

Queensland



**Subordinate Legislation 2000 No. 351**

*Environmental Protection Act 1994*

*State Penalties Enforcement Act 1999*

*Water Resources Act 1989*

**ENVIRONMENTAL PROTECTION AND  
OTHER LEGISLATION AMENDMENT  
REGULATION (No. 1) 2000**

**TABLE OF PROVISIONS**

Section	Page
<b>PART 1—PRELIMINARY</b>	
1 Short title . . . . .	6
2 Commencement . . . . .	6
<b>PART 2—AMENDMENT OF ENVIRONMENTAL PROTECTION REGULATION 1998</b>	
3 Regulation amended in pt 2 . . . . .	6
4 Amendment of s 4 (Levels 1 and 2 environmentally relevant activities) . .	6
5 Replacement of ss 5 and 6 . . . . .	6
6 Prescribed criteria for standard mining activities—Act, s 34ES . . .	7
6 Amendment of s 6M (Frivolous, vexatious or mistaken complaints) . . . .	7
7 Amendment of s 6U (Requirements) . . . . .	7
8 Amendment of s 25 (Restriction on installing, keeping and refilling of fixed halon system) . . . . .	7
9 Amendment of s 30 (Approval to buy or refill a portable halon fire extinguisher) . . . . .	7
10 Amendment of s 37 (Procedure for cancellation) . . . . .	8

---

11	Amendment of s 38H (Occupiers of reporting facilities to give information) . . . . .	8
12	Amendment of s 38J (Reporting period for facility) . . . . .	8
13	Amendment of s 38L (Application for approval of estimation technique) . . . . .	9
14	Amendment of s 38M (Approving estimation technique) . . . . .	9
15	Amendment of s 38P (Claiming exemption on ground of commercial confidentiality) . . . . .	9
16	Amendment of s 38Q (Deciding claim for exemption on ground of commercial confidentiality) . . . . .	9
17	Amendment of s 38T (Minister may name occupier in report to council) . . . . .	10
18	Amendment of s 38ZC (Claiming exemption on ground of commercial confidentiality) . . . . .	10
19	Amendment of s 38ZD (Deciding claim for exemption on ground of commercial confidentiality) . . . . .	10
20	Amendment of s 38ZQ (Additional information for applications) . . . . .	10
21	Amendment of s 38ZS (Giving exemptions) . . . . .	11
22	Amendment of s 38ZT (Refusing applications) . . . . .	11
23	Amendment of s 40B (Devolution of powers—residential land) . . . . .	11
24	Omission of pt 4, div 2 (Integrated environmental management systems) . . . . .	11
25	Amendment of s 44 (Fees—general) . . . . .	11
26	Replacement of s 45 (Refund of fees) . . . . .	12
	45 Refund of annual fee . . . . .	12
27	Replacement of s 46 (Annual fees for non-devolved activities) . . . . .	12
	46 Fees for environmentally relevant activities . . . . .	12
28	Amendment of s 47 (Annual licence fees for devolved activities) . . . . .	12
29	Amendment of s 48 (Annual licence fees for single licences—Act, s 61) . . . . .	12
30	Replacement of s 49 (Application for waiver of application and annual licence fees) . . . . .	13
	49 Application for waiver of fee . . . . .	13
31	Amendment of s 50 (Criteria for deciding application for waiver of fees) . . . . .	14

32	Replacement of s 51 (Effect of decision on application for waiver of fee) . . . . .	14
	51 Effect of decision on waiver application . . . . .	14
	51A Fee for late payment of annual fee . . . . .	14
33	Omission of ss 60 and 60A . . . . .	15
34	Amendment of s 62 (Review of decisions and appeal) . . . . .	15
35	Replacement of ss 63A and 63B . . . . .	16
	63A Codes of environmental compliance . . . . .	16
	63B Prescribed periods under Act—sch 8C . . . . .	16
36	Replacement of s 63D (Postponed commencement of uncommenced provisions—Environmental and Other Legislation Amendment Act) . . . . .	17
	63D Prescribed regulated waste—Act, sch 3, item 37 . . . . .	17
37	Amendment of s 70 (Applications for environmental authorities) . . . . .	17
38	Amendment of s 71 (Undecided applications for amendment or transfer of licences) . . . . .	17
39	Amendment of s 74 (Administering authority to decide whether person’s activity is environmentally relevant activity) . . . . .	18
40	Amendment of s 75 (Annual licence fee—continuing level 1 environmentally relevant activities) . . . . .	18
41	Replacement of s 78 (Application of div 5) . . . . .	18
	78 Application of div 5 . . . . .	19
42	Amendment of s 82 (Undecided applications for amendment or transfer of licences for prescribed activities) . . . . .	19
43	Amendment of s 83 (Prescribed circumstances for Act, s 50) . . . . .	19
44	Amendment of sch 1 (Levels 1 and 2 environmentally relevant activities and licence fees) . . . . .	19
45	Insertion of new sch 1A . . . . .	21

#### SCHEDULE 1A

#### CRITERIA FOR STANDARD MINING ACTIVITIES

#### PART 1—PRELIMINARY

1	What is a “category A environmentally sensitive area” . . . . .	22
2	What is a “category B environmentally sensitive area” . . . . .	23
3	Limits of “riverine area” . . . . .	24

---

4	What is “significantly disturbed” land . . . . .	24
5	What is a “watercourse” . . . . .	25
PART 2—CRITERIA		
6	Criteria for environmental authority (mining lease) . . . . .	26
7	Criteria for other environmental authority (mining activities) . . . . .	27
46	Amendment of sch 6 (Fees) . . . . .	28
47	Insertion of new sch 8C . . . . .	31
SCHEDULE 8C		
PRESCRIBED PERIODS UNDER ACT		
PART 1—PRESCRIBED PERIODS FOR CHAPTER 2A		
1	Advice to chief executive about draft terms of reference—Act, s 34AH . . . . .	31
2	Finalising terms of reference—Act, s 34AI . . . . .	31
3	Decision on whether to allow EIS to proceed—Act, s 34AL . . . . .	32
PART 2—PRESCRIBED PERIODS FOR CHAPTER 2C		
<i>Division 1—Assessment level decision and EIS requirement</i>		
4	Assessment level decision—Act, s 34FD . . . . .	32
5	Decision about EIS requirement—Act, s 34FF . . . . .	32
<i>Division 2—Environmental authority (prospecting) applications</i>		
6	Decision period—Act, s 34FJ . . . . .	33
7	Failure to decide—Act, s 34FK . . . . .	33
<i>Division 3—Environmental authority (mining claim) applications</i>		
8	Decision to refuse or allow to proceed—Act, s 34FO . . . . .	33
9	Giving draft environmental authority—Act, s 34FQ . . . . .	33
<i>Division 4—Environmental authority (exploration) and environmental authority (mineral development) applications</i>		
10	Decision period—Act, s 34FW . . . . .	34
11	Assessment period for EM plan assessment report—Act, s 34GG . . .	34
12	Decision period—Act, s 34GI . . . . .	34
<i>Division 5—Environmental authority (mining lease) applications</i>		
13	Assessment period for EMOS assessment report—Act, s 34GU . . .	35
14	Decision to refuse or allow to proceed—Act, s 34GW . . . . .	35

---

*Division 6—Amendment applications*

15	Decision to refuse or allow to proceed—Act, s 34IF .....	36
16	Assessment level decision—Act, s 34IJ .....	36
17	Deciding application—Act, s 34IU .....	36

*Division 7—Surrender applications*

18	When surrender required—Act, s 34JH .....	36
19	FRR assessment report period—Act, s 34JN .....	36
20	Deciding application—Act, s 34JO .....	37
48	Amendment of sch 9 (Dictionary) .....	37

**PART 3—AMENDMENT OF ENVIRONMENTAL PROTECTION  
(WASTE MANAGEMENT) REGULATION 2000**

49	Regulation amended in pt 3 .....	38
50	Amendment of ss 37, 38, 39, 51 and 64 .....	38

**PART 4—AMENDMENT OF STATE PENALTIES  
ENFORCEMENT REGULATION 2000**

51	Regulation amended in pt 4 .....	38
52	Amendment of sch 2 (Environmental legislation) .....	38

**PART 5—AMENDMENT OF WATER RESOURCES  
(WATERCOURSE PROTECTION) REGULATION 1993**

53	Regulation amended in pt 5 .....	39
54	Amendment of ss 2 and 3 .....	39
55	Amendment of s 4 (Placing of fill in a watercourse) .....	39
56	Insertion of new s 5 .....	40
5	Matters permitted for environmental authorities for mining activities .....	40

## **PART 1—PRELIMINARY**

### **Short title**

1. This regulation may be cited as the *Environmental Protection and Other Legislation Amendment Regulation (No. 1) 2000*.

### **Commencement**

2. This regulation, other than section 35 to the extent it inserts section 63A, commences on 1 January 2001.<sup>1</sup>

## **PART 2—AMENDMENT OF ENVIRONMENTAL PROTECTION REGULATION 1998**

### **Regulation amended in pt 2**

3. This part amends the *Environmental Protection Regulation 1998*.

### **Amendment of s 4 (Levels 1 and 2 environmentally relevant activities)**

4. Section 4(3)—

*omit.*

### **Replacement of ss 5 and 6**

5. Sections 5 and 6—

*omit, insert—*

---

<sup>1</sup> Inserted section 63A (Codes of environmental compliance)

**‘Prescribed criteria for standard mining activities—Act, s 34ES**

‘6. For section 34ES(2)(c)(ii) of the Act, the prescribed criteria, are stated in schedule 1A.’.

**Amendment of s 6M (Frivolous, vexatious or mistaken complaints)**

6. Section 6M(3)(c) and (d)—

*omit, insert—*

‘(c) the review or appeal details.’.

**Amendment of s 6U (Requirements)**

7.(1) Section 6U(1)(d)(iii) and (iv)—

*omit, insert—*

‘(iii) the review or appeal details;’.

(2) Section 6U(1)(d)(v)—

*renumber* as section 6U(1)(d)(iv).

**Amendment of s 25 (Restriction on installing, keeping and refilling of fixed halon system)**

8. Section 25(6) and (7)—

*omit, insert—*

‘(6) If the chief executive decides to refuse the application or to impose conditions on the approval, the chief executive must promptly—

- (a) give the applicant an information notice about the decision; and
- (b) for a decision to impose conditions—endorse the conditions on the certificate of approval.’.

**Amendment of s 30 (Approval to buy or refill a portable halon fire extinguisher)**

9. Section 30(5) and (6)—

*omit, insert—*

‘(5) If the chief executive decides to refuse the application or to impose conditions on the approval, the chief executive must promptly—

- (a) give the applicant an information notice about the decision; and
- (b) for a decision to impose conditions—endorse the conditions on the certificate of approval.’.

### **Amendment of s 37 (Procedure for cancellation)**

**10.(1)** Section 37(3) to (5)—

*omit, insert—*

‘(3) The chief executive must, within 10 days after deciding to cancel the certificate, give the certificate holder an information notice about the decision.’.

**(2)** Section 37—

*insert—*

‘(8) If the chief executive at any time decides not to take the proposed action, the chief executive must, within 10 days after making the decision, give the certificate holder written notice of the decision.’.

**(3)** Section 37(6) to (8)—

*renumber* as section 37(4) to (6).

### **Amendment of s 38H (Occupiers of reporting facilities to give information)**

**11.** Section 38H(4)(b)—

*omit, insert—*

‘(b) the review or appeal details for the decision to issue the notice.’.

### **Amendment of s 38J (Reporting period for facility)**

**12.** Section 38J(4), from ‘must state—’



*omit, insert—*

‘must be an information notice about the decision to refuse the application.’.

### **Amendment of s 38L (Application for approval of estimation technique)**

**13.** Section 38L—

*insert—*

‘(4) The notice must be accompanied by, or include, an information notice about the chief executive’s decision to make the request.’.

### **Amendment of s 38M (Approving estimation technique)**

**14.** Section 38M(6), from ‘must state—’

*omit, insert—*

‘must be an information notice about the decision to refuse the approval or give it subject to the modification.’.

### **Amendment of s 38P (Claiming exemption on ground of commercial confidentiality)**

**15.** Section 38P—

*insert—*

‘(4) A notice under subsection (3) must be accompanied by, or include, an information notice about the chief executive’s decision to make the request.’.

### **Amendment of s 38Q (Deciding claim for exemption on ground of commercial confidentiality)**

**16.** Section 38Q(5), from ‘must state—’

*omit, insert—*

‘must be an information notice about the decision to refuse the grant.’.

**Amendment of s 38T (Minister may name occupier in report to council)**

**17.** Section 38T(8)(b)—

*omit, insert—*

‘(b) the review or appeal details for the decision.’.

**Amendment of s 38ZC (Claiming exemption on ground of commercial confidentiality)**

**18.** Section 38ZC—

*insert—*

‘(4) A notice under subsection (3) must be accompanied by, or include, an information notice about the chief executive’s decision to make the request.’.

**Amendment of s 38ZD (Deciding claim for exemption on ground of commercial confidentiality)**

**19.** Section 38ZD(4), from ‘must state—’

*omit, insert—*

‘must be an information notice about the decision to refuse the grant.’.

**Amendment of s 38ZQ (Additional information for applications)**

**20.(1)** Section 38ZQ—

*insert—*

‘(1A) The notice must be accompanied by, or include, an information notice about the chief executive’s decision to make the request.’.

**(2)** Section 38ZQ(1A) and (2)—

*renumber* as section 38ZQ(2) and (3).

**Amendment of s 38ZS (Giving exemptions)****21.** Section 38ZS(2)—*omit, insert—*

‘(2) If the chief executive decides to impose conditions on the exemption, the notice must be accompanied by, or include, an information notice about the decision to impose the conditions.’.

**Amendment of s 38ZT (Refusing applications)****22.** Section 38ZT, from ‘a written notice’—*omit, insert—*

‘an information notice about the decision.’.

**Amendment of s 40B (Devolution of powers—residential land)**

**23.** Section 40B(1), ‘local government for the area where the land is situated’—

*omit, insert—*

‘relevant local government’.

**Omission of pt 4, div 2 (Integrated environmental management systems)****24.** Part 4, division 2—*omit.***Amendment of s 44 (Fees—general)****25.(1)** Section 44(1), ‘annual licence fees’—*omit, insert—*

‘annual fees’.

(2) Section 44(3)—

*omit.*

### **Replacement of s 45 (Refund of fees)**

26. Section 45—

*omit, insert—*

#### **‘Refund of annual fee**

‘45. If an administering authority refuses an environmental authority application, it must refund to the applicant the annual fee component of the application fee paid by the applicant.’

### **Replacement of s 46 (Annual fees for non-devolved activities)**

27. Section 46—

*omit, insert—*

#### **‘Fees for environmentally relevant activities**

‘46. The annual fee for an environmentally relevant activity is stated opposite the activity in schedule 1, column 3.’

### **Amendment of s 47 (Annual licence fees for devolved activities)**

28.(1) Section 47, heading, ‘licence’—

*omit.*

(2) Section 47, ‘licence’—

*omit.*

### **Amendment of s 48 (Annual licence fees for single licences—Act, s 61)**

29. Section 48, words before subsection (2)—

*omit, insert—*

**‘Annual fees for environmental authorities**

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

**Replacement of s 49 (Application for waiver of application and annual licence fees)**

**30.** Section 49—

*omit, insert—*

**‘Application for waiver of fee**

**‘49.(1)** A person may apply to the administering authority (a **“waiver application”**) for it to waive, wholly or partly, payment by the person of—

- (a) an application fee for an environmental authority; or
- (b) an annual fee for an environmentally relevant activity.

**‘(2)** However, a waiver application may be made only at the following time—

- (a) for an application fee—when the environmental authority application is made;
- (b) for an annual fee—when giving an annual return under section 34LB of the Act.

**‘(3)** If a waiver application is made for an environmental authority application, the annual licence fee component of the application fee is not required to accompany the environmental authority application.

**‘(4)** The grant of a waiver application for an annual fee is a prescribed circumstance for sections 34LB(2)(a) and 256(2)(a) of the Act.’.

---

**Amendment of s 50 (Criteria for deciding application for waiver of fees)**

**31.** Section 50, heading, ‘**application for waiver of fees**’—

*omit, insert—*

‘**waiver application**’.

**Replacement of s 51 (Effect of decision on application for waiver of fee)**

**32.** Section 51—

*omit, insert—*

**‘Effect of decision on waiver application**

‘**51.(1)** If the decision on a waiver application is to waive payment of an amount paid by the applicant, the administering authority must repay the amount to the applicant.

‘**(2)** If the decision on a waiver application is to refuse the waiver applied for, or to only partly waive the relevant payment, the administering authority must—

- (a) fix a due day for payment of the fee; and
- (b) give the applicant an information notice about the decision.

‘**(3)** The information notice must state—

- (a) the due day; or
- (b) the outstanding amount of the fee.

‘**(4)** The due day must be at least 14 days after the giving of the notice.

**‘Fee for late payment of annual fee**

‘**51A.(1)** This section applies if—

- (a) an environmental authority holder has not, on or before the later of the following, paid an annual fee, or part of an annual fee, for an environmentally relevant activity to which the environmental authority relates—

- (i) the anniversary day for the environmental authority;
  - (ii) if a waiver application for the annual fee has, under section 51, been refused or only partly waived—the due day fixed under that section for payment of the fee, or outstanding part of the fee; and
- (b) a waiver application has not been granted for the annual fee or part of the fee.

‘(2) The administering authority must give the holder a reminder notice that—

- (a) informs the holder that the holder has not paid the annual fee or part of the fee; and
- (b) states a day (the “**due day**”) by which the holder must pay—
  - (i) the annual fee or part of the fee; and
  - (ii) a late payment fee of \$50.00.

‘(3) The due day must be at least 14 days after the giving of the notice.’.

### **Omission of ss 60 and 60A**

**33.** Sections 60 and 60A—  
*omit.*

### **Amendment of s 62 (Review of decisions and appeal)**

**34.(1)** Section 62(1), words before paragraph (a)—  
*omit, insert—*

‘**62.(1)** Chapter 6, part 3 of the Act applies to a decision as follows as if the decision were a decision mentioned in schedule 1, part 2 of the Act<sup>2</sup>—’.

**(2)** Section 62(1)(b), after ‘refuse’—  
*omit, insert—*

---

<sup>2</sup> Chapter 6, part 3 (Review of decisions and appeals) and schedule 1, part 2 (Original decisions for Court appeals) of the Act

‘a waiver application;’.

(3) Section 62(1A), ‘divisions 1 and 3’—

*omit, insert—*

‘division 1 and division 3, subdivision 2<sup>3</sup>’.

### **Replacement of ss 63A and 63B**

**35.** Sections 63A and 63B—

*omit, insert—*

#### **‘Codes of environmental compliance**

**‘63A.** The following documents published by the department, are approved as codes of environmental compliance—

- (a) the *Code of Environmental Compliance for Mining Claims and Prospecting Permits*;
- (b) the *Code of Environmental Compliance for Exploration and Mineral Development Projects*;
- (c) the *Code of Environmental Compliance for Mining Lease Projects*.<sup>4</sup>

#### **‘Prescribed periods under Act—sch 8C**

**‘63B.(1)** Schedule 8C prescribes periods under the provisions of chapters 2A and 2C of the Act that the schedule mentions.

**‘(2)** A reference in schedule 8C to a numbered provision is a reference to the provision in the Act with that number.’.

---

<sup>3</sup> Chapter 6, part 2 division 1 (Interpretation) and division 3, subdivision 2 (Appeals to Court) of the Act

<sup>4</sup> The codes are available for inspection during office hours on business days at the head office of the Environmental Protection Agency at 160 Ann Street Brisbane and at each regional office of the agency.



---

**Replacement of s 63D (Postponed commencement of uncommenced provisions—Environmental and Other Legislation Amendment Act)**

**36.** Section 63D—

*omit, insert—*

**‘Prescribed regulated waste—Act, sch 3, item 37**

**‘63D.** Regulated waste under this regulation is prescribed as regulated waste for schedule 3, item 37, of the Act.’

**Amendment of s 70 (Applications for environmental authorities)**

**37.(1)** Section 70(3)—

*omit, insert—*

**‘(3)** Chapter 6, part 3 of the Act applies to a decision about the amount of the refund as if the decision were a decision mentioned in schedule 1, part 2 of the Act.<sup>5</sup>’.

**(2)** Section 70(4)(b)—

*omit, insert—*

**‘(b)** the notice must state the review or appeal details for the decision.’.

**Amendment of s 71 (Undecided applications for amendment or transfer of licences)**

**38.(1)** Section 71(3)—

*omit, insert—*

**‘(3)** Chapter 6, part 3 of the Act applies to a decision about the amount of the refund as if the decision were a decision mentioned in schedule 1, part 2 of the Act.’.

**(2)** Section 71(4)(b)—

---

<sup>5</sup> Chapter 6, part 3 (Review of decisions and appeals) and schedule 1, part 2 (Original decisions for Court appeals) of the Act

*omit, insert—*

‘(b) the notice must state the review or appeal details for the decision.’.

**Amendment of s 74 (Administering authority to decide whether person’s activity is environmentally relevant activity)**

**39.(1)** Section 74(5)—

*omit, insert—*

‘(5) Chapter 6, part 3 of the Act applies to a decision under subsection (1) and a decision about the amount of the refund as if the decision were a decision mentioned in schedule 1, part 2 of the Act.’.

**(2)** Section 74(6)(b)—

*omit, insert—*

‘(b) the notice must state the review or appeal details for the decision.’.

**Amendment of s 75 (Annual licence fee—continuing level 1 environmentally relevant activities)**

**40.(1)** Section 75(4)—

*omit, insert—*

‘(4) Chapter 6, part 3 of the Act applies to a decision about the amount of the refund as if the decision were a decision mentioned in schedule 1, part 2 of the Act.’.

**(2)** Section 75(5)(b)—

*omit, insert—*

‘(b) the notice must state the review or appeal details for the decision.’.

**Replacement of s 78 (Application of div 5)**

**41.** Section 78—

*omit, insert—*

**‘Application of div 5**

‘78. This division applies in relation to an activity mentioned in schedule 1, items 16, 24, 26, 31, 35, 43, 45, 52, 59, 68, 77, 79 and 80 that, under repealed section 4(3), became a level 2 environmentally relevant activity on 1 July 1998.’.

**Amendment of s 82 (Undecided applications for amendment or transfer of licences for prescribed activities)**

**42.(1)** Section 82(3)—

*omit, insert—*

‘(3) Chapter 6, part 3 of the Act applies to a decision about the amount of the refund as if the decision were a decision mentioned in schedule 1, part 2 of the Act.’.

**(2)** Section 82(4)(b)—

*omit, insert—*

‘(b) the notice must state the review or appeal details for the decision.’.

**Amendment of s 83 (Prescribed circumstances for Act, s 50)**

**43.(1)** Section 83, heading, ‘s 50’—

*omit, insert—*

**‘s 34DX’**

**(2)** Section 83, ‘section 50(1)(b)(viii)’—

*omit, insert—*

‘section 34DX(2)(h)’.

**Amendment of sch 1 (Levels 1 and 2 environmentally relevant activities and licence fees)**

**44.(1)** Schedule 1, heading, ‘LICENCE’

*omit, insert—*

**‘ANNUAL’.**

(2) Schedule 1, **‘Annual licence fee’**—

*omit, insert—*

**‘Annual fee’.**

(3) Schedule 1, item 1, ‘ponds or enclosures in waters’—

*omit, insert—*

‘ponds or tanks or in enclosures in waters (the **“impoundments”**)’.

(4) Schedule 1, item 1, paragraphs (a) to (e), ‘ponds or enclosures’—

*omit, insert—*

‘impoundments’.

(5) Schedule 1, item 21—

*omit, insert—*

**‘21. Mining activities, other than a standard mining activity, carried out using equipment and plant—**

(a) having a mineral ore throughput of less than 100 000 t during a year . . . . .	—†	4 880.00
(b) having a mineral ore throughput of more than 100 000 t during a year but less than 500 000 t a year . . . . .	—	12 380.00
(c) having a mineral ore throughput of 500 000 t or more during a year or if mineral ores mined are chemically processed to produce concentrates . . . . .	—	16 340.00

<b>21A. Mining activities, other than a standard mining activity, involving drilling, costeaning or pitting or geophysical surveys causing significant disturbance . . . . .</b>	<b>—</b>	<b>700.00</b>
--	----------	---------------

† Section 17C (Levels for environmentally relevant activities) of the Act gives the levels for mining activities.

<b>21B.</b> Mining activities, other than a standard mining activity, investigating the potential development of a mineral resource by large bulk sampling, exploratory shaft, adit or open pit construction . . . . .	—	3 960.00
--	---	----------

<b>21C.</b> Exploring for or mining minerals under a prospecting petroleum permit, authority to prospect, petroleum lease or pipeline licence granted under the <i>Petroleum Act 1923</i> . . . . .	2	—
---	---	---

<b>21D.</b> Exploring for or mining minerals under a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the <i>Petroleum (Submerged Lands) Act 1982</i> . . . . .	2	—’.
---	---	-----

(6) Schedule 1, item 28, after ‘farm’—

*insert—*

‘or under a mining tenement’.

### **Insertion of new sch 1A**

**45.** After schedule 1—

*insert—*

---

† Section 17C (Levels for environmentally relevant activities) of the Act gives the levels for mining activities.

## **‘SCHEDULE 1A**

### **‘CRITERIA FOR STANDARD MINING ACTIVITIES**

section 6

#### **‘PART 1—PRELIMINARY**

##### **‘What is a “category A environmentally sensitive area”**

**‘1.** In this schedule, a **“category A environmentally sensitive area”** means any of the following—

- (a) the following under the *Nature Conservation Act 1992*—
  - (i) a national park (scientific);
  - (ii) a national park;
  - (iii) a national park (Aboriginal land);
  - (iv) a national park (Torres Strait Islander land);
  - (v) a national park (recovery);
  - (vi) a conservation park;
- (b) the wet tropics area under the *Wet Tropics World Heritage Protection and Management Act 1993*;
- (c) a restricted area under the Mineral Resources Act that includes a constructed water reservoir;
- (d) the Great Barrier Reef Marine Park Region under the *Great Barrier Reef Marine Park Act 1975* (Cwlth);
- (e) a marine park under the *Marine Parks Act 1982*, other than a part of the park that is a general use zone.

**‘What is a “category B environmentally sensitive area”**

**‘2.** In this schedule, a **“category B environmentally sensitive area”** means any of the following—

- (a) an area as follows under the *Nature Conservation Act 1992*—
  - (i) a coordinated conservation area;
  - (ii) a wilderness area;
  - (iii) a World heritage management area;
  - (iv) an international agreement area;
  - (v) an area of critical habitat or major interest identified under a conservation plan;
  - (vi) an area subject to an interim conservation order;
  - (vii) a forest reserve.
- (b) an area subject to the following conventions to which Australia is a signatory—
  - (i) the *Convention on the Conservation of Migratory Species of Wild Animals* (Bonn, 23 June 1979);
  - (ii) the *Convention on Wetlands of International Importance, especially as Waterfowl Habitat* (Ramsar, 2 February 1971);
  - (iii) the *Convention Concerning the Protection of the World Cultural and Natural Heritage* (Paris, 16 November 1972);
- (c) a general use zone of a marine park under the *Marine Parks Act 1982*;
- (d) an area to the seaward side of the highest astronomical tide;
- (e) the following under the *Queensland Heritage Act 1992*—
  - (i) a place of cultural heritage significance;
  - (ii) a protected area;
  - (iii) a registered place;
  - (iv) a restricted zone;
- (f) a designated landscape area under the *Cultural Record*

---

(*Landscapes Queensland and Queensland Estate*) Act 1987, other than the area known as the ‘Stanbroke Pastoral Development Holding’, leased under the *Land Act 1994* by lease number PH 13/5398;

- (g) a feature protection area, State forest park or Scientific area under the *Forestry Act 1959*;
- (h) a fish habitat area under the *Fisheries Act 1994*;
- (i) a place in which a marine plant under the *Fisheries Act 1994* is situated;
- (j) an endangered regional ecosystem or area of high nature conservation value identified in the document published by the department called *The Conservation Status of Queensland’s Bioregional Ecosystems*.<sup>6</sup>

### **‘Limits of “riverine area”**

**‘3.** In this schedule, a **“riverine area”** does not include land outside the flood flow channel of a watercourse.

### **‘What is “significantly disturbed” land**

**‘4.(1)** In this schedule, land is **“significantly disturbed”** if—

- (a) it is contaminated land; or
- (b) it has been disturbed and human intervention is needed to rehabilitate it—
  - (i) to a state required under the relevant environmental authority; or
  - (ii) if the environmental authority does not require the land to be rehabilitated to a particular state—to its state immediately before the disturbance.

---

<sup>6</sup> A copy of the document may be inspected by members of the public during office hours on business days at the department’s head office at 160 Ann Street, Brisbane.



*Examples of a ‘disturbance’ to land—*

1. The covering, compaction, exposure, removal or stockpiling of soil or other material.
2. The destruction or removal of vegetation.
3. The carrying out of a mining activity in a watercourse or wetland.
4. The submergence of an area with a hazardous contaminant, tailings, or water.

‘(2) Without limiting subsection (1)(b), land requires human intervention to rehabilitate it if—

- (a) the disturbance has made the land more susceptible to erosion; or
- (b) the land use capability or suitability of the land is diminished; or
- (c) the quality of water in a watercourse downstream of the land has been significantly reduced.

‘(3) If land is significantly disturbed land because it is contaminated land, it ceases to be significantly disturbed land if a suitability statement is issued for the land.

‘(4) If land is significantly disturbed land under subsection (1)(b), it ceases to be significantly disturbed land if the administering authority becomes satisfied the land has been rehabilitated—

- (a) to its state immediately before the disturbance; or
- (b) to another state decided by the administering authority.

**‘What is a “watercourse”**

‘5. In this schedule, a **“watercourse”** is a creek, river or stream—

- (a) in which water flows intermittently or permanently in a visibly defined channel, whether artificial, artificially improved or natural; and
- (b) that has a clear bank and bed; and
- (c) that has evidence of biological dependence on any water that flows in the creek, river or stream or on the banks or bed.

## **‘PART 2—CRITERIA**

### **‘Criteria for environmental authority (mining lease)**

**‘6.(1)** The following criteria apply for mining activities allowed, or to be allowed, under an environmental authority (mining lease)—

- (a) the mining activities do not, or will not, cause more than 10 ha of any land to be significantly disturbed at any one time;
- (b) the mining activities do not, or will not, cause more than 5 ha of any riverine area and mine workings to be significantly disturbed at any one time;
- (c) the mining activities are not, or will not be, carried out in, or within 2 km of, a category A environmentally sensitive area;
- (d) the mining activities are not, or will not be, carried out in, or within 1 km of, a category B environmentally sensitive area;
- (e) the mining activities do not include a level 1 environmentally relevant activity;
- (f) no more than 20 persons are carrying out or, will at any one time, carry out, the mining activities;
- (g) only mining of a type as follows is permitted under any relevant mining lease—
  - (i) alluvial mining;
  - (ii) clay pit mining;
  - (iii) dimension stone mining;
  - (iv) hard rock mining;
  - (v) opal mining;
  - (vi) shallow pit mining.

**‘(2)** In this section—

**“alluvial mining”** means excavating, in any way, unconsolidated or waterborne or weathered material (whether or not it is in a watercourse) and processing it by using chemical methods or gravity

separation to extract minerals from the material.

*Examples—*

Gem, gold and tin mining from alluvial wash.

**“clay pit mining”** means excavating waterborne or weathered material (whether or not it is in a watercourse) and processing it by a non-crushing method.

**“dimension stone mining”** means extracting rock and processing it by further cutting or shaping to use it for building.

*Examples of rock extracted as ‘dimension stone’—*

Granite, limestone, marble, sandstone and slate.

**“hard rock mining”** means extracting material from underground or open cut pits and processing it by crushing or milling and using chemical methods or gravity separation to extract minerals from it.

**“mine workings”** means an area from which ore or overburden has been extracted or on which waste rock is stored that is not—

- (a) substantially rehabilitated to the satisfaction of the administering authority; or
- (b) used for a camp site, road, plant, tailings dam, water storage dam, or other infrastructure.

**“opal mining”** means extracting material from underground or open cut pits and processing it by manually separating opal rock or by using gravity separation to extract opal.

**“shallow pit mining”** means extracting material from an open cut pit no more than 5 m deep and processing the material to extract minerals.

#### **‘Criteria for other environmental authority (mining activities)**

**‘7.** The following criteria apply for mining activities allowed, or to be allowed, under an environmental authority (mining activities), other an environmental authority (mining lease)—

- (a) the mining activities do not, or will not, cause more than 10 ha of any land to be significantly disturbed at any one time;
- (b) no more than 5000 m<sup>2</sup> are disturbed at any campsite at any one

time;

- (c) no more than 20 m<sup>3</sup> of any substance is extracted from each kilometre of any riverine area in any year;
- (d) the mining activities are not, or will not be, carried out in a category A or B environmentally sensitive area;
- (e) the mining activities do not include a level 1 environmentally relevant activity.’.

### **Amendment of sch 6 (Fees)**

**46.(1)** Schedule 6, part 1—

*omit, insert—*

## **‘PART 1—FEES RELATING TO ENVIRONMENTAL AUTHORITIES AND DEVELOPMENT APPROVALS OTHER THAN FOR MINING ACTIVITIES**

section 44

\$

<b>1.</b> Application for assessment of development application under ch 2B, pt 2 of the Act . . . . .	200.00	plus an amount equal to the annual fee for the activity
<b>2.</b> Application for level 2 approval (s 34CS of the Act) . . . . .	200.00	
<b>3.</b> Conversion application under ch 2B, pt 4 of the Act . . . . .	200.00	

- 
4. Application for environmental authority, other than a level 2 approval or an environmental authority (mining activities) . . . 200.00
- plus an amount equal to the higher or highest annual fee for any activity mentioned in schedule 1 proposed to be carried out under the authority
5. Amendment application under ch 2B, pt 5 of the Act . . . . . 150.00
6. Transfer application under ch 2B, pt 6, div 2 of the Act . . . 50.00

## **‘PART 1A—FEES RELATING TO ENVIRONMENTAL AUTHORITIES (MINING ACTIVITIES)**

section 44

\$

7. Application for standard environmental authority (mining activities), other than an environmental authority (prospectng) or environmental authority (mining claim) (s 34EV of the Act) 200.00

---

<b>8.</b> Application for a non-standard environmental authority (mining activities) (s 34EV of the Act) . . . . .	200.00	plus an amount equal to the higher or highest annual fee for any activity mentioned in schedule 1 proposed to be carried out under the authority
<b>9.</b> Amendment application for environmental authority (mining activities) (s 34ID of the Act) . . . . .	150.00	
<b>10.</b> Transfer application for environmental authority (mining activities) (s 34IX of the Act) . . . . .	50.00	
<b>11.</b> Annual fee for transitional authority first year of transitional period (s 256 of the Act) . . . . .		an amount equal to the higher or highest annual fee for any activity mentioned in schedule 1 proposed to be carried out under the authority, other than an activity mentioned in items 21 to 21D of that schedule’.

(2) Schedule 6, part 2, items 9 and 10—

*renumber* as schedule 6, part 2, items 12 and 13.

**Insertion of new sch 8C**

**47.** After schedule 8B—

*insert—*

**‘SCHEDULE 8C**

**‘PRESCRIBED PERIODS UNDER ACT**

section 63B of the regulation

**‘PART 1—PRESCRIBED PERIODS FOR  
CHAPTER 2A**

**‘Advice to chief executive about draft terms of reference—Act, s 34AH**

**‘1.** For section 34AH, the period is the later of the following periods to end—

- (a) 20 business days after the chief executive has given the proponent a copy of all comments received within the comment period;
- (b) if the chief executive and the proponent have, within the 20 business days, agreed to a longer period—the longer period.

**‘Finalising terms of reference—Act, s 34AI**

**‘2.** For section 34AI, the period is the later of the following periods to end—

- (a) 20 business days after the giving of the documents mentioned in section 34AH;
- (b) if the chief executive and the proponent have, within the 20 business days, agreed to a longer period—the longer period.

**‘Decision on whether to allow EIS to proceed—Act, s 34AL**

‘3. For section 34AL(1), the period is the later of the following periods to end—

- (a) 20 business days after the EIS is submitted;
- (b) if the chief executive and the proponent have, within the 20 business days, agreed to a longer period—the longer period.

**‘PART 2—PRESCRIBED PERIODS FOR  
CHAPTER 2C**

***‘Division 1—Assessment level decision and EIS requirement***

**‘Assessment level decision—Act, s 34FD**

‘4. For section 34FD(1), the period is 5 business days after the administering authority receives the application.

**‘Decision about EIS requirement—Act, s 34FF**

‘5. For section 34FF(1) and (3), the period is the later of the following periods to end—

- (a) 10 business days after the administering authority receives the application;
- (b) if the administering authority, within the 10 business days, gives the applicant a written notice that the EPA Minister has fixed a longer period—the longer period.



***‘Division 2—Environmental authority (prospecting) applications***

**‘Decision period—Act, s 34FJ**

‘6. For section 34FJ(1), the period is 5 business days after the administering authority receives the application.

**‘Failure to decide—Act, s 34FK**

‘7. For section 34FK, the period is 6 business days after the administering authority receives the application.

***‘Division 3—Environmental authority (mining claim) applications***

**‘Decision to refuse or allow to proceed—Act, s 34FO**

‘8. For section 34FO(1), the period is 5 business days after the administering authority receives the application.

**‘Giving draft environmental authority—Act, s 34FQ**

‘9. For section 34FQ(2), the period is the later of the following periods to end—

- (a) 5 business days after the refusal period ends;
- (b) if additional conditions have been requested under section 34FR—10 business days after the last request for additional conditions;
- (c) if the applicant and the administering authority have, within the later of the periods under paragraph (a) or (b) to end, agreed to a longer period for the preparation of the draft—the longer period.

---

***‘Division 4—Environmental authority (exploration) and environmental authority (mineral development) applications***

**‘Decision period—Act, s 34FW**

**‘10.(1)** This section prescribes the period for section 34FW(1).

**‘(2)** The period is 5 business days after the administering authority receives the application if no additional condition has been requested before the end of the 5 days.

**‘(3)** Otherwise, the period is 10 business days after the day the last request for additional conditions was made.

**‘Assessment period for EM plan assessment report—Act, s 34GG**

**‘11.** For section 34GG(2), the period is the later of the following periods to end—

- (a) 30 business days after the environmental management plan is submitted;
- (b) if the applicant has amended the plan within the 30 business days—30 business days after the EM plan amendment notice for the amendment is given to the administering authority.

**‘Decision period—Act, s 34GI**

**‘12.** For section 34GI(1), the period is 10 business days after the later of the following events to happen—

- (a) if an EIS requirement has been made for the application—the completion of the EIS process;
- (b) the end of the assessment period under section 34GG(2).

---

***‘Division 5—Environmental authority (mining lease) applications***

**‘Assessment period for EMOS assessment report—Act, s 34GU**

**‘13.** For section 34GU(2), the period is the later of the following periods to end—

- (a) 30 business days after the EMOS is submitted;
- (b) if the applicant has amended the EMOS within the 30 business days—30 business days after the EMOS amendment notice for the amendment is given to the administering authority.

**‘Decision to refuse or allow to proceed—Act, s 34GW**

**‘14.(1)** This section prescribes the period for section 34GW(1).

**‘(2)** If the application is a standard application, the period is 5 business days after the administering authority receives the application.

**‘(3)** If the application is a non-standard application, the period is 10 business days after the later of the following events to happen—

- (a) if an EIS requirement has been made for the application—the completion of the EIS process;
- (b) the end of the assessment period;
- (c) if, before the end of the assessment period, a relevant mining tenement has, under the State Development Act, part 4, been declared to be, or include, a significant project—the preparation of the coordinator-general’s report evaluating the EIS for the project under section 29K of that Act.<sup>7</sup>

---

<sup>7</sup> The State Development Act, part 4 (Environmental coordination) and section 29K (Coordinator-General evaluates EIS, submissions other materials and prepares report)

***Division 6—Amendment applications***

**‘Decision to refuse or allow to proceed—Act, s 34IF**

‘15. For section 34IF(1), the period is 10 business days after the administering authority receives the application.

**‘Assessment level decision—Act, s 34IJ**

‘16. For section 34IJ(1), the period is 10 business days after the administering authority receives the application.

**‘Deciding application—Act, s 34IU**

‘17. For section 34IU(1), the period is 20 business days after the administering authority receives the application.

***Division 7—Surrender applications***

**‘When surrender required—Act, s 34JH**

‘18. For section 34JH(3), the period is the following number of days before the relevant mining tenement is, according to its conditions, to end other than by cancellation—

- (a) if the relevant mining tenement is a mining claim—30 business days;
- (b) if the relevant mining tenement is an exploration permit or mineral development licence—60 business days;
- (c) if the relevant mining tenement is a mining lease—90 business days.

**‘FRR assessment report period—Act, s 34JN**

‘19. For section 34JN(2), the period is the later of the following periods to end—

- (a) 30 business days after the final rehabilitation report is submitted;
- (b) if the applicant has amended the report within the 30 business days—30 business days after the FRR amendment notice for the amendment is given to the administering authority.

**‘Deciding application—Act, s 34JO**

**‘20.** For section 34JO, the period is the later of the following—

- (a) 40 business days after the final rehabilitation report is submitted;
- (b) if the applicant has amended the report—40 business days after the FRR amendment notice for the amendment is given to the administering authority.’.

**Amendment of sch 9 (Dictionary)**

**48.(1)** Schedule 9, definitions **“integrated environmental management system”** and **“material change of use”**—

*omit.*

**(2)** Schedule 9—

*insert—*

**‘ “waiver application”** see section 49(1).’.

**(3)** Schedule 9, definition **“facility”**, paragraph (b), from ‘a building’ to ‘specifically’—

*omit, insert—*

‘a premises or other place’.

## **PART 3—AMENDMENT OF ENVIRONMENTAL PROTECTION (WASTE MANAGEMENT) REGULATION 2000**

### **Regulation amended in pt 3**

**49.** This part amends the *Environmental Protection (Waste Management) Regulation 2000*.

### **Amendment of ss 37, 38, 39, 51 and 64**

**50.** Sections 37(8), 38(7), 39(6), 51(4) and 64(9), after ‘chapter 6, part 3 of the Act applies’—

*insert—*

‘as if the decision were a decision mentioned in schedule 1, part 2<sup>8</sup> of the Act’.

## **PART 4—AMENDMENT OF STATE PENALTIES ENFORCEMENT REGULATION 2000**

### **Regulation amended in pt 4**

**51.** This part amends the *State Penalties Enforcement Regulation 2000*.

### **Amendment of sch 2 (Environmental legislation)**

**52.** Schedule 2, entry for *Environmental Protection Act 1994*, columns 1 and 2—

*omit, insert—*

---

<sup>8</sup> Schedule 1, part 2 (Original decisions for Court appeals) of the Act

‘Column 1		Column 2	
Infringement notice offence		Infringement notice fine (penalty units)	
		Individual	Corporation
‘s 112(2)	.....	5	20
s 118ZZI(1)	.....	5	20
s 118ZZL(3)	.....	5	20
s 118ZZN(2)	.....	5	20
s 118ZZP(2)	.....	5	20
s 118ZZQ(2)	.....	5	20’.

## **PART 5—AMENDMENT OF WATER RESOURCES (WATERCOURSE PROTECTION) REGULATION 1993**

### **Regulation amended in pt 5**

**53.** This part amends the *Water Resources (Watercourse Protection) Regulation 1993*.

### **Amendment of ss 2 and 3**

**54.** Sections 2(1)(a) and 3(a)—  
*omit.*

### **Amendment of s 4 (Placing of fill in a watercourse)**

**55.** Section 4(a), from ‘under’ to ‘a licence’, second mention—

---

*omit, insert—*

‘under a licence’.

### **Insertion of new s 5**

**56.** After section 4—

*insert—*

#### **‘Matters permitted for environmental authorities for mining activities**

**‘5.** The following activities are permitted in a watercourse, lake or spring if the person carrying out the activity is acting under an environmental authority (mining activities) under the *Environmental Protection Act 1994*—

- (a) the destruction of vegetation;
- (b) excavation;
- (c) the placing of fill.’.

---

#### ENDNOTES

1. Made by the Governor in Council on 14 December 2000.
2. Notified in the gazette on 15 December 2000.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Environmental Protection Agency.