domestic airconditioning equipment” means airconditioning equipment other than commercial or industrial airconditioning equipment.

“domestic refrigeration equipment” means refrigeration equipment other than commercial or industrial refrigeration equipment.

“educational institution”, for part 2A, see section 6D.

“emission”, for a substance—

- (a) for part 2A, see section 6D; or
- (b) for part 3A, see section 38B.

⁴⁷ A copy of the code may be purchased from the Australian Government Information Service, City Plaza, Adelaide and George Streets, Brisbane.

⁴⁸ See section 40 (Devolution of powers—other activities).

SCHEDULE 9 (continued)

“emission data”, for a substance, for part 3A, see section 38B.

“equivalent person”, for schedule 1, item 15, means an equivalent person under volume 1, section 2 of the Guidelines for Planning and Design of Sewerage Schemes, October 1991, published by the Water Resources Commission, Department of Primary Industries, Fisheries and Forestry.

“estimation technique”, for part 3A, see section 38B.

“extracting”, for schedule 1, item 20, does not include—

- (a) extracting material from land if—
 - (i) the primary purpose of the extraction is not to gain the material; and
 - (ii) less than 1 500 m³ of materials is extracted or the surface area of the land is less than 5 200 m²; or
- (b) extracting material in the course of cutting and filling land for constructing a road or railway.

“facility” for—

- (a) part 3A, see section 38D; or
- (b) an environmentally relevant activity, means a building or structure or complex of buildings or structures specifically used for the activity, and includes—
 - (i) for schedule 1, item 75—a naturally occurring or constructed hollow or pit, including, for example, a gully, mining shaft or quarry (other than a hollow or pit on a farm used for receiving and disposing of general waste produced on the farm); and
 - (ii) for schedule 1, item 76(a)—a fixed or mobile apparatus for blowing air into a hole in the ground to facilitate the incineration of vegetation.

“fixed halon system” means a fire extinguisher that uses a halon in its operation (other than a portable fire extinguisher).

“fixed HCFC system” means a fire protection system (other than a

SCHEDULE 9 (continued)

portable fire extinguisher) that—

- (a) is installed in premises or a vehicle; and
- (b) uses a HCFC in its operation.

“general emission criteria”, for part 2A, means the general emission criteria under section 6S.

“general waste” means waste other than regulated waste.

“halon” means an ozone depleting substance mentioned in schedule 8, part B.

“HCFC” means a hydrochlorofluorocarbon mentioned in schedule 8, part C, and includes all isomers of a hydrochlorofluorocarbon.

“indoor venue”, for part 2A, see section 6D.

“industry code”, for an activity, means the industry code assigned to the activity under Australian and New Zealand Standard Industrial Classification, 1993.⁴⁹

“industry code of practice” means a code of practice in schedule 5.

“industry handbook”, for a facility, for part 3A, see section 38B.

“infectious waste” means waste that is capable of transmitting, or has the potential to transmit, disease that is generated in—

- (a) diagnosing, treating, immunising or caring for people or animals;
or
- (b) producing or testing of biologicals other than domestic waste.

“install”, for a controlled article, means install the article in a way that involves the handling and use of a controlled substance.

“integrated environmental management system” see section 42.

“licensed premises”, for part 2A, see section 6D.

“licensed vehicle”, for a licence to transport regulated waste, means a vehicle authorised to be used under the licence.

⁴⁹ The document is published by the Australian Bureau of Statistics.

SCHEDULE 9 (continued)

“limited regulated waste”, for schedule 1, item 75(a), means any of the following regulated wastes, asbestos, infectious substances or quarantine waste that has been rendered non-infectious, fish processing waste, food processing waste, poultry processing waste, tyres or treatment tank sludge or residue produced in the carrying out of an activity mentioned in item 15 or 16.

“material change of use”, of premises, has the meaning given by section 1.3.5 of the Integrated Planning Act⁵⁰.

“mechanical component”, of a motor vehicle, includes brakes, clutch, differential, gearbox, transmission and other drive-train equipment, combustion engine and hydraulic equipment of the vehicle, but does not include an auto electrical, exhaust or suspension component of the vehicle, wheels or tyres of the vehicle or another component necessary for maintaining the vehicle’s wheel alignment.

“miscellaneous controlled substance” means a substance mentioned in schedule 8, part D, and includes all isomers of a miscellaneous controlled substance.

“motor race” means a race involving vehicles propelled by a motor, or a practice or time trial for a race involving vehicles propelled by a motor, conducted on a racing track or circuit.

“motor vehicle” means—

- (a) a vehicle, that is propelled by a motor that forms part of the vehicle and moves on wheels, other than a train or tram; or
- (b) a hovercraft.

“motor vehicle airconditioning equipment” means airconditioning equipment that—

- (a) is fitted to a motor vehicle; and

⁵⁰ The Integrated Planning Act, section 1.3.5—

‘**“material change of use”**, of premises, means—

- (a) the start of a new use of the premises; or
- (b) the re-establishment on the premises of a use that has been abandoned; or
- (c) a material change in the intensity or scale of the use of the premises.’.

SCHEDULE 9 (continued)

- (b) relies on the vehicle's motive power to drive the equipment's compressor.

“motor vehicle mechanical or panel repairs” means maintaining, servicing, tuning, reconditioning or repairing—

- (a) mechanical components of motor vehicles; or
- (b) motor vehicle engine cooling radiators; or
- (c) motor vehicle body panels (other than windscreens, window glasses, upholstery and interior trimmings), including, for example, panel beating, rust proofing and spray painting other than minor scratch, chip and dent repairs carried out using a brush, air brush or paintless method; or
- (d) motor vehicles by way of car detailing or washing other than if all washdown water arising from the carrying out of the activity is lawfully discharged to a sewer.

“noise emission criteria”, for part 2A, means the noise emission criteria under section 6T.

“noise offence”, for part 2A, means an offence against part 2A, division 4.

“noise offence exemption”, for part 2A, see section 6ZG(1).

“noise policy” means the *Environmental Protection (Noise) Policy 1997*.

“non-devolved activity” means an environmentally relevant activity in relation to which the administration and enforcement of the Act is not devolved to local government.

“non-domestic waste” means industrial or commercial waste.

“NPIM”, for part 3A, see section 38B.

“nuisance abatement notice”, for part 2A, means a nuisance abatement notice given under part 2A, division 3.

“nuisance complaint”, for part 2A, see section 6D.

“occupier”, for a facility, for part 3A, see section 38B.

“offshore facility”, for part 3A, see section 38E.

“open-air event”, for part 2A, see section 6D.

SCHEDULE 9 (continued)

- “**ozone depleting substance**” means a substance mentioned in schedule 8.
- “**plastic**” includes blown plastic foam and fibre reinforced plastic.
- “**portable halon fire extinguisher**” means a portable fire extinguisher that uses a halon in its operation.
- “**portable HCFC fire extinguisher**” means a portable fire extinguisher that uses an HCFC in its operation.
- “**port authority**” see the *Transport Infrastructure Act 1994*, schedule 3.
- “**power boat**” , for part 2A, see section 6D.
- “**prescribed activity**”, for part 5, division 5, see section 65.
- “**published**”, for part 3A, see section 38B.
- “**qualified person**” see section 61.
- “**quarantine waste**” means quarantine waste material under the Draft Guidelines for the storage, collection, disposal and monitoring of quarantine waste, 1993, published by the Australian Quarantine and Inspection Service.
- “**railway**”, for part 2A, see section 6D.
- “**reclaim**”, for a controlled substance, means to collect and contain the substance.
- “**regulated waste**” means non-domestic waste mentioned in schedule 7 (whether or not it has been treated or immobilised), and includes—
- (a) for an element—any chemical compound containing the element; and
 - (b) anything that has contained the waste.
- “**rejection notice**”, for part 2A, see section 6M(3).
- “**relevant nuisance complaint**”, for an emission, for part 2A, see section 6D.
- “**repealed regulation**”, for part 5, see section 65.
- “**reporting facility**”, for part 3A, see section 38B.
- “**reporting period**”, for a facility, for part 3A, see section 38B.

SCHEDULE 9 (continued)

“reporting requirement”, for an occupier, for part 3A, see section 38B.

“responsible person”, for an emission, for part 2A, see section 6D.

“schedule 3 activity” means an activity specified in schedule 3.

“secondary wooden product” includes plywood, chipboard, veneer and laminated timber.

“sell” includes—

- (a) exchange or supply; and
- (b) agree, offer or attempt to sell.

“service”, of a controlled article, means any repair, maintenance or adjustment of the article involving the handling or use of a controlled substance.

“sewage treatment works” includes pump stations and other ancillary works.

“source noise”, for part 2A, see section 6ZN.

“special sewage treatment works” means sewage treatment works that do not release solid or liquid contaminants to ground water or outside the boundary of the works regardless of its peak design capacity.

“standard cattle unit”, for schedule 1, item 2, has the meaning given by the National Guidelines for Beef Cattle Feedlots in Australia, 2nd edition, prepared by the Standing Committee on Agriculture and Resource Management.

“standard pig unit”, for schedule 1, item 3, means the equivalent of a grower pig of 40 kg.

“standard sewage treatment works” means sewage treatment works other than special sewage treatment works.

“sterilisation equipment” means equipment used for gas sterilisation of medical equipment.

“substance”, for part 3A, see section 38F.

“unlawful environmental nuisance”, for part 2A, see part 2A, division 1, subdivision 4.

SCHEDULE 9 (continued)

“waste incineration facility” means a facility for incinerating waste.

“works”, for an environmentally relevant activity, includes a vehicle on which the activity is carried out.

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 16 December 1999. Future amendments of the Environmental Protection Regulation 1998 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to SL No. 179 of 1998	6 July 1998
1A	to SL No. 316 of 1998	30 November 1998
1B	to SL No. 358 of 1998	4 January 1999
1C	to SL No. 208 of 1999	24 September 1999

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

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Corrected minor errors	1

6 List of legislation

Environmental Protection Regulation 1998 SL No. 29

made by the Governor in Council on 26 February 1998
 notfd gaz 27 February 1998 pp 884–6
 ss 1–2 commenced on date of notification
 pt 5 div 5 commenced 1 July 1998 (see s 2(1))
 sch 1 items 38–39 commence 1 January 2000 (see s 2(2))
 remaining provisions commenced 1 March 1998 (see s 2(3))
exp 1 September 2008 (see SIA s 54)

as amended by—

Environmental Protection Amendment Regulation (No. 1) 1998 SL No. 179

notfd gaz 29 May 1998 pp 656–7
 ss 4, 9, 10 (so far as it relates to the ins of new s 44A), 12, 14, 18 (so far as it relates to the om of sch 6 and the ins of new sch 6, pt 1) and 21(2) (so far as it relates to the ins of the def “material change of use”) commenced 1 July 1998 (see s 2(1))
 ss 10 (so far as it relates to the ins of new s 44B), 13, 15, 18 (so far as it relates to the ins of new sch 6, pt 2) and 19 commenced 6 July 1998 (see s 2(2))
 remaining provisions commenced on date of notification

Environmental Protection Amendment Regulation (No. 2) 1998 SL No. 316

notfd gaz 27 November 1998 pp 1180–81
 commenced on date of notification

Environmental Protection Amendment Regulation (No. 3) 1998 SL No. 358

notfd gaz 18 December 1998 pp 1551–7
 commenced on date of notification

Environmental Protection Amendment Regulation (No. 1) 1999 SL No. 208

notfd gaz 10 September 1999 pp 180–3
 commenced on date of notification

**Environmental Protection Amendment Regulation (No. 2) 1999 SL No. 297
 pts 1–2**

notfd gaz 26 November 1999 pp 1268–70
 commenced on date of notification

Environmental Protection Amendment Regulation (No. 3) 1999 SL No. 320

notfd gaz 10 December 1999 pp 1448–50
 commenced on date of notification

7 List of annotations**Commencement**

s 2 amd 1998 SL No. 358 s 3
 sub 1999 SL No. 320 s 3

Approval required to carry out level 2 environmentally relevant activity

s 5 amd 1998 SL No. 179 s 4

Environmentally relevant activity—waste disposal

s 6A ins 1998 SL No. 179 s 5

Release of controlled substance

s 11 amd 1998 SL No. 316 s 3

PART 2A—ENVIRONMENTAL NUISANCE

pt 2A (ss 6B–6ZU) ins 1999 SL No. 297 s 4

PART 3A—NATIONAL POLLUTANT INVENTORY

pt 3A (ss 38A–38U) ins 1999 SL No. 208 s 3

Devolution of powers—environmentally relevant activities

s 39 amd 1998 SL No. 179 s 6; 1999 SL No. 208 s 4

Devolution of powers—other activities

s 40 prov hdg amd 1999 SL No. 297 s 5

Devolution of Act includes statutory instruments under Act

s 40A ins 1998 SL No. 179 s 7

Devolution of powers—residential land

s 40B ins 1999 SL No. 297 s 6

Standard criteria for environmental authority for activities

s 43 amd 1998 SL No. 179 s 8

Fees—general

s 44 amd 1998 SL No. 179 s 9

Application fee for environmental authority not payable if prior application for development approval made

s 44A ins 1998 SL No. 179 s 10

Fees for contaminated land

s 44B ins 1998 SL No. 179 s 10

Application for waiver of application and annual licence fees

s 49 amd 1998 SL No. 179 s 11

Effect of decision on application for waiver of fee

s 51 amd 1998 SL No. 179 s 12

Environmental management register and contaminated land register

s 60A ins 1998 SL No. 179 s 13

Review of decisions and appeal

s 62 amd 1999 SL No. 208 s 5; 1999 SL No.297 s 7

PART 4A—MISCELLANEOUS

pt hdg ins 1998 SL No. 316 s 4

Development for sch 8, pt 1, s 6 of the Integrated Planning Act

s 63A ins 1998 SL No. 179 s 14

Development for ch 3, pt 4B, div 3 of the Act

prov hdg sub 1998 SL No. 316 s 5(1)

s 63B ins 1998 SL No. 179 s 14
amd 1998 SL No. 316 s 5(2)

Prescribed organisations in relation to site investigation

s 63C ins 1998 SL No. 179 s 15

Postponed commencement of uncommenced provisions—Environmental and Other Legislation Amendment Act

s 63D ins 1998 SL No. 316 s 6

PART 5—REPEAL AND TRANSITIONAL PROVISIONS

pt hdg renum 1999 SL No. 297 s 9

Division 5—Transitional provisions about changes to environmentally relevant activities from 1 July 1998**Administering authority to give affected person notice about change**

s 80 amd 1998 SL No. 179 s 16

Division 6—Transitional provision for part 2A and Environmental Protection (Noise) Amendment Policy (No. 1) 1999

div hdg ins 1999 SL No. 297 s 8
renum 1999 SL No. 297 s 9

Noise policy applies to existing noise complaints

s 82A ins 1999 SL No. 297 s 8

Division 7—Miscellaneous transitional provisions

div hdg remun 1999 SL No. 297 s 9

SCHEDULE 1—LEVELS 1 AND 2 ENVIRONMENTALLY RELEVANT ACTIVITIES AND LICENCE FEES

amd 1998 SL No. 179 s 17

SCHEDULE 6—FEES

sub 1998 SL No. 179 s 18

SCHEDULE 7—REGULATED WASTES

amd 1998 SL No. 179 s 20

SCHEDULE 8A—PRESCRIBED ORGANISATIONS FOR CONTAMINATED LAND MATTERS

ins 1998 SL No. 179 s 19

SCHEDULE 9—DICTIONARYdef “**affected building**” ins 1999 SL No. 297 s 10(2)def “**affected person**” ins 1999 SL No. 297 s 10(2)def “**annual licence fee**” ins 1999 SL No. 297 s 10(2)def “**AS**” ins 1999 SL No. 297 s 10(2)def “**AS 1055**” ins 1999 SL No. 297 s 10(2)def “**at**” ins 1999 SL No. 297 s 10(2)def “**audible noise**” ins 1999 SL No. 297 s 10(2)def “**background noise level**” ins 1999 SL No. 297 s 10(2)def “**builder**” ins 1999 SL No. 297 s 10(2)def “**building**” ins 1999 SL No. 297 s 10(2)def “**Building Code of Australia**” ins 1999 SL No. 297 s 10(2)def “**building contractor**” ins 1999 SL No. 297 s 10(2)def “**building site**” ins 1999 SL No. 297 s 10(2)def “**building work**” ins 1999 SL No. 297 s 10(2)def “**chemical**” amd 1998 SL No. 316 s 7(1)def “**complainant**” ins 1999 SL No. 297 s 10(2)def “**dangerous goods code**” sub 1998 SL No. 316 s 7(2)def “**educational institution**” ins 1999 SL No. 297 s 10(2)def “**emission**” ins 1999 SL No. 297 s 10(2)def “**emission data**” ins 1999 SL No. 297 s 10(2)def “**estimation technique**” ins 1999 SL No. 297 s 10(2)def “**facility**” sub 1998 SL No. 179 s 21(1)–(2); 1999 SL No. 297 s 10(1)–(2)def “**general emission criteria**” ins 1999 SL No. 297 s 10(2)def “**indoor venue**” ins 1999 SL No. 297 s 10(2)def “**industry handbook**” ins 1999 SL No. 297 s 10(2)def “**licensed premises**” ins 1999 SL No. 297 s 10(2)def “**limited regulated waste**” amd 1998 SL No. 179 s 21(3)def “**material change of use**” ins 1998 SL No. 179 s 21(2)def “**mining authority**” om 1998 SL No. 179 s 21(1)def “**noise emission criteria**” ins 1999 SL No. 297 s 10(2)def “**noise offence**” ins 1999 SL No. 297 s 10(2)def “**noise offence exemption**” ins 1999 SL No. 297 s 10(2)def “**noise policy**” ins 1999 SL No. 297 s 10(2)

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