

# Protection of the Environment Operations (General) Regulation 2022

[2022-449]



New South Wales

## Status Information

### Currency of version

Current version for 4 July 2025 to date (accessed 8 October 2025 at 21:32)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
Sec 89D of this Regulation (sec 89D repeals Chapter 6, Part 1A and Sch 10, definitions of **combustible accelerant fire**, **PFAS firefighting foam**, **scheduled PFAS** and **use** on 1.12.2027)  
[Environmental Legislation Amendment Act 2025 No 58](#) (not commenced)
- **Staged repeal status**  
This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2027

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 23 September 2025

# Protection of the Environment Operations (General) Regulation 2022



New South Wales

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# Protection of the Environment Operations (General) Regulation 2022



New South Wales

## Chapter 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (General) Regulation 2022*.

### 2 Commencement

This Regulation commences on 1 September 2022.

**Note—**

This Regulation replaces the *Protection of the Environment Operations (General) Regulation 2021*, which is repealed on 1 September 2022 by that Regulation, clause 149(1).

### 3 Interpretation

- (1) The Dictionary in Schedule 10 defines words used in this Regulation.
- (2) Terms used in this Regulation, Schedule 1 have the same meanings as they have in the Act, Schedule 1.

**Note—**

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

### 4 Use of examples

- (1) An example of the operation of a provision of this Regulation at the end of the provision is for the provision unless the example relates to another provision.
- (2) An example of the operation of a provision of this Regulation—
  - (a) is not exhaustive, and
  - (b) does not limit, but may extend, the meaning of the provision.

- (3) The example and the provision must be read in the context of each other and the other provisions of this Regulation.
- (4) However, if the example and the provision when read this way are inconsistent, the provision prevails.

## **Chapter 2 Appropriate regulatory authority—the Act, s 6**

### **5 Definitions**

In this Chapter—

**marine park** means a marine park, within the meaning of the *Marine Estate Management Act 2014*, but does not include a part of a park—

- (a) on the landward side of the mean high water mark of the waters within the marine park, and
- (b) within an area, within the meaning of the *Local Government Act 1993*.

**non-pilotage vessel** means a vessel other than a vessel for which—

- (a) pilotage is compulsory under the *Marine Safety Act 1998*, Part 6, Division 3, or
- (b) pilotage would be compulsory under the *Marine Safety Act 1998*, Part 6, Division 3 if the master is not the holder of a marine pilotage exemption certificate under that Act.

### **6 Transport for NSW—non-scheduled activities involving non-pilotage vessels**

- (1) Transport for NSW is declared to be the appropriate regulatory authority for non-scheduled activities involving a non-pilotage vessel in navigable waters, including in a marine park, except in relation to the following—
  - (a) the exercise of functions under the Act, Chapter 3,
  - (b) premises defined in an environment protection licence as the premises to which the licence applies and all activities carried on at the premises,
  - (c) activities carried on by the State or a public authority, whether at premises occupied by the State or a public authority or otherwise,
  - (d) a matter for which a public authority, other than a local authority or Transport for NSW, is declared under the Act, section 6(3) to be the appropriate regulatory authority.
- (2) (Repealed)

### **7 Secretary of DCCEEW—non-scheduled activities in Kosciuszko National Park**

- (1) The Secretary of the Department of Climate Change, Energy, the Environment and

Water is declared to be the appropriate regulatory authority for non-scheduled activities in Kosciuszko National Park, except in relation to the following—

- (a) the exercise of functions under the Act, Chapter 3,
- (b) premises defined in an environment protection licence as the premises to which the licence applies and all activities carried on at the premises,
- (c) activities carried on by the State or a public authority, whether at premises occupied by the State or a public authority or otherwise,
- (d) activities carried on by an authorised network operator, within the meaning of the *Electricity Network Assets (Authorised Transactions) Act 2015*, whether at premises occupied by the authorised network operator or otherwise,
- (e) a matter for which a public authority, other than a local authority or the Secretary of the Department of Climate Change, Energy, the Environment and Water, is declared under the Act, section 6(3) to be the appropriate regulatory authority,
- (f) non-scheduled activities involving a non-pilotage vessel in navigable waters.

(2) (Repealed)

#### **8 EPA—burning of bio-material in electricity generating works**

The EPA is declared to be the appropriate regulatory authority for a matter arising under this Regulation, Chapter 9, Part 3.

#### **9 EPA—energy recovery from thermal treatment of waste**

The EPA is declared to be the appropriate regulatory authority for a matter arising under this Regulation, Chapter 9, Part 4.

#### **10 EPA—construction and operation of light rail infrastructure**

- (1) The EPA is declared to be the appropriate regulatory authority for non-scheduled activities involving the following—
  - (a) the construction of light rail infrastructure, which includes the following—
    - (i) the widening or rerouting of existing light rail infrastructure,
    - (ii) associated works to utilities or utility services, including utilities associated with sewerage, drainage, gas, electricity or telecommunication services,
    - (iii) the extraction of materials necessary for the construction,
    - (iv) on site processing, including crushing, grinding or separating, of extracted materials or other materials used in the construction,

(b) the operation of light rail infrastructure, which includes the following—

- (i) the on-site repair, maintenance or replacement of existing light rail infrastructure,
- (ii) the operation of light rail vehicles on light rail tracks.

(2) In this section—

**light rail infrastructure** includes light rail tracks, sleepers and ballasts, cuttings, embankments, earthworks, bridges, tunnels, over track structures and signalling equipment.

## 11 EPA—outdoor entertainment activities

(1) The EPA is declared to be the appropriate regulatory authority for outdoor entertainment activities involving 200 persons or more, which are carried on at the following premises—

- (a) the Trust lands, within the meaning of the *Royal Botanic Gardens and Domain Trust Act 1980*,
- (b) the Trust lands, within the meaning of the *Centennial Park and Moore Park Trust Act 1983*,
- (c) the Darling Harbour area,
- (d) the Western Sydney Stadium,
- (e) the land described in the *Sporting Venues Authorities Act 2008*, Schedule 4A, Part 1,
- (f) the Opera House, within the meaning of the *Sydney Opera House Trust Act 1961*.

(2) In this section—

**Darling Harbour area** means the following areas—

- (a) the Chinese Garden of Friendship,
- (b) Tumbalong Park,
- (c) Cockle Bay Promenade,
- (d) Pyrmont Bridge,
- (e) Cockle Bay,
- (f) a public area in the Development Area.

**Development Area** has the same meaning as in the *Darling Harbour Authority Act*

[1984](#) immediately before its repeal.

**outdoor entertainment activities** means the following activities if the activity is carried on outdoors, including if it is carried on, under or within a tent, marquee or similar structure, and sound amplification equipment is used as part of the activity—

- (a) concerts,
- (b) festivals,
- (c) cinematic and theatrical events,
- (d) sporting events,
- (e) a rehearsal, sound check or other preparation for an activity listed in paragraphs (a)–(d).

**Western Sydney Stadium** means the following land—

- (a) Lots 951–959 and 961–964, DP 42643,
- (b) Crown land, part of Lot 80–3000.

## **12 EPA and Sydney Olympic Park Authority—entertainment activities at Sydney Olympic Park**

- (1) The following public authorities are declared to be the appropriate regulatory authorities for entertainment activities carried on at Sydney Olympic Park—
  - (a) for an entertainment activity carried on by the State or a public authority—the EPA,
  - (b) otherwise—the Sydney Olympic Park Authority.
- (2) In this section—

**entertainment activities** means the following activities if sound amplification equipment is used as part of the activity—

- (a) concerts,
- (b) festivals,
- (c) cinematic and theatrical events,
- (d) sporting events,
- (e) a rehearsal, sound check or other preparation for an activity listed in paragraphs (a)–(d).

**Sydney Olympic Park** has the same meaning as in the [Sydney Olympic Park](#)

*Authority Act 2001.*

**13 EPA—certain non-scheduled activities**

- (1) The EPA is declared to be the appropriate regulatory authority for the following non-scheduled activities—
- (a) the mixing of crushed or ground rock with bituminous materials, if the activity—
    - (i) has a capacity to produce more than 150 tonnes of bituminous mixture per day or 30,000 tonnes of bituminous mixture per year, and
    - (ii) is carried out otherwise than on, or adjacent to, a construction site to provide bituminous mixture for the site for a period totalling no more than 12 months,
  - (b) the production of pre-mixed concrete having a capacity to produce more than 30,000 tonnes per year of concrete,

**Example—**

An example of the production of pre-mixed concrete is concrete batching plants.

- (c) activities, other than mobile waste processing, that—
    - (i) include 1 or more of the scheduled activities described in the Act, Schedule 1, Part 1, and
    - (ii) is carried out by mobile plant,
  - (d) the transport of hazardous and other waste of more than 200 kilograms per load, other than the transport of excluded waste,
  - (e) the transport of waste tyres of more than 2 tonnes per load, other than the transport of excluded waste.
- (2) In this section—

**excluded waste** means the following—

- (a) waste that is transported while dealing with an accident or emergency,
- (b) lead acid batteries or waste oil collected for recovery,
- (c) stormwater,
- (d) waste to which the Act, Schedule 1, clause 48 applies.

**friable asbestos waste** means asbestos waste—

- (a) in the form of a powder, or
- (b) that can be crumbled or reduced to powder by hand pressure when dry.

**transport of hazardous and other waste** means the transport of hazardous waste, restricted solid waste, liquid waste, clinical and related waste or friable asbestos waste, or a combination of these wastes.

**Note—**

Terms used in this section that are defined in the Act, Schedule 1 have the same meanings as they have in the Schedule.

**14 EPA—use of PFAS firefighting foam**

The EPA is declared to be the appropriate regulatory authority for a matter arising under the following—

- (a) section 89B,
- (b) section 89C,
- (c) Chapter 9, Part 5 as in force from 1 September 2022 until its repeal by the *Protection of the Environment Operations (General) Amendment (Regulation of PFAS) Regulation 2025*.

**15 EPA—Kooragang Island premises**

- (1) The EPA is declared to be the appropriate regulatory authority for non-scheduled activities carried on at the Kooragang Island premises.
- (2) In this section—

**Kooragang Island premises** means the premises shown in yellow on the map titled “Surrender Notice 1111840” and published on the EPA’s website on 26 October 2021.

**15A EPA—reporting about food donations**

The EPA is declared to be the appropriate regulatory authority for a matter arising under the Act, section 170H.

**16 Transitional—EPA—underground petroleum storage systems**

The EPA is declared to be the appropriate regulatory authority—

- (a) for a matter arising under a notice, direction or requirement that continues to be in force and was made, issued or given under the Act—
  - (i) before 1 September 2019, and
  - (ii) by the EPA or an authorised officer of the EPA because the EPA was the appropriate regulatory authority for matters arising under the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*, and

(b) until the notice or direction has been complied with or the requirement satisfied.

### **17 Transitional—EPA—licensed waste activities**

The EPA is declared to be the appropriate regulatory authority—

- (a) for a non-scheduled activity that, immediately before 28 April 2008 was licensed as a waste activity, within the meaning of the Act, Schedule 1, as in force immediately before that day, and
- (b) until the waste activity no longer continues.

## **Chapter 3 Environment protection licences**

### **Part 1 Licence fees—the Act, s 57 and Sch 2, cl 9**

#### **Division 1 Preliminary**

##### **18 Administrative fee unit**

- (1) An administrative fee unit for a licence fee period that begins on a date in the following period is the amount specified for the period—
  - (a) in the financial year 2022-23—\$146,
  - (b) in the financial year 2023-24—\$150,
  - (c) in the financial year 2024-25—\$153,
  - (d) in the financial year 2025-26—\$157,
  - (e) in the financial year 2026-27—\$161,
  - (f) in each subsequent financial year—the amount, calculated in accordance with the following formula, rounded down to the nearest dollar—

$$P \times (1 + A)$$

where—

**P** is the amount of the administrative fee unit in the financial year immediately before the financial year for which the amount is to be calculated.

**A** is the annual percentage change, expressed in decimals, in the Public Sector Wage Price Index for total hourly rates of pay excluding bonuses for the financial year immediately before the financial year for which the amounts are to be calculated.

- (2) If, in a financial year, the annual percentage change in the Public Sector Wage Price Index is not published by the Australian Statistician, the annual percentage change for

the immediately preceding financial year applies.

- (3) The EPA must, on or before 31 December in 2027 and each following year—
  - (a) notify the Parliamentary Counsel of the amount of the administrative fee unit for the following financial year so notice of the amount may be published on the NSW legislation website, and
  - (b) publish on the EPA's website the fee amounts that apply in that financial year resulting from the application of the administrative fee unit amount calculated under this section for that financial year.

### **19 Licence fee period**

- (1) Each period of 12 months commencing on the day a licence is issued is a **licence fee period** for the licence.
- (2) A licence fee period ends if the licence ceases to be in force but not if the licence is suspended.
- (3) A licence fee period is not affected by a transfer of the licence.

### **20 Licence fee period—change**

- (1) The EPA may, on the application of the licence holder or on its own initiative, change a licence fee period for a licence by written notice given to the licence holder—
  - (a) to provide common licence fee periods for different licences held by a person, or
  - (b) for another good cause.
- (2) The EPA may decline to deal with an application unless the licence holder pays the EPA a reasonable fee of an amount decided by the EPA for dealing with the application.
- (3) Despite another provision of this Regulation, if a licence fee period is changed under this section—
  - (a) the total of the licence fees for the licence in relation to all the periods affected by the change is the same as it would have been if the change had not been made, and
  - (b) the EPA must—
    - (i) make refunds in relation to fees already paid, or
    - (ii) require payment of an additional amount of fees for relevant licence fee periods.
- (4) An additional amount payable under subsection (3)(b)(ii) must be paid by the licence

holder to the EPA not later than 60 days after notice is given of the change in a licence fee period.

## Division 2 Application fees and annual licence fees

### 21 Application fee—the Act, s 53

- (1) For the Act, section 53(2)(c), an application for the issue of a licence specified in the table to this subsection must be accompanied by a fee (the **application fee**) calculated by multiplying—
- (a) the amount of an application fee unit for the financial year in which the application is made, and
  - (b) the number of application fee units specified for the licence in the table.

<b>Licence</b>	<b>Number of application fee units</b>
<b>Licence for premises-based scheduled activities</b>	
<b>1</b>	
A licence—	
(a) for no more than 2 scheduled activities, of the classification and scale authorised and controlled by the licence, to be carried on at the premises, and	
(b) where none of the activities has been the subject of—	37
(i) a development consent relating to State significant development, or	
(ii) an approval relating to State significant infrastructure, and	
(c) where the number of administrative fee units specified in Schedule 1 for each activity is less than 50	
<b>2</b>	
A licence—	
(a) for no more than 2 scheduled activities, of the classification and scale authorised and controlled by the licence, to be carried on at the premises, and	
(b) where none of the activities has been the subject of—	88
(i) a development consent relating to State significant development, or	
(ii) an approval relating to State significant infrastructure, and	
(c) where the number of administrative fee units specified in Schedule 1 for at least 1 activity is at least 50	

**3**

A licence—

(a) for 3 or more scheduled activities, of the classification and scale authorised and controlled by the licence, and

(b) where none of the activities has been the subject of— 88

(i) a development consent relating to State significant development, or

(ii) an approval relating to State significant infrastructure

**4**

A licence—

(a) for 1 or more scheduled activities, of the classification and scale authorised and controlled by the licence, and

(b) where at least 1 of the activities has been the subject of—

(i) a development consent relating to State significant development, or 178

(ii) an approval relating to State significant infrastructure, and

(c) where the number of administrative fee units specified in Schedule 1 for each activity is less than 135

**5**

A licence—

(a) for 1 or more scheduled activities, of the classification and scale authorised and controlled by the licence, and

(b) where at least 1 of the activities has been the subject of—

(i) a development consent relating to State significant development, or 223

(ii) an approval relating to State significant infrastructure, and

(c) where the number of administrative fee units specified in Schedule 1 for at least 1 activity is at least 135

**6**

A licence for a scheduled activity that has been the subject of an approval relating to critical State significant infrastructure 227

**7**

A licence—

(a) for an activity that is not a scheduled activity, and 37

(b) to regulate water pollution produced by the activity

## **Licence for scheduled activities not premises-based**

<b>1</b>		
	Mobile waste processing	41
<b>2</b>		
	Transportation of trackable waste	4

- (2) The amount of an application fee unit for a financial year is the same as the amount of an administrative fee unit for the financial year.
- (3) Development carried out on land in an Activation Precinct that would be State significant development or State significant infrastructure if it were carried out on land outside an Activation Precinct is taken, for the purposes of this section, to be State significant development or State significant infrastructure.
- (4) A fee paid to the EPA as an approval body for integrated development under the [Environmental Planning and Assessment Act 1979](#) for development requiring an environment protection licence must be deducted from the application fee for the licence.
- (5) In this section—

**critical State significant infrastructure** has the same meaning as in the [Environmental Planning and Assessment Act 1979](#), Division 5.2.

**development consent** has the same meaning as in the [Environmental Planning and Assessment Act 1979](#).

**Part 3A concept approval** means an approval under the former [Environmental Planning and Assessment Act 1979](#), Part 3A for a concept plan for a project if the Minister determined under that Act, section 75P(1)(c) that no further environmental assessment is required for the project.

**State significant development** has the same meaning as in the [Environmental Planning and Assessment Act 1979](#).

**State significant infrastructure** has the same meaning as in the [Environmental Planning and Assessment Act 1979](#) and is taken to include reference to a Part 3A concept approval unless the project to which the Part 3A concept approval applies has been declared to be critical State significant infrastructure.

## **22 Application fee—refunds**

- (1) The EPA may refund the payment of all or part of an application fee if—
- (a) the EPA refuses the application, or

(b) the applicant withdraws the application and the EPA receives written notice of the withdrawal from the applicant.

(2) If the EPA refuses an application, the EPA may grant a refund considering the administrative costs incurred by the EPA in connection with the licence—

(a) on its own initiative, or

(b) if requested by the applicant—

(i) within 90 days of the applicant being notified of the refusal, or

(ii) after the time specified in subparagraph (i)—if the EPA is satisfied there are exceptional circumstances that justify the EPA in considering the request.

### **23 Annual licence fee**

For the Act, section 57(1), the annual licence fee payable by a licence holder comprises fees that must be paid as follows—

(a) the administrative fee—within 120 days after the beginning of the licence fee period,

(b) if Schedule 1 specifies a load-based fee in relation to an activity controlled or authorised by the licence, the load-based fee—within 120 days after the end of the licence fee period.

## **Division 3 Administrative fees**

### **24 Steps for calculating administrative fee**

(1) The administrative fee is calculated in accordance with the following steps—

#### **Step 1—Calculate administrative fee units**

Multiply the amount of 1 administrative fee unit for the relevant licence fee period by—

(a) the number of administrative fee units specified in Schedule 1 for the activity authorised or controlled by the licence, or

(b) if the licence authorises or controls more than one activity—the greatest number of administrative fee units specified in Schedule 1 for one of the activities.

#### **Step 2—Work out environmental management category**

Work out the environmental management category for the licence holder in accordance with the environmental management calculation protocol.

#### **Step 3—Calculate administrative fee**

Multiply the amount calculated in accordance with step 1 by the environmental

management factor specified in the Table to this section, Column 2, for the applicable environmental management category specified in the Table, Column 1.

- (2) Steps 2 and 3 do not apply for the purpose of calculating the administrative fee for the following—
  - (a) a licence relating to an activity declared by the Act, Schedule 1, clause 48 to be a scheduled activity,
  - (b) if an applicant for a licence relating to premises has not previously held a licence relating to the premises—the first licence fee period for the licence.

**Table**

<b>Environmental management category</b>	<b>Environmental management factor</b>
A	0.95
B	1.0
C	1.3
D	1.6
E	2.0

**25 Environmental management calculation protocol**

- (1) The EPA must issue a protocol (the ***environmental management calculation protocol***) to be applied in working out the environmental management category of a licence holder for the purposes of this Division.
- (2) The EPA may vary or replace the environmental management calculation protocol from time to time.
- (3) The environmental management calculation protocol is issued, varied or replaced by notice published in the Gazette.
- (4) The environmental management calculation protocol must provide for the working out of environmental management categories by reference to matters specified in the protocol.
- (5) The matters specified must relate to a licence holder’s performance in managing environmental risks.
- (6) The environmental management calculation protocol takes effect from the date specified in the protocol.
- (7) When a replacement environmental management calculation protocol takes effect, the existing environmental management calculation protocol ceases to have effect.

- (8) The environmental management calculation protocol in force under this section must be made available on the EPA's website.

**26 Environmental management category if insufficient information provided**

- (1) This section applies if, within 60 days after the beginning of the relevant licence fee period, a licence holder does not give sufficient information to the EPA for the EPA to work out the correct environmental management category for the licence holder.
- (2) The EPA may, considering information available to it, work out the following—
- (a) the environmental management category,
  - (b) the resulting amount of the administrative fee.
- (3) The amount of the administrative fee calculated is taken to be the correct fee amount unless the contrary is established by the person who is liable to pay the fee—
- (a) in proceedings for the recovery of the fee, or
  - (b) in other proceedings relating to the fee.

**27 Change in environmental management category—adjustment of administrative fee**

- (1) This section applies if—
- (a) during a licence fee period the EPA receives information from the licence holder, and
  - (b) the information causes the EPA to reasonably believe that the environmental management category for the licence holder may be incorrect.
- (2) The EPA may work out a new environmental management category for the licence holder.
- (3) The administrative fee for the licence fee period must be adjusted according to the new environmental management category.
- (4) The adjusted fee and new category must be notified to the licence holder in accordance with the Act, section 57(3).
- (5) An additional amount of a fee adjusted under this section must be paid by the licence holder to the EPA within 60 days after being notified of the new category.

**28 Administrative fee increase—change in activity classification or scale**

- (1) This section applies if, during a licence fee period—
- (a) an activity changes to an activity of a different classification or scale under the Act, Schedule 1, and

(b) the resultant administrative fee is greater than the administrative fee paid or payable for the period by at least the amount of 2 administrative fee units.

(2) After the change in classification or scale—

(a) the EPA must adjust the administrative fee for the licence, and

(b) the difference between the resultant administrative fee and the administrative fee paid or payable for the period must be paid within 60 days after the change occurs.

## **29 Refunds and waivers**

(1) The EPA may do one or more of the following if it considers it is appropriate to do so—

(a) refund the payment of all or a part of an administrative fee,

(b) refund the difference between the administrative fee paid and the lesser amount that would have been payable if—

(i) the administrative fee had been calculated on the actual level of the activity during the licence fee period to which the fee relates, or

(ii) during the licence fee period an activity changes to an activity of a different classification or scale,

(c) refund the difference between the administrative fee paid and the lesser amount payable as a result of an adjustment under section 27,

(d) waive the payment of all or a part of an administrative fee for a licence on approval of an application for the surrender of the licence.

(2) The EPA may, considering the administrative costs incurred by the EPA in connection with the licence, grant a refund or waive payment as follows—

(a) on its own initiative,

(b) if requested by the licence holder—

(i) within 120 days after the end of the licence fee period to which the fee relates, or

(ii) after the time specified in subparagraph (i)—if the EPA is satisfied there are exceptional circumstances that justify the EPA in considering the request.

(3) A refund is available under this section only if the amount to be refunded is at least 2 administrative fee units.

(4) The EPA may give a refund by—

- (a) offsetting it against an amount owed by the licence holder to the EPA, or
- (b) otherwise refunding it to the licence holder.

### **30 Late payment penalty and refunds**

- (1) If the following amounts are not paid by the due date, the amount payable is increased at the late payment standard rate—
  - (a) an administrative fee, including an additional amount payable under section 27 or 28,
  - (b) an additional amount payable under section 20(3)(b)(ii).
- (2) The increased amount is prescribed as a penalty for the Act, section 57(4).
- (3) The EPA may refund, or waive the payment of, all or a part of the increased amount as follows—
  - (a) if the EPA considers it is appropriate to do so,
  - (b) considering the administrative costs incurred by the EPA in connection with the licence.

## **Division 4 Load-based fees—general—the Act, s 57 and Sch 2, cl 9**

### **31 Objects of load-based licensing scheme**

The objects of the load-based licensing scheme are as follows—

- (a) to provide incentives to reduce the load of pollutants emitted based on the polluter pays principle and to do so within an equitable framework,
- (b) to reduce pollution, in particular, assessable pollutants, in a cost-effective and timely way,
- (c) to give industry incentives for ongoing improvements in environmental performance and the adoption of cleaner technologies,
- (d) to provide incentives complementary to existing regulation and education programs for environmental protection.

### **32 Licence holders must calculate and record actual load of assessable pollutants discharged**

- (1) A licence holder must, for each assessable pollutant for each activity controlled or authorised by the licence, calculate and record the following—
  - (a) the actual load of the pollutant discharged as a result of the carrying out of the activity, and

- (b) the actual load for nitrogen oxides and VOCs discharged in the Sydney basin area during the summer period of each licence fee period if the particular pollutant is an assessable pollutant in relation to the activity.
- (2) To calculate the actual load of an assessable pollutant, the licence holder must—
    - (a) use one of the methods provided for the activity in a load calculation protocol,
    - (b) if there is no load calculation protocol or if the protocol provides for no method for the activity—take the actual load for each assessable pollutant to be zero.
  - (3) This section applies whether or not—
    - (a) the pollutants referred to in this section were discharged in accordance with the licence, or
    - (b) the licence holder intends to use a weighted load or an agreed load for the purposes of calculating the load-based fee for the licence.
  - (4) The licence holder must carry out all necessary monitoring and other steps to enable the calculations of actual loads required by this section to be made for—
    - (a) each licence fee period, and
    - (b) each summer period.

### **33 Load calculation protocol**

- (1) The EPA may issue a protocol (a ***load calculation protocol***) to be applied to the calculation of load based fees for the purposes of this Division.
- (2) The EPA may vary or replace a load calculation protocol from time to time.
- (3) A load calculation protocol is issued, varied or replaced by notice published in the Gazette.
- (4) Without limiting the matters that may be dealt with in a load calculation protocol, a load calculation protocol may do any of the following—
  - (a) set out the means for calculating actual loads and weighted loads, including by the use of monitoring programs, emission factors and other methods,
  - (b) provide for load weighting measures, including—
    - (i) ceasing or reducing discharges during particularly unfavourable conditions, and
    - (ii) reusing waste water, whether by the licence holder or another person,
  - (c) provide for a reduction in the actual load of a licence holder, for the purpose of the calculation of load-based fees if—

- (i) assessable pollutants are transferred, without being discharged, from the licence holder's premises to another person's premises with the consent of the other person, or
  - (ii) a licence holder receives onto the licence holder's premises naturally occurring loads of assessable pollutants.
- (5) A load calculation protocol may also provide for a reduction in the actual load of a licence holder, for the purpose of the calculation of a load-based fee if—
  - (a) assessable pollutants are transferred to another person's premises under an arrangement where the other person pays the EPA the amount by which the load-based fee payable by the licence holder is reduced because of the transfer, or
  - (b) the discharge of a pollutant to which the fee relates is reduced—
    - (i) at premises other than the premises where the activity is carried on, and
    - (ii) as a result of action taken by the licence holder in connection with that activity.

**Example—**

A reduction may relate to the emission of VOCs by a petroleum refinery. In addition to action to reduce those emissions from the refinery, action can be taken to produce fuel that will emit less VOCs when in use off the premises of the refinery and this could be taken into account for the purposes of the reduction.

- (6) A load calculation protocol takes effect in relation to an activity from the date specified in the protocol.
- (7) When a replacement load calculation protocol takes effect in relation to an activity, the existing load calculation protocol in relation to the activity ceases to have effect.
- (8) A copy of the load calculation protocol in force under this section must be available for inspection and purchase, for a reasonable amount decided by the EPA, by members of the public at the principal office of the EPA.

**34 “Bubble licence arrangements”—aggregating licences**

- (1) The EPA may, under a scheme, approve of load-based fees payable for 2 or more licences, whether or not held by the same person, being calculated by aggregating the assessable pollutants discharged in the relevant licence fee periods.
- (2) The EPA may terminate the scheme at any time—
  - (a) because of a failure by the licence holders to pay the load-based fees, or
  - (b) for another reason.

- (3) If the EPA terminates the scheme, the load-based fees for the relevant licence fee periods—
  - (a) must be re-calculated, and
  - (b) become payable for the periods as if the scheme had not been developed and implemented.
- (4) This section is subject to the terms of the scheme.
- (5) This section does not limit a scheme that may be developed and implemented under the Act, Part 9.3.
- (6) In this section—

***scheme*** means a scheme developed and implemented by the EPA under the Act, Part 9.3.

### **35 EPA to decide load-based fee amount if insufficient information provided**

If, within 60 days after the end of the relevant licence fee period, a licence holder does not give sufficient information to the EPA for the EPA to be able to confirm the correct amount of a load-based fee—

- (a) the EPA may calculate the amount of the load-based fee considering relevant information available to it, and
- (b) the amount calculated is taken to be the correct fee amount unless the contrary is established by the person who is liable to pay the fee—
  - (i) in proceedings for the recovery of the fee, or
  - (ii) in other proceedings relating to the fee.

### **36 Load-based fee adjustment—change in activity classification or scale**

- (1) This section applies if, during the licence fee period, an activity changes to an activity of a different classification or scale under the Act, Schedule 1.
- (2) The load-based fee for the licence comprises the sum of the load-based fee calculated for the part of the licence fee period occurring—
  - (a) before the change in the classification or scale of the activity, and
  - (b) after the change.

### **37 Refunds for calculation errors about assessable loads**

- (1) If a person, in payment of a load-based fee, pays an amount greater than the load-based fee because of an error in calculation of an assessable load, the person is

entitled to a refund of the amount overpaid.

(2) The EPA may grant a refund as follows—

(a) on its own initiative,

(b) if the person applies for a refund—

(i) within 120 days after the end of the licence fee period to which the fee relates, or

(ii) after the time specified in subparagraph (i)—if the EPA is satisfied there are exceptional circumstances that justify the EPA in considering the application.

### **38 Late payment penalty and refunds**

(1) If the fee is not paid by the due date for its payment, the fee payable is increased at the late payment rate.

(2) The increased amount is prescribed as a penalty for the Act, section 57(4).

(3) The EPA may, considering the administrative costs incurred by the EPA in connection with the licence, refund, or waive the payment of, all or a part of the increased amount as follows—

(a) if the EPA is satisfied the licence holder was unable to calculate and pay the fee by the due date because of circumstances beyond the control of the licence holder,

(b) if the EPA considers it is appropriate to do so.

(4) Subsection (3)(a) does not excuse the licence holder from calculating and paying the load-based fee in relation to some of the pollutants if the calculation is not beyond the control of the licence holder.

## **Division 5 Load-based fees—calculation—the Act, s 57 and Sch 2, cl 9**

### **39 Steps for calculating load-based fee**

(1) The load-based fee is calculated in accordance with the following steps—

#### **Step 1—Work out activity classification and specified assessable pollutants**

Refer to Schedule 1 to work out—

(i) the classifications of the activities authorised or controlled by the licence during the relevant licence fee period, and

(ii) the assessable pollutants specified in relation to each classification.

#### **Step 2—Calculate assessable load for assessable pollutants**

Calculate the assessable load of each assessable pollutant discharged during the

relevant licence fee period.

**Step 3—Calculate fee rate threshold for assessable pollutants**

Calculate the fee rate thresholds for each assessable pollutant discharged during the licence fee period.

**Step 4—Calculate fee for assessable pollutants**

Calculate the fee for each assessable pollutant discharged during the licence fee period.

**Step 5—Total fee for assessable pollutants**

Total the fees for each assessable pollutant.

**Step 6—Re-apply Steps 2-5 for discharge of nitrogen oxides or VOCs in Sydney basin area in summer**

If nitrogen oxides or VOCs are discharged in the Sydney basin area during the summer period of the licence fee period and are assessable pollutants for the classification of the activity—re-apply Steps 2-5 in relation to the pollutants and add the resulting amount to the amount calculated under Step 5.

**Note—**

A discharge of nitrogen oxides or VOCs in the Sydney basin area during the summer period of the licence fee period must be counted twice. First, as part of the discharge for the whole licence fee period and then in its own right.

**Step 7—Subtract the administrative fee amount**

Subtract the amount of the administrative fee for the licence fee period, other than the amount of an increase in the administrative fee as a penalty for the late payment of the fee.

(2) If the load-based fee is less than zero, the fee is taken to be zero.

**40 Step 2—Calculating assessable load for assessable pollutants**

(1) For the purposes of calculating the load-based fee, the **assessable load** of each assessable pollutant is whichever of the following is the least—

- (a) the actual load of the pollutant,
- (b) the weighted load of the pollutant,
- (c) if an agreed load under a load reduction agreement applies in relation to the pollutant—the agreed load of the pollutant.

(2) If more than one classification in Schedule 1 applies to the activity, the assessable load of each assessable pollutant is the sum of the assessable loads of the assessable

pollutant for each applicable classification.

#### 41 Step 3—Calculating fee rate thresholds for assessable pollutants

- (1) To calculate the fee rate threshold for each assessable pollutant discharged during a licence fee period for a licence, multiply the applicable threshold factor for the pollutant from Schedule 1 by the quantity of activity during the licence fee period, using the units of measure specified in relation to the activity in the Schedule.

**Example—**

For example, if ceramic production produced 20,000 tonnes of bricks, to calculate the fee rate threshold for fluoride, it would be necessary to multiply 0.12, the threshold factor shown for the activity in Schedule 1, by 20,000, as the units of measure for ceramic production shown in the Schedule is tonnes, giving a result of 2,400 kilograms.

- (2) If the activity has more than one classification in Schedule 1, the fee rate threshold for each assessable pollutant is the sum of the fee rate thresholds for each of the classifications.

#### 42 Step 4—Calculating fee for assessable pollutants

- (1) To calculate the fee for each assessable pollutant discharged during the licence fee period—
  - (a) if the assessable load is greater than the fee rate threshold—use the formula set out in subsection (2) (**Formula 1**), or
  - (b) otherwise—use the formula set out in subsection (3) (**Formula 2**).

(2) **Formula 1**

$$\text{Fee} = \frac{(2AL - FRT) \times PFU \times PW \times CZ}{10,000}$$

(3) **Formula 2**

$$\text{Fee} = \frac{AL \times PFU \times PW \times CZ}{10,000}$$

- (4) In formulae 1 and 2—

**AL** is the assessable load of the assessable pollutant discharged, expressed in kilograms.

**CZ** is the pollutant critical zone weighting set out in section 43.

**FRT** is the fee rate threshold for the assessable pollutant, expressed in kilograms.

**PFU** is the pollutant fee unit amount for the licence fee period set out in section 45.

**PW** is the pollutant weighting for the assessable pollutant set out in section 44.

#### **43 Step 4—Pollutant critical zone weightings**

- (1) The pollutant critical zone weightings for an assessable pollutant shown in Schedule 2, Part 1, Table 1 or 2, Column 1, are as follows—
  - (a) if the pollutant is discharged into a zone shown in the Table, Column 2 opposite the pollutant—the weighting specified in the Table, Column 3 opposite the pollutant,
  - (b) otherwise—1.
- (2) If a licence authorises or controls the discharge of a pollutant into more than one critical zone, the pollutant critical zone weighting is the weighting applicable to the zone into which the majority of the pollutant is discharged.

#### **44 Step 4—Pollutant weightings**

The pollutant weightings for an assessable pollutant are as follows—

- (a) for an air pollutant shown in Schedule 2, Part 2, Table 1, Column 1—the weighting specified opposite the pollutant in the Table, Column 3,
- (b) for a water pollutant shown in Schedule 2, Part 2, Table 2, Column 1—the weighting specified opposite the pollutant in the following—
  - (i) if the pollutant is discharged into open coastal waters—the Table, Column 3,
  - (ii) if the pollutant is discharged into estuarine waters—the Table, Column 4,
  - (iii) if the pollutant is discharged into enclosed waters—the Table, Column 5.

#### **45 Step 4—Pollutant fee unit amount**

- (1) A pollutant fee unit for a licence fee period that begins on a date in the following periods is the amount specified for the period—
  - (a) in the financial year 2022–23—\$53.73,
  - (b) in the financial year 2023–24—\$54.85,
  - (c) in the financial year 2024–25—\$55.45,
  - (d) in the financial year 2025–26—\$56.06,
  - (e) in the financial year 2026–27—\$56.68,
  - (f) in each subsequent financial year—the amount, calculated in accordance with the following formula, rounded to the nearest cent with an amount of 0.5 cent to be rounded down—

$$P \times (1 + A)$$

where—

**P** is the amount of the pollutant fee unit in the financial year immediately before the financial year for which the amount is to be calculated.

**A** is the average of the percentage change, expressed in decimals and rounded to 2 decimal places, in the CPI for the September, December, March and June quarters from the financial year immediately before the financial year for which the amount is to be calculated.

- (2) If, in a financial year, the percentage change in the CPI for the September, December, March and June quarters is not published by the Australian Statistician, the percentage change that applied in the immediately preceding financial year applies.
- (3) The EPA must, on or before 31 December in 2027 and each following year—
  - (a) notify the Parliamentary Counsel of the amount of the pollutant fee unit for the following financial year so notice of the amount may be published on the NSW legislation website, and
  - (b) publish on the EPA's website the amounts of fees that apply in that financial year resulting from the application of the amount of the pollutant fee unit for that financial year calculated under this section.

#### **46 Step 6—Nitrogen oxides or VOCs discharged in Sydney basin area in summer**

For the purpose of a calculation required to be carried out under Step 6 of the load-based fee calculation—

- (a) the following references must be read as follows—
  - (i) the quantity of activity during the licence fee period—the quantity of activity during the summer period of the licence fee period,
  - (ii) an assessable pollutant discharged during a licence fee period—nitrogen oxides or VOCs discharged during the summer period of the licence fee period, and
- (b) the pollutant critical zone weightings for nitrogen oxides or VOCs discharged during the period is 28.

### **Division 6 Load-based fees—load reduction agreements—the Act, s 57 and Sch 2, cl 9**

#### **47 Applications**

- (1) A licence holder or applicant for a licence may, in a form approved by the EPA, apply for a load reduction agreement with the EPA of a maximum term of 4 years.

(2) The EPA may—

- (a) enter into the agreement, or
- (b) decline to enter into the agreement if—
  - (i) the agreement is unlikely to produce a load-based fee reduction of at least \$2,000 over the term of the agreement, or
  - (ii) the licence holder or applicant proposes to reduce the discharge under the licence by the end of the agreement only because the licence holder or applicant proposes to close or reduce the scale of operations being conducted at the time, or
  - (iii) otherwise.

(3) In this section—

**load reduction agreement** means an agreement entered into by a licence holder, where the licence holder agrees that the reported load of an assessable pollutant discharged while carrying out an activity to which the licence applies will not be more than a specified load during the final licence fee period for the licence that is covered by the agreement.

#### 48 Content

(1) A load reduction agreement must—

- (a) specify the agreed load of an assessable pollutant for the purposes of calculating the load-based fee for each licence fee period covered by the agreement, and
- (b) specify the program proposed to be undertaken to attain the agreed load, and
- (c) set out the circumstances in which amounts must be paid to the EPA on termination or expiry of the agreement, and
- (d) include conditions requiring the licence holder to—
  - (i) provide the EPA, with each annual return required under the licence, a report on progress towards attainment of the agreed load during the period to which the annual return relates, and
  - (ii) notify the EPA if the licence holder becomes aware it is likely the licence holder will not be able to attain the agreed load.

(2) A load reduction agreement may include a condition requiring the licence holder to supply a financial assurance to the EPA to secure obligations if the agreement is terminated or expires, which must provide for the following matters—

- (a) the circumstances in which the EPA may make a claim on or realise the financial

assurance or part of it,

(b) that the calling on and use of a financial assurance does not affect the liability of the licence holder,

(c) the effect of failure to provide a financial assurance.

(3) The financial assurance may be in one or more of the following forms—

(a) a bank guarantee,

(b) a bond,

(c) another form of security the EPA considers appropriate and specifies in the load reduction agreement.

#### **49 Amendment**

The provisions of a load reduction agreement may be amended only with the consent of the EPA and—

(a) the person who has entered into the agreement, or

(b) for a licence that is transferred—the transferee.

#### **50 Effect**

(1) A load reduction agreement has the effect that the agreed load under the agreement may be treated, subject to this Division, as the assessable load of the pollutant to which the agreement applies for the purposes of calculating load-based fees for each of the licence fee periods covered by the agreement.

(2) A load reduction agreement has no effect unless the licence holder's licence is subject to a condition that, on termination or expiration of the agreement, the reported load of an assessable pollutant, to which the agreement applies, that may be emitted during licence fee periods subsequent to the final licence fee period covered by the agreement must not be more than—

(a) the agreed load under the agreement if the reported load for the pollutant for the licence fee period immediately preceding the termination or expiration was not more than the agreed load, or

(b) an amount decided by the EPA, after consultation with the licence holder, that is higher than the agreed load if the reported load for the period was more than the agreed load.

#### **51 Termination**

(1) The licence holder may terminate a load reduction agreement before the end of the term of the agreement in accordance with the agreement.

- (2) The licence holder is taken to have terminated a load reduction agreement if—
  - (a) the licence holder surrenders the licence, or
  - (b) the licence is suspended or revoked, or
  - (c) the licence holder closes its operations or otherwise ceases to operate before the agreement expires.
- (3) The EPA may terminate a load reduction agreement if—
  - (a) the EPA is of the opinion the licence holder is unlikely to—
    - (i) attain the agreed load before the end of the agreement, or
    - (ii) meet the costs of repayment on termination or expiration of the agreement, or both, or
  - (b) the licence holder fails to comply with a condition of the agreement.

## **52 Amounts payable on termination or expiration**

- (1) A licence holder who is party to a load reduction agreement that expires or is terminated—
  - (a) is not liable to pay an amount on expiry or termination in relation to an assessable pollutant if the reported load for the immediately preceding licence fee period was not more than the agreed load for the pollutant under the agreement, or
  - (b) must pay to the EPA the amounts calculated in accordance with this section if the reported load for the immediately preceding licence fee period was more than the agreed load for the pollutant under the agreement.
- (2) The amounts payable on termination or expiration are as follows—
  - (a) for a licence fee period during the agreement in which the reported load was more than the agreed load, the difference between—
    - (i) the fee that would have been payable for the period if the reported load had been equal to the agreed load under the agreement, and
    - (ii) the fee that would have been payable for the period but for the agreement,
  - (b) for a licence fee period during the agreement in which the reported load for the pollutant was not more than the agreed load—no amount is payable,
  - (c) the amount of simple interest on an amount payable under this subsection calculated at the rate of 20% per annum from the date that is 60 days after the end of each licence fee period.

- (3) Subsection (1) does not apply in relation to a load reduction agreement entered into before 30 June 2009.

### **53 When amounts must be paid**

- (1) An amount payable on termination or expiration of a load reduction agreement must be paid not later than 60 days after a notice requiring payment of the amount is given to the licence holder by the EPA.
- (2) If an amount is not paid by the due date for its payment, the amount must be increased at the late payment standard rate.

### **54 Payment by instalments**

- (1) A person by whom an amount is payable on termination or expiration of a load reduction agreement may apply to the EPA for approval to pay the amount by instalments.
- (2) If the EPA grants approval, the amount must be paid in the amounts and on the dates as the EPA specifies in the approval.
- (3) If an instalment is not paid by the due date for its payment, an amount calculated at the late payment standard rate must be paid in addition to the instalment.

### **55 Effect of transfer of licences**

- (1) If a person who has entered into a load reduction agreement transfers the relevant licence, the transferee is, for the purposes of the agreement and this Regulation, taken to be a person who has entered into the agreement with the EPA.
- (2) A transferee may elect, on the transfer of the licence, to terminate the load reduction agreement and this Division applies to the termination.

## **Part 2 Load-based Licensing Technical Review Panel—the Act, Sch 2, cl 9**

### **56 Constitution**

There is constituted by this Regulation a body corporate to be called the Load-based Licensing Technical Review Panel.

### **57 Members**

- (1) The Review Panel must have 7 members appointed by the Minister.
- (2) Of the members—
  - (a) 2 must be members of staff of the EPA or the Department of Planning and Environment nominated by the Chairperson, and

(b) 5 must be persons having appropriate scientific or technical qualifications or experience—

(i) 2 of whom must be representatives of industry, and

(ii) 1 of whom must be a representative of environment groups, and

(iii) 1 of whom must be a representative of local government, and

(iv) 1 of whom must be nominated by, and be a representative of, the Chairperson.

(3) The person nominated under subsection (2)(b)(iv) must not be—

(a) a member of staff of the EPA or the Department of Planning and Environment, or

(b) a representative of industry, environment groups or local government.

### **58 Functions**

(1) The Review Panel must advise the EPA about the current or desirable contents of the load calculation protocols that the EPA may refer to the Review Panel.

(2) The Review Panel may also advise the EPA on other matters in connection with licences that the EPA may refer to the Review Panel.

(3) For the purpose of providing the advice, the Review Panel may seek, receive and consider submissions from interested persons and may gather relevant information from any source.

### **59 Membership and procedure**

Schedule 4 contains provisions relating to the membership and procedure of the Review Panel.

## **Part 3 Miscellaneous licensing provisions**

### **60 Scheduled development work—the Act, s 47**

For the Act, section 47(3), work is specified as scheduled development work if the work—

(a) is carried on at a premises at which scheduled activities of a class listed in the Act, Schedule 1 are carried on, and

(b) is designed to enable scheduled activities of a different class listed in the Schedule not authorised by a licence to be carried on at the premises.

### **61 Commencement of licensing for existing activities—the Act, s 52**

For the Act, section 52(1)(a), the prescribed period is 9 months.

**62 Exclusion of EP&A Act, Part 5—the Act, s 52**

The *Environmental Planning and Assessment Act 1979*, Part 5, does not apply to the issue of an environment protection licence referred to in the Act, section 52(1) to the extent that the licence authorises only the same or substantially the same work or activity, and level of work or activity, as was being carried out immediately before the application for the issue of the licence was made.

**63 Statement of reasons for grant or refusal of licence—the Act, ss 61 and 80**

- (1) A statement provided by a regulatory authority, under the Act, section 61 or 80, of the reasons for the grant or refusal of a licence application must set out the following matters, in addition to other matters the authority considers appropriate—
  - (a) the significant environmental or other issues the authority took into account in making its decision on the licence application,
  - (b) relevant significant environmental outcomes, standards or requirements the authority—
    - (i) considered applicable to the activity the subject of the application, and
    - (ii) took into account in making its decision on the application.
- (2) A statement of reasons may set out the above matters by reference to information set out in a document that is—
  - (a) available to the person requesting the statement of reasons, or
  - (b) otherwise publicly available.

**64 Fee for transfer of licence—the Act, s 54**

For the Act, section 54(2)(c), the fee that must accompany an application for the transfer of a licence is 2 administrative fee units.

**65 Refusal of certain licence applications—the Act, Sch 2, cl 8**

- (1) An application for the issue, transfer or variation of a licence, or for approval of the surrender of a licence, may be refused by the appropriate regulatory authority—
  - (a) if a fee or other amount due and payable under the Act or this Regulation in relation to the application or licence is unpaid, or
  - (b) if the applicant has previously defaulted in the payment of a fee or other amount in relation to the licence or another licence and the default continues.
- (2) This section does not limit the grounds on which an application may be refused.

**66 Fit and proper persons—the Act, s 83**

For the Act, section 83(2)(o), the appropriate regulatory authority may take into account whether the person has, within the previous 3 years, failed to pay a fee or other amount payable under the environment protection legislation or has paid the fee or amount late.

**67 Other relevant legislation—the Act, s 83**

For the Act, section 83(5), the following repealed Acts, provisions of Acts and Regulations are declared to be **other relevant legislation**—

- (a) *Clean Air Act 1961*,
- (b) *Clean Waters Act 1970*,
- (c) *Environmental Offences and Penalties Act 1989*,
- (d) *Noise Control Act 1975*,
- (e) *Pesticides Act 1978*,
- (f) *Pollution Control Act 1970*,
- (g) *Waste Minimisation and Management Act 1995*,
- (h) the provisions of the *Ozone Protection Act 1989* omitted by the Act, Schedule 4.14,
- (i) regulations made under the above Acts or provisions.

**68 Application of payments—the Act, Sch 2, cl 9**

If a person who makes a payment under this Chapter to the EPA does not identify the nature or purpose of the payment, the EPA may apply the payment towards a liability of the person under this Chapter in a way that it thinks fit.

**69 Preservation of records—the Act, Sch 2, cl 9**

- (1) A licence holder must keep all records used by the licence holder to calculate the amount of a licence fee under Chapter 3, Part 1 for a period of not less than 4 years from the date on which the fee was paid or payable, whichever is the later.

Maximum penalty—

- (a) for a corporation—200 penalty units, or
  - (b) for an individual—200 penalty units.
- (2) A licence holder is liable to a penalty under subsection (1) in addition to the licence fee.

## Chapter 4 Pollution incident response management plans

### 70 Definition

In this Chapter—

**PIRM plan** means a pollution incident response management plan required to be prepared under the Act, Part 5.7A.

### 71 Form of plan—the Act, s 153C

A PIRM plan—

- (a) must be in written form, and
- (b) may form part of another document required to be prepared under or in accordance with another law if the information required to be included in the PIRM plan is readily identifiable as that information in that other document.

### 72 General licences—additional matters to be included in PIRM plan—the Act, s 153C

For the Act, section 153C(d), the following matters must be included in a PIRM plan—

- (a) a description of the hazards to human health or the environment associated with the activity to which the licence relates (the **relevant activity**),
- (b) the likelihood of the hazards occurring, including details of conditions or events that could, or would, increase the likelihood,
- (c) details of the pre-emptive action to be taken to minimise or prevent a risk of harm to human health or the environment arising out of the relevant activity,
- (d) an inventory of potential pollutants on the premises or used in carrying out the relevant activity,
- (e) the maximum quantity of a pollutant likely to be stored or held at particular locations, including underground tanks, at or on the premises to which the licence relates,
- (f) a description of the safety equipment or other devices used to minimise the risks to human health or the environment and to contain or control a pollution incident,
- (g) the names, positions and 24-hour contact details of individuals who—
  - (i) are responsible for activating the PIRM plan, and
  - (ii) are authorised to notify relevant authorities under the Act, section 148, and
  - (iii) are responsible for managing the response to a pollution incident,
- (h) the contact details of each relevant authority referred to in the Act, section 148,

- (i) details of the mechanisms for providing early warnings and regular updates to the owners and occupiers of premises near the premises to which the licence relates or where the scheduled activity is carried on,
- (j) the arrangements for minimising the risk of harm to persons who are on the premises or who are present where the scheduled activity is being carried on,
- (k) a detailed map, or set of maps, showing the location of the premises to which the licence relates, the surrounding area likely to be affected by a pollution incident, the location of potential pollutants on the premises and the location of stormwater drains on the premises,
- (l) a detailed description of how an identified risk of harm to human health will be reduced, including, as a minimum, by early warnings, updates and the action to be taken during or immediately after a pollution incident to reduce the risk,
- (m) the nature and objectives of a staff training program in relation to the PIRM plan,
- (n) the dates on which the PIRM plan has been tested and the name of the person who carried out the test,
- (o) the dates on which the PIRM plan is updated,
- (p) the way in which the PIRM plan must be tested and maintained.

**73 Additional matters to be included in PIRM plan—the Act, s 153C**

- (1) For the Act, section 153C(d), the following must be included in a PIRM plan for a relevant licence—
  - (a) the names, positions and 24-hour contact details of each individual who is—
    - (i) responsible for activating the PIRM plan, or
    - (ii) authorised to notify relevant authorities under the Act, section 148, or
    - (iii) responsible for managing the response to a pollution incident,
  - (b) the contact details of each relevant authority referred to in the Act, section 148,
  - (c) a community engagement protocol that includes procedures for notifying people living or working near a pollution incident and keeping them informed of relevant matters,
  - (d) details of pre-emptive action required to minimise or prevent a risk of harm to human health or the environment arising out of the activity, including, as a minimum, action that complies with the requirements set out in the *Protection of the Environment Operations (Waste) Regulation 2014*, clauses 70, 72 and 73,

- (e) the nature and objectives of a staff training program in relation to the PIRM plan,
  - (f) the date on which the PIRM plan is tested and the name of the person who carried out the test,
  - (g) the method for testing and maintaining the PIRM plan.
- (2) Section 72 does not apply to a PIRM plan for a relevant licence.
- (3) In this section—
- relevant licence** means a licence authorising the following—
- (a) an environmentally hazardous activity within the meaning of the Act, Schedule 1, clause 46,
  - (b) an activity to which the Act, Schedule 1, clause 48 applies.

#### **74 Availability of PIRM plan—the Act, s 153D**

- (1) A PIRM plan must be made readily available—
- (a) to an authorised officer on request, and
  - (b) to a person who is responsible for implementing the PIRM plan at the premises—
    - (i) to which the relevant licence relates, or
    - (ii) where the activity takes place.
- (2) A PIRM plan must be made publicly available in the following way within 14 days after it is prepared—
- (a) in a prominent position on a publicly accessible website of the person who is required to prepare the PIRM plan,
  - (b) if the person does not have a website—by providing a copy of the PIRM plan, without charge, to a person who makes a written request for a copy.
- (3) Subsection (2) applies only in relation to a part of a PIRM plan that includes the information required under—
- (a) the Act, section 153C(a), and
  - (b) this Regulation, section 72(h) and (i) or 73(b)(ii) and (iii).
- (4) Personal information, within the meaning of the *Privacy and Personal Information Protection Act 1998*, is not required to be included in a PIRM plan made available to a person other than an authorised officer.

## **75 Testing of PIRM plan—the Act, s 153E**

- (1) A PIRM plan must be tested—
  - (a) routinely at least once every 12 months, and
  - (b) if a pollution incident occurred during an activity to which an environment protection licence relates, which caused or threatened material harm to the environment, within the meaning of the Act, section 147—within 1 month of the incident occurring.
- (2) The test must be carried out in a way to ensure the following—
  - (a) the information included in the PIRM plan is accurate and up to date,
  - (b) the PIRM plan is capable of being implemented in a workable and effective way.
- (3) A test carried out under subsection (1)(b) must assess the matters specified in subsection (2) in light of the incident.

## **Chapter 5 Vehicle testing and inspection—the Act, Sch 2, cl 4**

### **76 Definitions**

In this Chapter—

**approved inspection station** means premises approved under this Chapter to be used for the purpose of carrying out tests or inspections.

**approved mechanic** means an individual who is approved under this Chapter to carry out tests or inspections.

**approved mechanic's report**—see section 81(1).

**proprietor**, in relation to premises, means a person who—

- (a) carries on or proposes to carry on a business at the premises, or
- (b) is the occupier of the premises.

**tests or inspections** means tests or inspections of motor vehicles required to be carried out in accordance with a notice given for the Act, section 207(2)(c).

### **77 Approved mechanics**

- (1) An individual may apply to the EPA for an approval to carry out tests or inspections.
- (2) The application must—
  - (a) be made in the way approved by the EPA, and

- (b) be supported by information required by the EPA.
- (3) The EPA may require the applicant to provide to the EPA, within a specified time, further particulars the EPA considers necessary to decide the suitability of the applicant.
- (4) The EPA must—
  - (a) decide an application by granting or refusing to grant the application, and
  - (b) give written notice of the decision to the applicant, including, if the application is granted, notice of—
    - (i) the date from which the approval takes effect, and
    - (ii) the conditions to which the approval is subject.
- (5) The EPA may refuse to grant the application—
  - (a) if, in its opinion the applicant is not a fit and proper person to carry out tests or inspections, or
  - (b) for a reason the EPA considers appropriate.
- (6) An approval—
  - (a) applies to tests or inspections generally or to tests or inspections of the class or classes of motor vehicles specified in the approval, and
  - (b) remains in force until it is surrendered, suspended or revoked, and
  - (c) must be given in the way and in the form approved by the EPA, and
  - (d) may be given unconditionally or subject to conditions the EPA considers appropriate.
- (7) A person must not hold out as a person authorised to carry out tests or inspections, or issue an approved mechanic's report in relation to a test or inspection, unless the person is an approved mechanic.

Maximum penalty—

- (a) for a corporation—200 penalty units, or
- (b) for an individual—100 penalty units.

## **78 Approved inspection stations**

- (1) A proprietor of premises may apply to the EPA for an approval of the premises to be used for the purpose of carrying out tests or inspections.

- (2) An application must—
  - (a) be made in the way and form approved by the EPA, and
  - (b) be supported by information required by the EPA.
- (3) The EPA may require the applicant to provide to the EPA, within a specified time, further particulars the EPA considers necessary to decide the suitability of the applicant and the premises for the approval.
- (4) The EPA must—
  - (a) decide an application by granting or refusing to grant the application, and
  - (b) give written notice of the decision to the applicant, including, if the application is granted, notice of—
    - (i) the date from which the approval takes effect, and
    - (ii) the conditions to which the approval is subject.
- (5) The EPA may refuse to grant the application—
  - (a) if, in its opinion—
    - (i) the premises the subject of the application or the equipment on the premises are not suitable for the purpose of carrying out tests or inspections, or
    - (ii) the applicant is not a fit and proper person to carry out the responsibilities associated with using the premises for that purpose, or
  - (b) for a reason the EPA considers appropriate.
- (6) An approval—
  - (a) applies to tests or inspections generally or to tests or inspections of the class or classes of motor vehicles specified in the approval, and
  - (b) remains in force until it is surrendered, suspended or revoked, and
  - (c) must be given in the way and in the form approved by the EPA, and
  - (d) may be given unconditionally or subject to conditions the EPA considers appropriate.
- (7) A proprietor of premises must not allow the premises to be used for the purpose of carrying out a test or inspection unless—
  - (a) the premises are an approved inspection station, and
  - (b) the test or inspection of the vehicle is a test or inspection of a vehicle to which the

approval applies, and

- (c) the test or inspection is carried out by an approved mechanic.

Maximum penalty—

- (a) for a corporation—200 penalty units, or
- (b) for an individual—100 penalty units.

#### **79 Maximum fee for test or inspection—motor vehicles other than motorcycles**

- (1) The maximum fee that may be charged for the carrying out of a test or inspection of a motor vehicle other than a motorcycle is as follows—
  - (a) in the financial year 2022-23—\$89.65,
  - (b) in the financial year 2023-24—\$91.35,
  - (c) in the financial year 2024-25—\$93.10,
  - (d) in the financial year 2025-26—\$94.85,
  - (e) in the financial year 2026-27—\$96.65,
  - (f) in each subsequent financial year—the amount calculated in accordance with the following formula, rounded to the nearest 5 cents with an amount of 0.5 cents to be rounded down—

$$P \times (1 + A)$$

where—

**P** is the amount of the maximum fee in the financial year immediately before the financial year for which the amount is to be calculated.

**A** is the annual percentage change, expressed in decimals, in the Private Sector Wage Price Index for total hourly rates of pay excluding bonuses for the financial year immediately before the financial year for which the amounts are to be calculated.

- (2) If, in a financial year, the annual percentage change in the Private Sector Wage Price Index is not published by the Australian Statistician, the annual percentage change for the immediately preceding financial year applies.
- (3) The EPA must, on or before 31 December in 2027 and each following year—
  - (a) notify the Parliamentary Counsel of the amount of the fee for the following financial year so notice of the amount may be published on the NSW legislation website, and

- (b) publish on the EPA's website the fee amount that applies in that financial year.

### **80 Maximum fee for test or inspection—motorcycles**

- (1) The maximum fee that may be charged for the carrying out of a test or inspection of a motorcycle is as follows—
  - (a) in the financial year 2022-23—\$59.50,
  - (b) in the financial year 2023-24—\$60.65,
  - (c) in the financial year 2024-25—\$61.80,
  - (d) in the financial year 2025-26—\$62.95,
  - (e) in the financial year 2026-27—\$64.15,
  - (f) in each subsequent financial year—the amount calculated in accordance with the following formula, rounded to the nearest 5 cents with an amount of 0.5 cents to be rounded down—

$$P \times (1 + A)$$

where—

**P** is the amount of the maximum fee in the financial year immediately before the financial year for which the amount is to be calculated.

**A** is the annual percentage change, expressed in decimals, in the Private Sector Wage Price Index for total hourly rates of pay excluding bonuses for the financial year immediately before the financial year for which the amounts are to be calculated.

- (2) If, in a financial year, the annual percentage change in the Private Sector Wage Price Index is not published by the Australian Statistician, the annual percentage change for the immediately preceding financial year applies.
- (3) The EPA must, on or before 31 December in 2027 and each following year—
  - (a) notify the Parliamentary Counsel of the amount of the fee for the following financial year so notice of the amount may be published on the NSW legislation website, and
  - (b) publish on the EPA's website the fee amount that applies in that financial year.

### **81 Approved mechanic's reports**

- (1) An approved mechanic who carries out a test or inspection must, in accordance with conditions of the mechanic's approval, complete a report in the form approved by the EPA (an **approved mechanic's report**).

- (2) Copies of an approved mechanic's report that has been completed must be given to the following in accordance with the conditions of an approval under this Chapter—
  - (a) the owner of the relevant motor vehicle or a person acting on behalf of the owner,
  - (b) the EPA.
- (3) A person must not issue an approved mechanic's report in relation to a test or inspection if the person knows, or ought reasonably to suspect, the report is false or misleading in a material particular.

Maximum penalty—

- (a) for a corporation—200 penalty units, or
  - (b) for an individual—100 penalty units.
- (4) The holder of an approval for an approved inspection station who allows an approved mechanic's report to be issued in relation to a test or inspection that is carried out at the station is guilty of an offence if the person knows, or ought reasonably to suspect, the report is false or misleading in a material particular.

Maximum penalty—

- (a) for a corporation—200 penalty units, or
- (b) for an individual—100 penalty units.

## **82 Variation of approvals**

- (1) The EPA may vary an approval given under this Chapter, including the conditions of an approval, by written notice.
- (2) A variation includes the following—
  - (a) the attaching of a condition to an approval, whether or not a condition has already been attached,
  - (b) the substitution, omission or amendment of a condition.
- (3) An approval may be varied on application in writing to the EPA by the holder of the approval or on the initiative of the EPA.
- (4) An approval may be varied at any time.
- (5) A variation operates from the date of the EPA's decision to grant or issue the variation or another date specified by the EPA in the notice.

## **83 Surrender of approvals**

- (1) The holder of an approval under this Chapter may surrender the approval by giving

written notice to the EPA.

- (2) The surrender of an approval under this section does not take effect until 28 days, or some other period approved by the EPA, after the notice has been given to the EPA.

#### **84 Suspension or revocation of approvals**

- (1) The EPA may, by written notice, suspend or revoke an approval under this Chapter if—
- (a) the holder of the approval has contravened a provision of this Chapter, or
  - (b) the holder or the premises to which the approval applies no longer satisfies the relevant requirements for the approval, or
  - (c) the holder has failed to comply with a condition to which the approval is subject, or
  - (d) the holder provided false or misleading information in the application for approval, or
  - (e) the EPA is of the opinion the holder is not a fit and proper person to continue to hold the approval.
- (2) A suspension of an approval under this section may be for a specified period or until further written notice by the EPA to the holder of the approval.
- (3) A suspension or revocation of an approval under this section operates from—
- (a) the day the notice of the suspension or revocation is given to the holder of the approval, or
  - (b) a later day specified in the notice.
- (4) The EPA must not suspend or revoke an approval under this section unless before doing so it has—
- (a) given notice to the holder of the approval that it intends to do so, and
  - (b) specified in the notice the reasons for its intention to do so, and
  - (c) given the holder a reasonable opportunity to make submissions in relation to the proposed suspension or revocation, and
  - (d) taken into consideration submissions by the holder.
- (5) An approval may be revoked under this section during the currency of a suspension.

## Chapter 6 Exemptions—the Act, s 286

### Part 1 Exemptions from prohibition on water pollution

#### 85 Pollutants discharged from Victorian premises into Murray River

- (1) The Act, section 120 does not apply to a person who, from premises in Victoria, pollutes or causes or permits the pollution of the waters of the Murray River in relation to conduct authorised by a permission in force under the *Environment Protection Act 2017* of Victoria.
- (2) The EPA may, by order in writing served on the person, declare that the exemption under this section no longer applies to the person in relation to pollution from the premises.

#### 86 Pollutants discharged into sewer

- (1) The Act, section 120 does not apply to the discharge of pollutants into a sewer if the discharge has the lawful approval of the following—
  - (a) in relation to a sewer within the area of operations of a sewage authority—the sewage authority,
  - (b) otherwise—a person who has ownership or control of the sewer.

- (2) In this section—

**sewage authority** means—

- (a) the Sydney Water Corporation or the Hunter Water Corporation, or
- (b) a water supply authority constituted under the *Water Management Act 2000*, being an authority exercising sewerage functions under that Act, or
- (c) a council or county council exercising sewerage functions under the *Local Government Act 1993*, Chapter 6, Part 3, Division 2.

#### 87 Sewage discharged from vessels

- (1) The Act, section 120 does not apply to the discharge of treated sewage from a certified on-board sewage treatment system installed on a vessel if—
  - (a) the system is installed and maintained in accordance with the *Marine Pollution Regulation 2014*, Part 3, and
  - (b) the discharge occurs in navigable waters other than waters referred to in that Regulation, clause 15(1), and
  - (c) at the time of the discharge, the vessel is being operated in accordance with a plan of management approved for the vessel under that Regulation, clause 31.

(2) In this section—

**certified on-board sewage treatment system** and **treated sewage** have the same meanings as in the [Marine Pollution Regulation 2014](#), Part 3.

**navigable waters** has the same meaning as in the [Marine Safety Act 1998](#).

### 88 Operation of engines propelling vessels

The Act, section 120 does not apply to the operation of an engine propelling a vessel, unless—

- (a) the engine is operated to dredge sediments, or
- (b) the engine has been modified to discharge bilge water as it operates, or
- (c) the engine has not been properly maintained so as to minimise pollution.

### 89 Cold water releases

The Act, section 120 does not apply to the release of water that is more than 2°C colder than the water into which it is discharged if the water is released—

- (a) from a water supply work authorised by an approval under the [Water Management Act 2000](#) that contains one or more conditions relating to the work of a type specified in that Act, section 100(3), or
- (b) from Jindabyne Dam or Tantangara Dam and the release is in accordance with all conditions of the Snowy water licence, within the meaning of the [Snowy Hydro Corporatisation Act 1997](#), that relate to cold water releases.

## Part 1A Scheduled PFAS firefighting foam

### 89A Definitions

In this part—

**combustible accelerant fire** means a fire involving a combustible accelerant, including petrol, kerosene, oil, tar, paint or polar solvents, including ethanol.

**PFAS firefighting foam** means firefighting foam containing scheduled PFAS.

**scheduled PFAS** means a substance that is—

- (a) a per- or poly-fluoroalkyl substance, which are substances that contain within their molecular structure a straight or branching chain of carbon atoms in which one or more of the carbon atoms have fluorine atoms attached at all bonding sites not occupied by another carbon atom, and
- (b) listed in Schedule 7 of the NSW IChEMS register.

**use** has the same meaning as in the Act, Chapter 9, Part 9.3E, Division 1.

#### **89B Exemption for Transport for NSW**

The Act, section 296C does not apply to the use of PFAS firefighting foam if the foam is to be used—

- (a) by Transport for NSW, or an employee of Transport for NSW or a contractor acting on behalf of Transport for NSW, and
- (b) to prevent, extinguish or attempt to extinguish a fire that, in the opinion of the person using the foam—
  - (i) is a combustible accelerant fire, or
  - (ii) has the potential to be a combustible accelerant fire.

#### **89C Exemptions for certain premises**

The Act, section 296C does not apply to the use of PFAS firefighting foam if the foam is to be used—

- (a) to prevent, extinguish or attempt to extinguish a fire that, in the opinion of the person using the foam—
  - (i) is a combustible accelerant fire, or
  - (ii) has the potential to be a combustible accelerant fire, and
- (b) in one or more of the following circumstances—
  - (i) on premises to which environment protection licence number 570, 660 or 661 applies,
  - (ii) on premises to which environment protection licence number 837 applies,
  - (iii) on premises to which environment protection licence number 1969 applies,
  - (iv) on premises to which environment protection licence number 6950 applies,
  - (v) within the Lane Cove Tunnel, being the tunnel connecting Epping Road at Mowbray Road West with the Gore Hill Freeway.

#### **89D Repeal**

This part and Schedule 10, definitions of **combustible accelerant fire**, **PFAS firefighting foam**, **scheduled PFAS** and **use** are repealed on 1 December 2027.

## Part 2 Other exemptions

### 90 Exemption from prohibition on placing advertising material on vehicles—brochures

- (1) The Act, section 146B does not apply to the depositing of the following material in or on a motor vehicle—
  - (a) community safety and crime prevention brochures deposited by or on behalf of the NSW Police Force,
  - (b) brochures, relating to the issue of mobility parking scheme authorities, deposited by or on behalf of Transport for NSW.
- (2) In this section—

**mobility parking scheme authority** has the same meaning as in the [Road Transport \(General\) Regulation 2021](#).

### 91 Exemption from prohibitions on noise pollution—Luna Park site activities

- (1) The following provisions of the Act do not apply to an activity carried out at the Luna Park site under a relevant development consent if the activity is carried out in compliance with the development consent—
  - (a) Part 4.3 to the extent that it relates to noise,
  - (b) section 139,
  - (c) Part 8.6.
- (2) In this section—

**Luna Park site** has the same meaning as in the [Luna Park Site Act 1990](#).

**relevant development consent** means the following development consents granted by the Minister administering the [Environmental Planning and Assessment Act 1979](#)—

- (a) the consent to development application 154-06-01 granted on 31 January 2002,
- (b) the consent to development application 151-5-2002 granted on 21 January 2003,
- (c) the consent to development application 201-6-2002 granted on 21 January 2003.

### 91A Exemption from prohibitions on noise pollution—liquor licensed premises and premises in special entertainment precincts

- (1) The relevant provisions do not apply to an entertainment activity carried out on—
  - (a) liquor licensed premises, or
  - (b) premises in a special entertainment precinct, other than residential premises.

- (1A) The entertainment activity must be carried out in accordance with each of the following that applies to the premises—
- (a) for liquor licensed premises—
    - (i) the liquor licence for the premises, including any conditions applying to the licence, and
    - (ii) the *Liquor Act 2007*,
  - (b) for premises in a special entertainment precinct, other than residential premises—the precinct management plan for the special entertainment precinct.
- (1B) If the entertainment activity is carried out on liquor licensed premises in a special entertainment precinct and there is an inconsistency between the precinct management plan and a requirement specified in subsection (1A)(a), the plan prevails to the extent of the inconsistency.
- (2) Subsection (1) does not apply to an activity for which the EPA is the appropriate regulatory authority under—
- (a) the Act, section 6, or
  - (b) section 11 or 12 of this regulation.
- (3) In this section—

**entertainment activity** has the same meaning as in the *Local Government Act 1993*, Chapter 8, Part 3.

**liquor licence** means a licence under the *Liquor Act 2007*.

**liquor licensed premises** means premises to which a liquor licence applies.

**precinct management plan** has the same meaning as in the *Local Government Act 1993*, Chapter 8, Part 3.

**relevant provisions** means the following provisions of the Act—

- (a) Part 4.3, to the extent it relates to noise,
- (b) section 139,
- (c) Part 8.6.

**special entertainment precinct** has the same meaning as in the *Local Government Act 1993*, section 202.

## 92 Exemptions for road tunnel emissions licences

- (1) This section applies to a licence for the scheduled activity of road tunnel emissions.

- (2) Pollution, other than air pollution from a road tunnel ventilation stack, is exempt from the matters the appropriate regulatory authority must take into consideration when exercising its licensing functions in relation to the licence.
- (3) The following provisions of the Act do not apply to the licence—
  - (a) section 56(2), and the premises to which the licence applies may be specified as all or part of one or more ventilation stacks, including associated works, that relate to a single road tunnel, even if the stacks are in separate locations,
  - (b) section 122,
  - (c) section 142C.

## **Chapter 7 Environmental monitoring programs—the Act, Part 9.3C**

### **Part 1 Upper Hunter Air Quality Monitoring Network**

#### **93 Definitions**

In this Part—

**annual levy** means the component of the environmental monitoring levy payable each year by each Upper Hunter licence holder as calculated under section 95, 96 or 97.

**construction levy** means the component of the environmental monitoring levy payable by certain Upper Hunter licence holders from time to time under section 98.

**levy period** means the period of 12 months commencing on 1 July in each year.

**Upper Hunter coal mining licence holder** means a person holding a licence that authorises the carrying out of mining for coal at premises located in the area subject to air quality monitoring under the Upper Hunter monitoring program.

**Upper Hunter electricity generation licence holder** means a person holding a licence that authorises the carrying out of the generation of electricity from an energy source, other than wind or solar power, at premises located in the area subject to air quality monitoring under the Upper Hunter monitoring program.

**Upper Hunter licence holder** means an Upper Hunter coal mining licence holder or an Upper Hunter electricity generation licence holder.

**Upper Hunter monitoring program** means the environmental monitoring program operated by or on behalf of the EPA in the Muswellbrook, Singleton and Upper Hunter Shire local government areas that monitors air quality in the areas and known as the Upper Hunter Air Quality Monitoring Network, and includes changes made by the EPA to the program from time to time.

#### **94 Objectives of Upper Hunter monitoring program**

The objectives of the Upper Hunter monitoring program are as follows—

- (a) to provide government, industry and the community with reliable and up-to-date information on air quality in the Muswellbrook, Singleton and Upper Hunter Shire local government areas,
- (b) to enable the air quality in the areas to be assessed against relevant air pollution standards,
- (c) to facilitate the identification of sources of air pollution in the areas,
- (d) to facilitate the development and implementation of strategies to improve air quality in the areas.

#### **95 Cost of Upper Hunter monitoring program**

- (1) During each levy period, the EPA must calculate an estimate of the cost to the EPA of the Upper Hunter monitoring program for the levy period.
- (2) After the end of a levy period, the EPA must calculate the actual cost to the EPA of the Upper Hunter monitoring program for the levy period.
- (3) The actual cost to the EPA of the Upper Hunter monitoring program for a levy period in which a person becomes an Upper Hunter licence holder must be reduced by the amount of an annual levy payable to the EPA for the levy period by the licence holder under section 95.
- (4) If the actual cost to the EPA of the program for the levy period is more than the estimated program cost for the levy period, the amount of the difference must be added to the estimated program cost for the next levy period and the program cost for that period must be increased by the amount.
- (5) If the actual cost of the program for the levy period is less than the estimated program cost for the levy period, the amount of the difference must be deducted from the estimated program cost for the next levy period and the program cost for that period must be decreased by the amount.
- (6) The EPA may decide arrangements for payment of an additional annual levy, or a refund of an annual levy, that is required because of an adjustment to the program cost under this section.
- (7) Without limiting the Act, section 295Z(4), the cost of the Upper Hunter monitoring program includes the costs associated with the following—
  - (a) the use of equipment, facilities and infrastructure to monitor air quality under the program,

(b) the administration of the program, including the reporting on the program and advisory committees established to advise the EPA in relation to the program.

(8) However, the cost of the Upper Hunter monitoring program does not include the costs of construction of a new facility to monitor air quality if an Upper Hunter licence holder is required to pay a construction levy for the costs under section 98.

#### **96 Upper Hunter licence holders must pay environmental monitoring levy**

- (1) Upper Hunter licence holders are required to pay an environmental monitoring levy in relation to the Upper Hunter monitoring program under this Part.
- (2) The environmental monitoring levy payable by an Upper Hunter licence holder for a levy period consists of the following components—
  - (a) the annual levy,
  - (b) the construction levy.
- (3) The EPA must provide written notice to each Upper Hunter licence holder of the amount of the annual levy or the construction levy, or both, that the licence holder is required to pay for a levy period.
- (4) The levy must be paid as follows—
  - (a) within 30 days after the notice is given by the EPA,
  - (b) by a later date specified by the EPA in the notice.
- (5) If a levy is not paid by the due date, the levy must be increased by the amount of simple interest calculated at the rate of 25% per year on the amount of the levy unpaid for each day that elapses after the due date and before the date of payment.

#### **97 Calculation of annual levy—first levy period payable**

A person who becomes an Upper Hunter licence holder on or after 1 May in a levy period is not required to pay an annual levy for that period and the subsequent levy period is taken to be the first levy period for the purposes of calculating the annual levy payable.

#### **98 Calculation of annual levy—Upper Hunter electricity generation licence holders**

- (1) The amount of the annual levy payable by an Upper Hunter electricity generation licence holder for a levy period is calculated as follows, with adjustments to the formula as the EPA considers necessary—

$$EGL = (0.9 \times F \times G/H) + (0.1 \times F \times I/J)$$

where—

**EGL** is the amount of the annual levy payable by an Upper Hunter electricity

generation licence holder for a levy period.

**F** is the estimated cost of the Upper Hunter monitoring program for the levy period as calculated under section 93.

**G** is the amount of particulate matter emitted from the premises to which the licence applies during the previous levy period.

**H** is the sum of the amounts of particulate matter emitted from all Upper Hunter licensed premises during the previous levy period.

**I** is the amount of oxides of nitrogen and sulphur dioxide emitted from the premises to which the licence applies during the previous levy period.

**J** is the sum of the amounts of oxides of nitrogen and sulphur dioxide emitted from all Upper Hunter licensed premises during the previous levy period.

**Example—**

For example, adjustments will be required because the formula uses the emissions produced by an Upper Hunter licence holder during the previous levy period to calculate the amount payable for a levy period. The amount payable by a Upper Hunter licence holder for the first levy period will be calculated based on the emissions produced by the licence holder during the first levy period.

- (2) A reference in a component of the formula in subsection (1) to an amount is a reference to the amount provided to the EPA by an Upper Hunter licence holder under section 99.
- (3) If information required to calculate the amount of the annual levy is not available to the EPA, the EPA may calculate the amount of the levy based on reasonable estimates.
- (4) In this section—

**Upper Hunter licensed premises** means premises located in the area of the Upper Hunter monitoring program to which a licence authorising the carrying out of mining for coal or the generation of electricity from an energy source, other than wind or solar power, applies.

**99 Calculation of annual levy—Upper Hunter coal mining licence holders**

- (1) The amount of the annual levy payable by an Upper Hunter coal mining licence holder for a levy period is calculated as follows, with adjustments to the formula as the EPA considers necessary—

$$CML = (0.9 \times F \times K / H \times L / M) + (0.1 \times F \times N / J)$$

where—

**CML** is the amount of the annual levy payable by an Upper Hunter coal mining licence holder for a levy period.

**F** is the estimated cost of the Upper Hunter monitoring program for the levy period as decided under section 93.

**K** is the sum of the amounts of particulate matter emitted from all Upper Hunter coal mining licensed premises during the previous levy period.

**H** is the sum of the amounts of particulate matter emitted from all Upper Hunter licensed premises during the previous levy period.

**L** is the amount of material moved at the premises to which the licence applies during the previous levy period.

**M** is the sum of the amounts of material moved at all Upper Hunter coal mining licensed premises during the previous levy period.

**N** is the amount of oxides of nitrogen and sulphur dioxide emitted from the premises to which the licence applies during the previous levy period.

**J** is the sum of the amounts of oxides of nitrogen and sulphur dioxide emitted from all Upper Hunter licensed premises during the previous levy period.

**Example—**

For example, adjustments will be required because the formula uses the emissions produced by an Upper Hunter licence holder during the previous levy period to calculate the amount payable for a levy period. The amount payable by a Upper Hunter licence holder for the first levy period will be calculated based on the emissions produced by the licence holder during the first levy period.

- (2) A reference in a component of the formula in subsection (1) to an amount is a reference to the amount provided to the EPA by an Upper Hunter licence holder under section 99.
- (3) If information required to calculate the amount of the annual levy is not available to the EPA, the EPA may calculate the amount of the levy based on reasonable estimates.
- (4) In this section—

**Upper Hunter coal mining licensed premises** means premises located in the area of the Upper Hunter monitoring program to which a licence authorising the carrying out of mining for coal applies.

**Upper Hunter licensed premises** means premises located in the area of the Upper Hunter monitoring program to which a licence authorising the carrying out of mining for coal or the generation of electricity from an energy source, other than wind or solar power, applies.

## **100 Certain Upper Hunter licence holders must pay construction levy**

- (1) An Upper Hunter licence holder must pay a construction levy if, in the opinion of the

EPA, a new facility to monitor air quality under the Upper Hunter monitoring program is necessary because of the activities or works carried out by the licence holder under the licence.

- (2) The amount of the construction levy payable by an Upper Hunter licence holder is the cost to the EPA of the construction of the new facility, including the costs associated with the construction.
- (3) If the new facility is necessary because of activities or works carried out by more than one Upper Hunter licence holder, the EPA must calculate the amount of the construction levy payable by each licence holder on a proportionate basis.

#### **101 Upper Hunter licence holders must provide information to EPA**

- (1) It is a condition of an Upper Hunter licence holder's licence that the licence holder provide the following information to the EPA by 30 September, or by a later date as is notified to the licence holder by the EPA, in each levy period—
  - (a) the amount of particulate matter emitted from the premises to which the licence applies during the previous levy period,
  - (b) the amount of oxides of nitrogen and sulphur dioxide emitted from the premises to which the licence applies during the previous levy period,
  - (c) for an Upper Hunter coal mining licence holder—the amount of material moved at the premises to which the licence applies during the previous levy period.
- (2) The amounts of emissions and material moved during a levy period must be calculated in accordance with a methodology notified to the licence holder by the EPA.
- (3) An Upper Hunter licence holder is not required to provide information for a levy period if the information has previously been provided to the EPA in accordance with other reporting requirements that apply to the licence holder under the Act.

#### **102 Upper Hunter licence holders must provide assistance to EPA**

It is a condition of an Upper Hunter licence holder's licence that, for the purposes of, or in connection with, the operation of the Upper Hunter monitoring program, the licence holder—

- (a) permit entry by a person authorised in writing by the EPA to land owned or occupied by the licence holder, and
- (b) provide reasonable assistance and facilities as may be required by the person.

#### **103 EPA must publish results of air quality monitoring in Upper Hunter**

The EPA must make the results of the air quality monitoring carried out under the Upper Hunter monitoring program available on its website.

#### **104 EPA must report on Upper Hunter monitoring program**

- (1) The EPA must prepare a report each year that contains an analysis of the results of the air quality monitoring carried out under the Upper Hunter monitoring program for the year.
- (2) The EPA must also prepare a report by 1 February every 5 years containing the following matters in relation to the Upper Hunter monitoring program—
  - (a) a review of the effectiveness of the monitoring program in fulfilling its objectives,
  - (b) the results of an independent audit, to be arranged by the EPA, of the efficiency and cost effectiveness of the monitoring program,
  - (c) any recommendations for improvements to the monitoring program,
  - (d) other matters considered appropriate to be included by—
    - (i) the EPA, or
    - (ii) an advisory committee established to advise the EPA in relation to the program.
- (3) The first report under subsection (2) must be prepared by 1 February 2027.
- (4) The reports prepared under this section must be made available on the website of the EPA.

### **Part 2 Newcastle Local Air Quality Monitoring Network**

#### **105 Interpretation**

- (1) In this Part—

**annual levy** means the levy payable each levy period by each licence holder under this Part.

**general program costs** means all costs incurred by the EPA in relation to the monitoring program, other than the costs of monitoring oxides of nitrogen, sulphur dioxide or particulate matter, including the following—

- (a) costs set out in the Act, section 295Z(4),
- (b) costs associated with purchasing, constructing, maintaining and updating equipment, facilities and infrastructure,
- (c) costs associated with the use of equipment, facilities and infrastructure,
- (d) costs associated with the administration of the program, including the costs associated with reporting on the program and advisory committees established to

advise the EPA in relation to the program.

**levy period** means the period of 12 months commencing on 1 July in each year.

**Newcastle** means the City of Newcastle local government area and includes the Subject Land, including the Deferred Matter, as shown on *State Environmental Planning Policy (Three Ports) 2013 Land Application Map Sheet LAP\_003*.

**Newcastle licence holder** means a person who holds a licence that authorises a scheduled activity to be carried out at premises in Newcastle.

**Newcastle licence holder's emissions** means the total emissions from all premises within Newcastle to which the holder's licence relates as determined by the EPA.

**Newcastle monitoring program** means the environmental monitoring program operated by or on behalf of the EPA that monitors air quality in Newcastle and is known as the Newcastle Local Air Quality Monitoring Network, and includes changes made by the EPA to the program from time to time.

**total LGA emissions** means the total emissions under licences from premises within Newcastle as determined by the EPA.

(2) Emissions under this Part must be calculated in kilograms.

## 106 Emissions

- (1) In determining emissions for the purpose of this Part, the EPA must use the data from the following sources and, to the extent of a conflict, use data from a source appearing higher in the following list rather than lower in the list—
  - (a) estimates provided by a Newcastle licence holder to the EPA before the end of the levy period to which the data relates, if the EPA is satisfied the estimates relate to emissions from all points and diffuse sources and have been determined in accordance with methods approved by the EPA,
  - (b) data from the AEI,
  - (c) data from the NPI,
  - (d) data collected by the EPA through other emission inventory or reporting programs.
- (2) In using data from the AEI or NPI, the EPA—
  - (a) must use the most recent data for the levy period to which the data relates, and
  - (b) for an industry for which there is no relevant data, must use data from an industry the EPA reasonably believes is conducting comparable scheduled activities at a comparable scale.

(3) The EPA must make data used to determine emissions available to a Newcastle licence holder if requested in writing to do so.

(4) In this section—

**AEI** means the *Air Emissions Inventory for the Greater Metropolitan Region in NSW* published by the EPA.

**NPI** has the same meaning as in Chapter 8.

### **107 Objectives of Newcastle monitoring program**

The objective of the Newcastle monitoring program is to provide government, industry and the community with—

- (a) reliable and up-to-date information on air quality in Newcastle, and
- (b) information that is of assistance in assessing changes in air quality and identifying the major sources of monitored pollutants.

### **108 Newcastle licence holders must pay levy**

- (1) A Newcastle licence holder must pay an annual levy in relation to the Newcastle monitoring program under this Part.
- (2) The EPA, during a levy period, must provide written notice to each Newcastle licence holder of the amount of the annual levy the licence holder is required to pay for the levy period.

**Note—**

The amount will be based on an estimate made by the EPA under section 109.

- (3) The amount must be paid—
  - (a) within 30 days after the notice is given by the EPA, or
  - (b) by a later date specified by the EPA in the notice.
- (4) If an amount is not paid by the due date, the amount must be increased by the amount of simple interest calculated at the rate of 25% per year on the amount unpaid for each day that elapses after the due date and before the date of payment.
- (5) The EPA may, if it considers it appropriate to do so, reduce its costs in relation to a levy period to take account of arrears paid in relation to an earlier levy period.

### **109 Calculation of annual levy**

- (1) The annual levy payable by a Newcastle licence holder for a levy period is calculated by adding together the amount of the following as payable by the licence holder during the levy period—

- (a) the oxides of nitrogen monitoring component,
  - (b) the sulphur dioxide monitoring component,
  - (c) the particulate matter monitoring component,
  - (d) the general program costs component.
- (2) A Newcastle licence holder is required to pay the proportion of the EPA's costs in monitoring oxides of nitrogen during the levy period that is equal to the proportion of the licence holder's emissions of oxides of nitrogen during the levy period to the total LGA emissions of oxides of nitrogen during the period.
- (3) A Newcastle licence holder is required to pay the proportion of the EPA's costs in monitoring sulphur dioxide during the levy period that is equal to the proportion of the licence holder's emissions of sulphur dioxide during the levy period to the total LGA emissions of sulphur dioxide during the period.
- (4) A Newcastle licence holder is required to pay the proportion of the EPA's costs in monitoring particulate matter during the levy period that is equal to the proportion of the licence holder's emissions of particulate matter during the levy period to the total LGA emissions of particulate matter during the period.
- (5) A Newcastle licence holder is required to pay the proportion of the EPA's general program costs during the levy period that is equal to the proportion of the licence holder's total emissions of oxides of nitrogen, sulphur dioxide and particulate matter during the levy period to the total LGA emissions of oxides of nitrogen, sulphur dioxide and particulate matter during the period.
- (6) If the amount of the annual levy payable by a Newcastle licence holder for a levy period when calculated under this section is less than \$100—
- (a) the licence holder is not required to pay the annual levy for the levy period, and
  - (b) the emissions of the licence holder during the levy period must not be taken into account in calculating total LGA emissions for the period.

**Note—**

The amount payable by other Newcastle licence holders will be effectively increased as their proportion of the total emissions will be larger.

**110 Emissions from vessels to be included in Newcastle licence holder's emissions**

- (1) The total emissions from vessels in Newcastle of oxides of nitrogen, sulphur dioxide and particulate matter for a levy period must be apportioned as follows between shipping premises—
- (a) the premises must be divided into 3 levels as follows—

- (i) level 1—shipping premises at which the annual capacity to load and unload is not more than 100,000 tonnes,
  - (ii) level 2—shipping premises at which the annual capacity to load and unload is more than 100,000 tonnes but not more than 500,000 tonnes,
  - (iii) level 3—shipping premises at which the annual capacity to load and unload is more than 500,000 tonnes,
- (b) the emissions of oxides of nitrogen, sulphur dioxide and particulate matter are then to be apportioned so that—
- (i) equal amounts of each type of emissions are apportioned to premises at the same level, and
  - (ii) level 2 shipping premises are apportioned 3.3 times as many emissions of each type as level 1 shipping premises, and
  - (iii) level 3 shipping premises are apportioned 9 times as many emissions of each type as level 1 shipping premises.
- (2) Emissions in Newcastle from a vessel are taken not to be emissions from premises except as provided by this section.
- (3) Emissions that are apportioned to premises under this section must be taken into account as part of the relevant Newcastle licence holder’s emissions and the total LGA emissions.
- (4) In this section—

***shipping premises*** mean premises in Newcastle at which the scheduled activity of shipping in bulk is authorised to be carried out.

#### **111 Cost of Newcastle monitoring program**

- (1) During each levy period, the EPA must calculate an estimate of the cost to the EPA of each of the following for the levy period—
  - (a) the costs of monitoring oxides of nitrogen,
  - (b) the costs of monitoring sulphur dioxide,
  - (c) the costs of monitoring particulate matter,
  - (d) the general program costs.
- (2) After the end of a levy period, the EPA must calculate the actual cost to the EPA of each of the matters for the levy period.
- (3) The EPA may, in relation to a difference between the estimated cost of a matter and

the actual cost of the matter—

- (a) carry forward the difference to a subsequent levy period, or
- (b) arrange for Newcastle licence holders to make a payment or receive a refund for the difference.

**112 EPA may direct Newcastle licence holder to provide information**

- (1) The EPA may, for the purposes of this Part, direct a Newcastle licence holder to provide to the EPA information as may be specified in the direction.
- (2) A direction under this section—
  - (a) must be given by written notice, and
  - (b) may specify the methodology or assumptions to be used by the licence holder in generating the required information, and
  - (c) may specify the way and form in which the information must be provided.
- (3) It is a condition of a Newcastle licence holder's licence that the licence holder comply with a direction under this section within the time, if any, specified in the direction.

**113 Newcastle licence holders must provide assistance to EPA**

It is a condition of a Newcastle licence holder's licence that, for the purposes of, or in connection with, the operation of the Newcastle monitoring program, the licence holder—

- (a) permit entry by a person authorised in writing by the EPA to land owned or occupied by the licence holder, and
- (b) provide reasonable assistance and facilities as may be required by the person.

**114 EPA must publish results of air quality monitoring in Newcastle**

The EPA must make the results of the air quality monitoring carried out under the Newcastle monitoring program available on its website.

**115 EPA must report on Newcastle monitoring program**

- (1) The EPA must prepare a report containing the following matters in relation to the Newcastle monitoring program—
  - (a) a review of the effectiveness of the monitoring program in fulfilling its objectives,
  - (b) the results of an independent audit, to be arranged by the EPA, of the efficiency and cost effectiveness of the monitoring program,
  - (c) any recommendations for improvements to the monitoring program,

(d) other matters the EPA considers appropriate or that an advisory committee established to advise the EPA in relation to the monitoring program considers appropriate.

(2) The report must be prepared by 1 September every 4 years with the first report due by 1 September 2022.

(3) Each report must be made available on the website of the EPA.

## **Chapter 8 National Pollutant Inventory—the Act, Sch 2, cl 10A**

### **Part 1 Preliminary**

#### **116 Object**

The object of this Chapter is to give effect to and enforce compliance with the NPI.

#### **117 Definitions**

In this Chapter—

**NPI** means the *National Environment Protection (National Pollutant Inventory) Measure 1998* made under the *National Environment Protection Council Act 1994* of the Commonwealth, Part 3, Division 2, as in force on 2 December 2008.

**reporting threshold** for a substance means the reporting threshold for the substance specified in the NPI.

#### **Note—**

Terms used in this Chapter that are defined in the NPI, for example, **occupier** and **reporting facility**, have the same meanings as they have in the NPI except as otherwise provided in this Chapter.

#### **118 Application—occupiers of certain reporting facilities**

This Chapter applies to an occupier of a reporting facility if the ANZSIC code for one or more activities undertaken at the facility—

- (a) has been agreed between the participating jurisdictions referred to in the NPI, and
- (b) has been included by the Commonwealth on a published list.

### **Part 2 Reporting and record keeping requirements**

#### **119 Occupier must provide reporting facility data to EPA**

(1) If a reporting threshold for a substance is exceeded in a reporting period, the occupier of each reporting facility must provide the following information to the EPA—

- (a) supporting data for the facility,

- (b) for each substance for which the reporting threshold is exceeded in the period—substance identity information, emission data estimated in accordance with Part 3 and information that may be required to assess the integrity of the emission data,
  - (c) for each substance for which a category 1, category 1a or category 1b reporting threshold is exceeded in the period—the mass of each substance used in the reporting period,
  - (d) for each substance for which a category 2a or category 2b reporting threshold is exceeded in the period—the type and mass of fuel or waste burned in the reporting period,
  - (e) for each substance for which a category 1, category 1b or category 3 reporting threshold is exceeded in the period—mandatory transfer data and information that may be required to assess the integrity of the mandatory transfer data,
  - (f) a statement that the occupier has exercised due diligence in gathering and providing the information referred to in paragraphs (a)–(e), and signed by the occupier or a person authorised by the occupier.
- (2) An occupier must provide the information referred to in subsection (1) to the EPA within 3 months after the end of the reporting period to which the information relates.

Maximum penalty—

- (a) for a corporation—40 penalty units, or
- (b) for an individual—20 penalty units.

#### **120 Occupier must keep data for 4 years**

- (1) The occupier of a reporting 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 4 years after the reporting period ends.

Maximum penalty—

- (a) for a corporation—40 penalty units, or
- (b) for an individual—20 penalty units.

- (2) The occupier must keep the data used in calculating emission or transfer data given to the EPA for 4 years after the emission or transfer data is required to be given.

Maximum penalty—

- (a) for a corporation—40 penalty units, or
- (b) for an individual—20 penalty units.

**121 Exemption from reporting requirement—national security**

- (1) The occupier of a reporting facility is exempted from the requirement to provide information to the EPA under section 119 if the occupier gives the EPA written evidence that—
  - (a) the occupier has made a claim to the Commonwealth under the NPI that the information 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 within the period by which the occupier is required to provide the information under the section.
- (2) In relation to a claim referred to in subsection (1)(b)(ii)—if the Commonwealth refuses the claim after the period within which the occupier is required to provide the information to the EPA, the occupier must provide the information to the EPA within 60 days after receiving notice of the Commonwealth’s decision to refuse the claim.

**122 Exemption from reporting requirement—commercial confidentiality**

- (1) The occupier of a reporting facility is exempted from the requirement to provide information to the EPA under section 119 if—
  - (a) the occupier has made a claim that the information should be treated as confidential on the grounds of commercial confidentiality, and
  - (b) the claim has been granted.
- (2) The occupier may make the claim by written notice given to the EPA and the notice must contain the information necessary to enable the EPA to decide the claim.
- (3) The EPA may, by written notice given to the occupier, ask the occupier to provide further relevant information to the EPA, within a reasonable period specified in the notice, to enable the EPA to decide the claim.
- (4) The EPA may—
  - (a) grant the claim if the EPA reasonably believes a document contains information for which there is an overriding public interest against disclosure under the [Government Information \(Public Access\) Act 2009](#) because of the public interest considerations in that Act, section 14, Table, clause 4, and
  - (b) refuse the claim on grounds including—
    - (i) the EPA has given the occupier a notice under subsection (3), and

- (ii) the occupier does not comply with the request in the period specified in the notice.
- (5) The EPA must give the occupier written notice of the EPA's decision about the claim and, if the EPA refuses the claim, specify the reasons for the refusal in the notice.
- (6) The EPA is taken to have refused the claim if the EPA has not given the occupier written notice of the decision—
  - (a) within 90 days after the EPA has received notice of the claim, or
  - (b) if the occupier has given the EPA further information in response to a request under subsection (3)—within 90 days after the EPA has received the information.

### **Part 3 Estimation techniques**

#### **123 Estimation techniques—emission and mandatory transfer data**

- (1) In estimating emission data and mandatory transfer data for the purposes of reporting information required under Part 2, each occupier of a reporting facility must use—
  - (a) a technique set out in industry reporting materials applying to the facility, or
  - (b) a technique provided in the load calculation protocol for an activity undertaken at the facility, or
  - (c) a technique approved by the EPA for—
    - (i) the facility, or
    - (ii) the industry type of the facility.
- (2) The occupier must choose the estimation technique that is likely to provide the most reliable estimation of the emission data and mandatory transfer data.

#### **124 Application for approval of estimation technique**

- (1) The occupier of a reporting facility may apply to the EPA for approval of an estimation technique for emission or mandatory transfer data.
- (2) The application must—
  - (a) be in writing, and
  - (b) set out the technique for which approval is sought, and
  - (c) give the information necessary to enable the EPA to decide the application.

#### **125 Deciding application**

- (1) The EPA may decide an application by—

- (a) approving the estimation technique subject to the modifications the EPA considers appropriate, or
  - (b) refusing to approve the technique.
- (2) In deciding whether to approve the technique the EPA must consider the accuracy of the technique compared with the accuracy of estimation techniques in the relevant industry reporting materials for the relevant reporting facility.
- (3) The EPA may, by written notice given to the occupier, ask the occupier to provide further relevant information to the EPA, within a reasonable period specified in the notice, to enable the EPA to decide the application.
- (4) The EPA may refuse to approve the technique on grounds including—
- (a) the EPA has given the occupier a notice under subsection (3), and
  - (b) the occupier does not comply with the request in the period specified in the notice.
- (5) The EPA must give the occupier written notice of the EPA’s decision about the application and—
- (a) if the EPA approves the technique subject to a modification—specify the reasons for the modification in the notice, or
  - (b) if the EPA refuses to approve the technique—specify the reasons for the refusal in the notice.
- (6) The EPA is taken to have refused the application if the EPA has not given the occupier written notice of the decision—
- (a) within 90 days after the application has been made, or
  - (b) if the occupier has given the EPA further information in response to a written notice from the EPA—within 90 days after the EPA has received the information.

## Chapter 9 Miscellaneous

### Part 1 Penalty notices and enforcement officers

#### 126 Definition

In this Part—

***functions of an enforcement officer*** means the functions of an enforcement officer under the Act, Part 8.2.

**127 Authorisation of enforcement officers by organisation—the Act, s 226**

- (1) An organisation may appoint a person as an enforcement officer by authorising the person to exercise the functions of an enforcement officer.
- (2) An organisation must not appoint a person as an enforcement officer unless the person is a member of staff of the organisation.
- (3) In this section—

**member of staff** of an organisation includes a reference to a person who—

- (a) is a member of staff of a body corporate, whether or not the body corporate is a public authority, and
- (b) acts under the direction and control of the organisation in the provision of services that are the subject of an arrangement between the body corporate and the organisation.

**Note—**

The [Government Sector Employment Act 2013](#), section 59 provides that a reference to a member of staff of a statutory body must be read as including a reference to—

- (a) a Public Service employee who is employed to enable the statutory body to exercise its functions, or
- (b) otherwise—a person whose services the statutory body makes use of, whether by secondment or otherwise.

**128 Limits on exercise of functions by enforcement officers—the Act, s 226**

- (1) An enforcement officer appointed by a local council may exercise the functions of an enforcement officer only in the area of the council.
- (2) Nothing prevents a person being appointed as an enforcement officer by more than 1 local council.
- (3) An enforcement officer must not exercise the functions of an enforcement officer for a penalty notice offence alleged to have been committed by—
  - (a) the organisation that appointed the person as an enforcement officer, or
  - (b) a member of staff of the organisation.

**129 Penalty notices issued on owners of vehicles or vessels—the Act, Sch 2, cl 4**

- (1) This section applies to offences against the Act or the regulations under the Act that apply specifically to the owner of a vehicle or vessel.
- (2) A penalty notice may, if it relates to an offence to which this section applies—
  - (a) be issued by leaving it on, or attaching it to, the vehicle or vessel, and

- (b) be addressed to the owner of a vehicle or vessel without naming the owner or stating the owner's address.

**130 Penalty notices issued to masters of vessels—the Act, Sch 2, cl 4**

- (1) This section applies to offences against the Act or the regulations under the Act that apply specifically to the master of a vessel.
- (2) A penalty notice may, if it relates to an offence to which this section applies—
  - (a) be issued by—
    - (i) leaving it on, or attaching it to, the vessel, or
    - (ii) leaving it with the person having command or charge of the vessel for the time being, and
  - (b) be addressed to the master of a vessel without naming the master or stating the master's address.
- (3) In this section—

**master** of a vessel means a person, other than a pilot, having command or charge of the vessel.

**Part 2 Pollution matters**

**131 Pollution—testing methodology—the Act, Sch 2, cl 12**

- (1) This section applies if a person is required by or under the environment protection legislation, or a licence or notice under the legislation, to test for—
  - (a) the presence or concentration of matter, or
  - (b) noise, or
  - (c) odour.
- (2) The test methodology must be—
  - (a) if a methodology is specified in the requirement for testing—the methodology specified, or
  - (b) otherwise—the methodology prescribed in the Approved Methods Publication, including prescribed requirements as to sampling, measuring, analysis and the keeping of records, in relation to the matter.
- (3) This section does not apply to a person who is acting in the administration or execution of the environment protection legislation.

**132 Water pollution—emergency prohibition or regulation for drinking water safety—the**

**Act, Sch 2, cl 13**

- (1) The purpose of this section is to enable the EPA to prohibit or regulate aquatic activities that threaten the safety of drinking water that is part of a public water supply if urgent action is required and other regulatory authorities are not authorised, or have not acted, to protect the safety of the drinking water.
- (2) For that purpose, the EPA may, by order published in the Gazette, prohibit or regulate specified aquatic activities in a specified area of water.
- (3) An order under this section has effect for the period, not more than 3 months, specified in the order, unless the order is sooner revoked by a further order of the EPA published in the Gazette.
- (4) The EPA must take the measures it considers appropriate to bring a notice under this section to the attention of the public, including using notices erected near the area of water.
- (5) A person who contravenes an order under this section is guilty of an offence.  
Maximum penalty—5 penalty units.
- (6) In this section—  
**aquatic activities** include swimming, bathing, boating, water skiing or fishing.

**133 Land pollution—the Act, Dictionary**

- (1) For the Act, Dictionary, the definition of **land pollution** or **pollution of land**, paragraph (b), the following matter is prescribed—
  - (a) hazardous waste,
  - (b) restricted solid waste,
  - (c) more than 10 tonnes of asbestos waste,
  - (d) more than 5 tonnes of waste tyres or more than 500 waste tyres.

**Note—**

Placing smaller amounts of asbestos waste or waste tyres on land may fall within the Act, Dictionary, the definition of **land pollution**, paragraph (a) and may also give rise to water pollution.

- (2) Matter referred to in subsection (1) is excluded from the Act, Dictionary, the definition of **land pollution** or **pollution of land**, if the matter is placed in or on, or otherwise introduced into or onto, land on which the matter was generated—
  - (a) in accordance with an approved voluntary management proposal, management order or ongoing maintenance order under the [Contaminated Land Management](#)

*Act 1997*, or

(b) in accordance with a public positive covenant or restriction imposed under the *Contaminated Land Management Act 1997*, section 29, or

(c) as part of category 1 remediation work carried out under *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 4.

(3) In this section—

**hazardous waste**, **restricted solid waste** and **waste tyres** have the same meanings as they have in the Act, Schedule 1.

**134 Land pollution—defences relating to pesticides, fertilisers and other substances—the Act, s 142D**

For the Act, section 142D(2)—

**biosolids**, **manure** and **virgin excavated natural material** have the same meanings as they have in the Act, Schedule 1, Part 3, Division 2.

**non-hazardous agricultural or crop waste** means agricultural or crop waste that is not hazardous waste or restricted solid waste, within the meanings of the Act, Schedule 1.

**135 Noise pollution—form of warrants for noise abatement directions—the Act, s 280**

For the purposes of the following provisions of the Act, the prescribed form of the record to be made, or the statement to be provided, under the provision are as follows—

- (a) section 280(5)—Form 1 in Schedule 7,
- (b) section 280(10)—Form 2 in Schedule 7,
- (c) section 280(11)(a)—Form 3 in Schedule 7.

**136 Noise pollution—time for appeals against noise control notices—the Act, s 290**

For the Act, section 290(1), the period within which a person may appeal to the Land and Environment Court against a noise control notice relating to the keeping of an animal at premises is 7 days after service of the notice.

**137 Pollution incidents—notification—the Act, s 149**

- (1) For the Act, section 149(1), a pollution incident that is required to be notified under the Act, section 148—
  - (a) must be notified verbally to each relevant authority, and
  - (b) must be followed by notification in writing within 7 days of the date on which the incident occurred.

(2) Notification of the EPA may be achieved by telephoning the EPA environment line.

**Note—**

The Act, section 150(2) provides that the information contained in a notification must be the information known when the notification occurs. If information becomes known between the immediate notification given verbally and the time when written notification is required to be given, the new information will be required to be notified immediately after it becomes known and to be included in the written notification.

## **Part 3 Burning of bio-material in electricity generating works—the Act, Sch 2 cll 5, 6 and 6A**

### **138 Definitions**

In this Part—

**Australian native tree** means a tree of a species indigenous to Australia.

**electricity generating work** means a work, including associated facilities, that supplies, or is capable of supplying, more than 200 kilowatts of electricity.

**forestry operations** means—

- (a) logging operations, namely, the cutting and removal of timber from land for the purpose of timber production, or
- (b) the harvesting of forest products.

**heads and off-cuts** means the parts of a tree that are removed when obtaining a pulp wood log or saw log from the tree, but does not include a part of a saw log, pulp wood log, tree stump or dead tree.

**native forest bio-material** means the bio-material comprised in Australian native trees, other than—

- (a) bio-material obtained from—
  - (i) an authorised plantation, within the meaning of the *Plantations and Reafforestation Act 1999*, or
  - (ii) an existing plantation, within the meaning of that Act, Schedule 3, clause 6, or
  - (iii) land on which exempt farm forestry, within the meaning of that Act, is being carried out, or
  - (iv) land on which ancillary plantation operations, within the meaning of that Act, section 9, are being carried out, or
  - (v) trees cleared in accordance with a land management (native vegetation) code under the *Local Land Services Act 2013*, Part 5A, Division 5, or

- (vi) pulp wood logs and heads and off-cuts resulting from—
  - (A) clearing carried out in accordance with a private native forestry plan, or
  - (B) forestry operations carried out in accordance with an integrated forestry operations approval under the [Forestry Act 2012](#), Part 5B, or
- (vii) trees cleared as a result of thinning carried out in accordance with a private native forestry plan or in accordance with an integrated forestry operations approval under the [Forestry Act 2012](#), Part 5B, or
- (b) sawdust or other sawmill waste, or
- (c) waste arising from wood processing or the manufacture of wooden products, other than waste arising from activities, for example, woodchipping or the manufacture of railway sleepers, carried out at the location from which the Australian native trees are harvested.

**private native forestry plan** has the same meaning as in the [Local Land Services Act 2013](#), Part 5B.

**pulp wood logs** means logs used to make a reconstituted wood product, for example, paper, but does not include the following—

- (a) saw logs,
- (b) a part of a dead tree,
- (c) logs obtained from the following species of tree—
  - (i) Rough-barked Apple (*Angophora floribunda*),
  - (ii) Smooth-barked Apple (*Angophora costata*),
  - (iii) Scribbly Gum (*Eucalyptus rossii*),
  - (iv) Turpentine (*Syncarpia glomulifera*).

**saw logs** means logs that are able to be used to create timber products that maintain a woody structure.

**thinning** means the selective removal of individual trees, or parts of trees, for the purposes of reducing competition between trees, allowing growth of remaining trees, tree regeneration and groundcover growth and improving or maintaining the structure and composition of native vegetation.

### **139 Must not use native forest bio-material to generate electricity**

The occupier of premises who causes or allows native forest bio-material to be burned in electricity generating work in or on the premises is guilty of an offence.

Maximum penalty—

- (a) for a corporation—400 penalty units, or
- (b) for an individual—200 penalty units.

**140 Exception to prohibition on burning native forest bio-material to generate electricity**

- (1) An occupier of premises who causes or allows native forest bio-material to be burned in electricity generating work in or on the premises is not guilty of an offence under section 139 if—
  - (a) a licence authorises the carrying out of scheduled activities in or on the premises, and
  - (b) the premises are nominated by the EPA, by notice published in the Gazette, for the purposes of this section, and
  - (c) the native forest bio-material was obtained from—
    - (i) trees cleared from land in accordance with—
      - (A) a development consent or other approval under the *Environmental Planning and Assessment Act 1979*, or
      - (B) an authority or other approval issued by another State or Territory that corresponds or is similar to a development consent or other approval under that Act, or
    - (ii) the clearing of trees that is declared to be exempt development, within the meaning of the *Environmental Planning and Assessment Act 1979*, or
    - (iii) trees or other vegetation removed or lopped by a roads authority in accordance with the *Roads Act 1993*, section 88, or
    - (iv) land lawfully cleared as part of recovery or clean-up works in an area declared to be a natural disaster area for the purposes of disaster recovery funding arrangements administered jointly by the Commonwealth and the States and Territories, and
  - (d) the native forest bio-material does not comprise timber suitable for milling or other higher value use.
- (2) The EPA may, by notice published in the Gazette, vary or revoke a nomination referred to in subsection (1)(b).
- (3) In this section—

**higher value use** includes the use of timber as mulch or wood chips for the purposes of—

- (a) erosion and sediment control, or
- (b) landscaping the land from which the timber was obtained.

#### **141 Record keeping**

(1) The occupier of premises who causes or allows bio-material to be burned in electricity generating work in or on the premises during a relevant period must—

- (a) keep records in relation to fuel held during the relevant period at the premises, and
- (b) keep the records for at least 4 years after the end of the relevant period.

Maximum penalty—

- (a) for a corporation—200 penalty units, or
- (b) for an individual—100 penalty units.

(2) The records must be kept in accordance with the guidelines—

- (a) established by the EPA, and
- (b) published in the Gazette.

(3) In this section—

**relevant period**, in relation to an electricity generating work, means—

- (a) for a work the subject of an environment protection licence—the licence fee period in relation to the licence, or
- (b) otherwise—the year ending 30 June in each calendar year.

### **Part 4 Energy recovery from thermal treatment of waste—the Act, Sch 2 cll 5, 6 and 6A**

#### **142 Definitions**

(1) In this Part—

**commencement day** means 8 July 2022.

**energy recovery** means the recovery of energy or potential energy as one or more of the following—

- (a) electrical energy,
- (b) mechanical energy,
- (c) heat,

(d) a fuel.

**former mine premises** means premises—

- (a) at which mining operations, within the meaning of the *Mining Act 1992*, were carried out under an authority granted under the *Mining Act 1992*, and
- (b) that are no longer used or authorised for the activity, excluding a derelict mine site within the meaning of the *Mining Act 1992*.

**former thermal electricity generation premises** means premises—

- (a) at which the scheduled activity of general electricity works involving thermal processes was carried out under a licence issued under the Act, and
- (b) that are no longer used or licensed for the activity.

**general electricity works** has the same meaning as in the Act, Schedule 1, clause 17.

**less environmentally sound fuel** means coal, coal-derived solid fuel or petroleum-based liquid fuel, but does not include liquefied petroleum gas, natural gas and liquefied natural gas.

**Parkes Activation Precinct** means the Activation Precinct declared by *State Environmental Planning Policy (Precincts—Regional) 2021*, Schedule 1, section 1.

**thermal treatment** has the same meaning as in the Act, Schedule 1, clause 50(1), but does not include the following—

- (a) the incineration of waste for destruction or disposal,
- (b) autoclaving processes,
- (c) biological processes, including anaerobic digestion and composting,
- (d) thermal processes that do not involve a change in the chemical composition of the waste,
- (e) the thermal treatment of biosolids, contaminated soil or scrap metal,
- (f) the thermal treatment of waste plastic to produce plastic products, or inputs for plastic products, if at least 65% of the weight of the waste plastic thermally treated in a 12-month period is converted into plastic products or inputs for plastic products,
- (g) the use of waste-derived fuel by a vehicle.

**vehicle** includes the following—

- (a) an aircraft,
- (b) a vehicle within the meaning of the *Road Transport Act 2013*,
- (c) a vessel within the meaning of the *Marine Safety Act 1998*,
- (d) a train within the meaning of the *Rail Safety National Law (NSW)*, but including a vehicle not operating on a railway that is designed to operate both on and off a railway.

**waste** has the same meaning as in the Act, but does not include a fuel—

- (a) defined in Part 1 of the document entitled *Eligible Waste Fuels Guidelines*, published in the Gazette from time to time by the EPA, and
  - (b) listed in section 3 of the document entitled *NSW Energy from Waste Policy Statement* published in the Gazette from time to time by the EPA.
- (2) A word or expression used in this Part has the same meaning as in the Act, Schedule 1, clause 50, unless otherwise defined in this Part.

#### **143 Prohibition on energy recovery from thermal treatment of waste**

- (1) A person must not carry out, or cause or allow to be carried out, the thermal treatment of waste if—
- (a) it involves or results in energy recovery from the waste, and
  - (b) one or more of the activities carried out at the premises are scheduled activities that require a licence.
- (2) A person must not carry out, or cause or allow to be carried out, work at a premises that purports to enable the activity prohibited by subsection (1) to be carried out at the premises.
- (3) An offence under this section is a strict liability offence.

Maximum penalty—

- (a) for a corporation—
  - (i) 400 penalty units, and
  - (ii) for a continuing offence—a further 400 penalty units for each day the offence continues, or
- (b) for an individual—
  - (i) 200 penalty units, and
  - (ii) for a continuing offence—a further 200 penalty units for each day the offence

continues.

**144 Exceptions to prohibition on energy recovery from thermal treatment of waste**

- (1) A person is not guilty of an offence under section 143 if the activity or work prohibited by the section is carried out at—
  - (a) the Parkes Activation Precinct, or
  - (b) one of the following nominated precincts, identified on a map published in the Gazette by the EPA—
    - (i) the Richmond Valley Regional Jobs Precinct,
    - (ii) the Southern Goulburn Mulwaree Precinct,
    - (iii) the West Lithgow Precinct, or
  - (c) one of the following nominated precincts or premises, identified on a map or specified in a notice published in the Gazette by the EPA—
    - (i) an Activation Precinct,
    - (ii) a Regional Jobs Precinct,
    - (iii) former mine premises,
    - (iv) former thermal electricity generation premises.
- (2) The EPA may, by notice published in the Gazette, vary or revoke a nomination referred to in subsection (1)(b) or (c).
- (3) A person is not guilty of an offence under section 143 if the activity prohibited by the section is—
  - (a) lawfully able to be, and first, carried out before the commencement day, and
  - (b) an established and operating activity at the premises immediately before the commencement day.
- (4) A person is not guilty of an offence under section 143 if—
  - (a) the activity prohibited by the section is carried out to replace the use of a less environmentally sound fuel, and
  - (b) the fuel was, or was lawfully able to be, thermally treated at the premises immediately before the commencement day, and
  - (c) for fuel thermally treated at the premises in the 12-month period ending immediately before the commencement day—at least 90% of the energy recovered from thermally treating the fuel, including energy generated from the

energy, was used in, or to power, industrial or manufacturing processes at the premises during the period, and

- (d) at least 90% of the energy recovered from thermally treating the waste, including energy generated from the energy, is used in, or to power, industrial or manufacturing processes at the premises in a 12-month period.

#### **145 Effect of prohibition on environment protection licences**

The EPA must refuse an application for the issue, transfer or variation of a licence if granting the application would purport to authorise an activity or work prohibited by this Part.

**Note—**

A licence cannot be refused if it is necessary for carrying out State significant development authorised by a development consent or approved State significant infrastructure—see the [Environmental Planning and Assessment Act 1979](#), sections 4.42 and 5.24.

### **Part 5**

#### **146-150 (Repealed)**

### **Part 6 Other**

#### **151 Fee for clean-up, prevention and noise control notices**

- (1) The following amounts are prescribed as the fee payable under the Act, section 94(2), 100(2) or 267A(2) in relation to a notice issued during the following periods—
  - (a) in the financial year 2022-23—\$765,
  - (b) in the financial year 2023-24—
    - (i) for a clean-up notice issued in relation to depositing litter or waste under the Act, section 94(2) as applied by the Act, section 144AG—\$250, or
    - (ii) otherwise—\$785,
  - (c) in the financial year 2024-25—
    - (i) for a clean-up notice issued in relation to depositing litter or waste under the Act, section 94(2) as applied by the Act, section 144AG—\$256, or
    - (ii) otherwise—\$803,
  - (d) in the financial year 2025-26—
    - (i) for a clean-up notice issued in relation to depositing litter or waste under the Act, section 94(2) as applied by the Act, section 144AG—\$267, or
    - (ii) otherwise—\$821,

(e) in the financial year 2026–27—

(i) for a clean-up notice issued in relation to depositing litter or waste under the Act, section 94(2) as applied by the Act, section 144AG—\$286, or

(ii) otherwise—\$840,

(f) in each subsequent financial year—the amount calculated in accordance with the following formula, rounded to the nearest dollar with an amount of 50 cents to be rounded down—

$$P \times (1 + A)$$

where—

**P** is the amount of the fee in the financial year immediately before the financial year for which the amount is to be calculated.

**A** is the annual percentage change, expressed in decimals, in the Public Sector Wage Price Index for total hourly rates of pay excluding bonuses for the financial year immediately before the financial year for which the amounts are to be calculated.

(2) If, in a financial year, the annual percentage change in the Public Sector Wage Price Index is not published by the Australian Statistician, the annual percentage change for the immediately preceding financial year applies.

(3) The EPA must, on or before 31 December in 2027 and each following year—

(a) notify the Parliamentary Counsel of the amount of the fee for the following financial year so notice of the amount may be published on the NSW legislation website, and

(b) publish on the EPA's website the fee amount that applies in that financial year.

### **152 Protocol for calculating amount representing monetary benefits—the Act, s 249**

For the Act, section 249(2A), the document entitled *Protocol for calculating monetary benefits*, prepared by the EPA and published in the Gazette, as in force from time to time, is prescribed.

### **153 Guidelines about financial assurances—the Act, s 301**

For the Act, section 301, the following guidelines must be observed—

(a) for the content of conditions of licences requiring financial assurances—the *Financial Assurance Policy*, prepared by the EPA and published in the Gazette, as in force from time to time,

(b) for the calculation of the amount of financial assurances required—the *Guideline on*

*Estimating Financial Assurances*, prepared by the EPA and published by the Gazette, as in force from time to time.

**154 Evaluation of green offset schemes or works—the Act, s 295Q**

- (1) Each green offset scheme, and each green offset work that is not part of a green offset scheme, must be evaluated in accordance with this section.
- (2) An evaluation must be carried out and reported on—
  - (a) for a green offset scheme—at the intervals, not being greater than 5 years, decided by the EPA for the duration of the scheme and at the end of the scheme, and
  - (b) for a green offset work that is not part of a green offset scheme—at the intervals decided by the EPA in relation to the work.
- (3) An evaluation must be carried out and reported on by the EPA or by a manager of a green offset scheme or green offset work if directed to do so in accordance with subsection (4).
- (4) The EPA may, by written notice given to the manager of a green offset scheme or green offset work, direct the manager do the following—
  - (a) provide the EPA with information relating to the effectiveness of the scheme or work,
  - (b) carry out and report on an evaluation required under this section and provide a copy of the evaluation report to the EPA,
  - (c) amend the evaluation report.
- (5) An evaluation report—
  - (a) must list the participants in the green offset scheme or green offset work, and
  - (b) must relate to the period since—
    - (i) the commencement of the scheme or work, or
    - (ii) if the scheme or work has been evaluated under this section—the last evaluation of the scheme or work, and
  - (c) must set out the environmental effects and benefits arising from the scheme or work, and
  - (d) for a scheme, must contain the following matters relevant to the scheme—
    - (i) whether an applicable cap or target has been met,

- (ii) particulars of the costs of and payments for the purposes of the scheme under the Act, Part 9.3B,
  - (iii) particulars of the implementation of works for the purposes of the scheme, and
- (e) for a work that is not part of a scheme, must contain the following matters relevant to the work—
- (i) particulars of the implementation of the work by or on behalf of the participants,
  - (ii) particulars of the costs of and payments for the purposes of the work under the Act, Part 9.3B, and
- (f) must contain other matters directed to be included by the EPA, and
- (g) must be made publicly available in the way decided by the EPA.
- (6) Nothing in this section requires or permits the EPA or the manager of a green offset scheme or green offset work to make publicly available information of a kind referred to in the Act, section 319(1).

**154A Application fee for assessment of technology—the Act, s 296N**

The following amounts are prescribed as the fee payable under the Act, section 296N in relation to an application made during the following periods—

- (a) in the financial year 2023-24—\$10,755,
- (b) in the financial year 2024-25—\$11,150,
- (c) in the financial year 2025-26—\$11,570,
- (d) in the financial year 2026-27—\$11,990,
- (e) for each subsequent financial year—the amount calculated using the formula and method specified in section 18(1)(f), (2) and (3).

**155 Additional restriction on requiring financial assurances—the Act, s 299**

The following matters are prescribed for the Act, section 299(d)—

- (a) the adequacy of the financial capacity of the following to fund the carrying out of works or programs required by or under a licence—
  - (i) the holder of the licence,
  - (ii) a former holder of the licence,
  - (iii) a proposed holder of the licence,

- (b) the adequacy of financial assurances already provided, or required to be provided, by the same person to a public authority to secure or guarantee funding for or towards the carrying out of the same or substantially the same works or programs.

**Note—**

The Act, section 299 prevents a regulatory authority from imposing a condition on a licence requiring a financial assurance to be provided unless it is satisfied that the condition is justified considering a number of specified matters, including matters prescribed by the regulations.

**156 Additional matters to be included in public register—the Act, s 308**

Details of the following additional matters must be recorded in the public register kept by a regulatory authority under the Act, section 308—

- (a) the application fee for an environment protection licence issued by the authority,
- (b) the annual licence fee paid or payable in relation to an environment protection licence issued by the authority,
- (c) an approval granted by the authority under the *Protection of the Environment Operations (Clean Air) Regulation 2022*, section 11, 18, 53, 72, 77 or 162,
- (d) information relating to the actual load, agreed load or weighted load of an assessable pollutant reported, as a condition of an environment protection licence, by the licence holder in an annual return to the authority,
- (e) details or summaries of undertakings given to the authority under the Act, section 253A,
- (f) details or summaries of a load reduction agreement the authority has entered into with a licence holder.

**157 Keeping of register—certain non-scheduled activities**

- (1) A person who has management or control of non-scheduled activities set out in section 13(1)(a), (b) and (c) must keep a register of complaints made in relation to pollution arising from the activity.
- (2) The person must ensure the following information is recorded in the register in relation to a complaint as soon as practicable after the complaint is made—
  - (a) the date and time of the complaint,
  - (b) details of the method by which the complaint was made,
  - (c) particulars identifying the complainant or, if no particulars were provided, a note to that effect,
  - (d) a summary of the complaint,

(e) action taken to deal with the complaint, including follow-up contact with the complainant, or if no action was taken to deal with the complaint, the reason no action was taken.

(3) The person must keep the record of the information in the register in relation to a complaint for at least 4 years after the complaint was made.

### 158 Repeal and saving

(1) The *Protection of the Environment Operations (General) Regulation 2021* is repealed.

(2) An act, matter or thing that immediately before the repeal of the *Protection of the Environment Operations (General) Regulation 2021* had effect under that Regulation continues to have effect under this Regulation.

## Schedule 1 Licensing fees

sections 3, 21 and 24

### Part 1 Scheduled activities

#### AGRICULTURAL PROCESSING

##### Dairy processing

###### Administrative fee

Annual processing capacity (megalitres)	Administrative fee units
More than 30 but not more than 100	15
More than 100	50

##### General agricultural processing

###### Administrative fee

Annual processing capacity (tonnes)	Administrative fee units
More than 30,000 but not more than 100,000	15
More than 100,000 but not more than 250,000	50
More than 250,000	135

##### Grape processing

###### Administrative fee

Annual processing capacity (tonnes)	Administrative fee units
More than 30,000 but not more than 100,000	15

More than 100,000 but not more than 250,000	50
More than 250,000	135

## **AQUACULTURE AND MARICULTURE**

### **Administrative fee**

<b>Annual volume of discharge (megalitres)</b>	<b>Administrative fee units</b>
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Not more than 2,000	5
More than 2,000 but not more than 20,000	15
More than 20,000	50

## **BREWING AND DISTILLING**

### **Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
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Not more than 10,000	5
More than 10,000 but not more than 20,000	50
More than 20,000	135

## **CEMENT OR LIME WORKS**

### **Cement or lime handling**

#### **Administrative fee**

<b>Annual handling capacity (tonnes)</b>	<b>Administrative fee units</b>
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Not more than 30,000	5
More than 30,000 but not more than 100,000	8
More than 100,000 but not more than 500,000	25
More than 500,000 but not more than 2,000,000	65
More than 2,000,000	165

### **Cement or lime production**

#### **1 Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
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Not more than 30,000	5
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More than 30,000 but not more than 100,000	65
More than 100,000 but not more than 250,000	165
More than 250,000 but not more than 500,000	300
More than 500,000	420

**2 Load-based fee**—if the annual production capacity exceeds 30,000 tonnes

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	0.1
Fine particulates	0.28
Lead	0.00061
Mercury	0.00054
Nitrogen oxides and nitrogen oxides (summer)	3.2
Sulfur oxides	0.16

**CERAMIC WORKS**

**Ceramic waste generation**

**Administrative fee**

<b>Amount of waste on site at any time (tonnes)</b>	<b>Administrative fee units</b>
More than 5 but not more than 100	8
More than 100	16

**Ceramics production**

**1 Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
Not more than 15,000	8
More than 15,000 but not more than 50,000	25
More than 50,000 but not more than 200,000	65
More than 200,000	165

**2 Load-based fee**—if the annual production capacity exceeds 15,000 tonnes

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	0.085

Fine particulates	0.11
Fluoride	0.12
Nitrogen oxides and nitrogen oxides (summer)	0.22
Sulfur oxides	0.53

**Glass production****1 Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
Not more than 15,000	8
More than 15,000 but not more than 30,000	25
More than 30,000 but not more than 100,000	65
More than 100,000	165

**2 Load-based fee**—if the annual production capacity exceeds 15,000 tonnes**Production of container glass**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.00028
Coarse particulates	0.05
Fine particulates	0.05
Lead	0.0018
Nitrogen oxides and nitrogen oxides (summer)	4.02
Sulfur oxides	3.12

**Production of float glass**

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	0.11
Fine particulates	0.11
Nitrogen oxides and nitrogen oxides (summer)	2.00
Sulfur oxides	3.64

**Production of other glass**

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	2.75
Fine particulates	2.75
Nitrogen oxides and nitrogen oxides (summer)	4.29
Sulfur oxides	4.16

## **CHEMICAL PRODUCTION**

### **Agricultural fertiliser (inorganic) production**

#### **Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 20,000 but not more than 50,000	25
More than 50,000 but not more than 100,000	65
More than 100,000	165

### **Agricultural fertiliser (phosphate) production**

#### **1 Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 20,000 but not more than 50,000	25
More than 50,000 but not more than 100,000	65
More than 100,000	165

#### **2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	0.022
Fine particulates	0.13
Fluoride	1.1

<b>Water pollutants</b>	<b>Threshold factor</b>
Total phosphorus	0.002

### **Ammonium nitrate production**

#### **1 Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 20,000 but not more than 50,000	25
More than 50,000 but not more than 100,000	65
More than 100,000	165

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	0.77
Fine particulates	0.33
Nitrogen oxides and nitrogen oxides (summer)	1.5

<b>Water pollutants</b>	<b>Threshold factor</b>
Total nitrogen	0.11

**Battery production****Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 30 but not more than 500	15
More than 500 but not more than 1,500	50
More than 1,500	135

**Carbon black production****1 Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 5,000 but not more than 20,000	65
More than 20,000	165

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Benzo(a)pyrene	0.005
Fine particulates	0.3
Nitrogen oxides and nitrogen oxides (summer)	11.0
Sulfur oxides	8.0

VOCs and VOCs (summer) 0.4

**Chemical production waste generation**

**Administrative fee**

**Amount of waste on site at any time (tonnes) Administrative fee units**

More than 5 but not more than 100 8

More than 100 16

**Dangerous goods production**

**Administrative fee**

**Annual capacity (tonnes) Administrative fee units**

More than 1,000 but not more than 10,000 15

More than 10,000 but not more than 25,000 50

More than 25,000 135

**Explosives production**

**Administrative fee**

**Annual production capacity (tonnes) Administrative fee units**

Not more than 2,000 15

More than 2,000 but not more than 10,000 50

More than 10,000 135

**Paints/polishes/adhesives production**

**1 Administrative fee**

**Annual production capacity (tonnes) Administrative fee units**

More than 5,000 but not more than 15,000 65

More than 15,000 165

**2 Load-based fee**

**Air pollutants Threshold factor**

Benzene 0.015

Fine particulates 0.035

Nitrogen oxides and nitrogen oxides (summer)	0.068
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VOCs and VOCs (summer)	2.1
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**Pesticides and related products production****Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
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More than 2,000 but not more than 10,000	50
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More than 10,000 but not more than 30,000	135
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More than 30,000	335
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**Pesticides and related products (toxic substances) production****Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
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More than 1 but not more than 2,000	15
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More than 2,000 but not more than 10,000	50
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More than 10,000 but not more than 30,000	135
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More than 30,000	335
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**Petrochemical production****1 Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
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More than 2,000 but not more than 10,000	25
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More than 10,000 but not more than 30,000	65
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More than 30,000 but not more than 100,000	165
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More than 100,000 but not more than 200,000	300
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More than 200,000	420
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**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
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Benzene	0.25
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Fine particulates	0.02
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Nitrogen oxides and nitrogen oxides (summer)	0.96
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VOCs and VOCs (summer)	0.5
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**Pharmaceutical and veterinary products production****Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
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More than 1 but not more than 2,000	15
More than 2,000 but not more than 5,000	50
More than 5,000	135

**Plastic resins production****1 Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
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More than 2,000 but not more than 10,000	65
More than 10,000	165

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
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Benzene	0.00073
Fine particulates	0.041
Nitrogen oxides and nitrogen oxides (summer)	0.092
VOCs and VOCs (summer)	8.5

**Plastics reprocessing****1 Administrative fee**

<b>Annual reprocessing capacity (tonnes)</b>	<b>Administrative fee units</b>
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More than 5,000 but not more than 10,000	65
More than 10,000	165

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
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Benzene	0.00073
Fine particulates	0.041

Nitrogen oxides and nitrogen oxides (summer) 0.092

VOCs and VOCs (summer) 8.5

**Rubber products/tyres production**

**Administrative fee**

**Annual production capacity (tonnes) Administrative fee units**

More than 5,000 135

**Soap and detergents production**

**Administrative fee**

**Annual production capacity (tonnes) Administrative fee units**

More than 5,000 135

**Soap and detergents (toxic substances) production**

**Administrative fee**

**Annual production capacity (tonnes) Administrative fee units**

More than 100 but not more than 2,500 15

More than 2,500 but not more than 5,000 50

More than 5,000 135

**Synthetic rubber production**

**Administrative fee**

**Annual production capacity (tonnes) Administrative fee units**

More than 2,000 but not more than 5,000 50

More than 5,000 135

**Toxic substance production**

**Administrative fee**

**Annual capacity (tonnes) Administrative fee units**

More than 1 but not more than 10,000 15

More than 10,000 but not more than 25,000 50

More than 25,000 135

**CHEMICAL STORAGE****General chemicals storage****Administrative fee**

<b>Storage capacity (kilolitres)</b>	<b>Administrative fee units</b>
Not more than 5,000	8
More than 5,000 but not more than 100,000	25
More than 100,000	65

**On-site generated chemical waste storage****Administrative fee**

<b>Amount of waste on site at any time (tonnes)</b>	<b>Administrative fee units</b>
More than 5 but not more than 100	8
More than 100	16

**Petroleum products storage****1 Administrative fee**

<b>Storage capacity (kilolitres)</b>	<b>Administrative fee units</b>
Not more than 5,000	8
More than 5,000 but not more than 100,000	25
More than 100,000	65

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Benzene	0.0005
VOCs and VOCs (summer)	0.05

**COAL WORKS****Administrative fee**

<b>Annual capacity (tonnes)</b>	<b>Administrative fee units</b>
Not more than 2,000,000	50
More than 2,000,000 but not more than 5,000,000	135

More than 5,000,000	335
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**COKE PRODUCTION****1 Administrative fee**

<b>Annual capacity (tonnes)</b>	<b>Administrative fee units</b>
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Not more than 100,000	65
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More than 100,000	165
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**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
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Arsenic	0.00085
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Benzene	0.028
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Benzo(a)pyrene (equivalent)	0.00003
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Coarse particulates	0.22
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Fine particulates	0.3
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Hydrogen sulfide	0.002
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Lead	0.0021
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Mercury	0.0022
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Nitrogen oxides and nitrogen oxides (summer)	0.03
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Sulfur oxides	0.4
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VOCs and VOCs (summer)	0.015
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<b>Water pollutants</b>	<b>Threshold factor</b>
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Oil and grease	0.011
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Suspended solids	0.13
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Total PAHs	0.000032
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Total phenolics	0.000032
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**COMPOSTING****Administrative fee**

<b>Amount of organics received (tonnes)</b>	<b>Administrative fee units</b>
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Not more than 5,000	5
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More than 5,000 but not more than 50,000	15
More than 50,000	50

#### **CONCRETE WORKS**

##### **Administrative fee**

<b>Annual production capacity (cubic metres)</b>	<b>Administrative fee units</b>
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Not more than 13,000	5
More than 13,000 but not more than 25,000	15
More than 25,000 but not more than 50,000	50
More than 50,000	135

#### **CONTAINER RECONDITIONING**

##### **Administrative fee**

<b>Have on site at any time (number of containers)</b>	<b>Administrative fee units</b>
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More than 100	50
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#### **CONTAMINATED SOIL TREATMENT**

##### **Administrative fee**

<b>Annual capacity</b>	<b>Administrative fee units</b>
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Any capacity	50
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#### **CONTAMINATED GROUNDWATER TREATMENT**

##### **Administrative fee**

<b>Annual capacity (megalitres)</b>	<b>Administrative fee units</b>
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More than 100	50
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#### **CRUSHING, GRINDING OR SEPARATING**

##### **Administrative fee**

<b>Annual processing capacity (tonnes)</b>	<b>Administrative fee units</b>
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Not more than 30,000	5
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More than 30,000 but not more than 100,000	15
More than 100,000 but not more than 500,000	50
More than 500,000 but not more than 2,000,000	135
More than 2,000,000	335

## **ELECTRICITY GENERATION**

### **Electricity generation—general electricity works, metropolitan electricity works (gas turbines) and metropolitan electricity works (internal combustion engines)**

#### **1 Administrative fee**

<b>Annual capacity (gigawatt-hours)</b>	<b>Administrative fee units</b>
Not more than 450	25
More than 450 but not more than 1,000	65
More than 1,000 but not more than 4,000	165
More than 4,000	420

#### **2 Load-based fee**—if the annual generating capacity exceeds 250 gigawatt-hours

##### **Generation of electrical power from coal**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.0037
Benzo(a)pyrene (equivalent)	0.00066
Coarse particulates	80.0
Fine particulates	54.0
Fluoride	14.0
Lead	0.019
Mercury	0.0042
Nitrogen oxides and nitrogen oxides (summer)	2,700
Sulfur oxides	5,300
<b>Water pollutants</b>	<b>Threshold factor</b>
Salt	3.6
Selenium	0.025
Suspended solids	0.18

**Generation of electrical power from diesel**

<b>Air pollutants</b>	<b>Threshold factor</b>
Benzo(a)pyrene (equivalent)	0.0036
Fine particulates	54.0
Nitrogen oxides and nitrogen oxides (summer)	2,700
Sulfur oxides	2,650
VOCs and VOCs (summer)	76.0

**Generation of electrical power from gas**

<b>Air pollutants</b>	<b>Threshold factor</b>
Nitrogen oxides and nitrogen oxides (summer)	1,655

<b>Water pollutants</b>	<b>Threshold factor</b>
Salt	0.0029
Suspended solids	0.066

**Electricity generation—electricity works (wind farms)**

**Administrative fee**

<b>Annual generating capacity (gigawatt-hours)</b>	<b>Administrative fee units</b>
Not more than 450	15
More than 450 but not more than 1,000	45
More than 1,000 but not more than 4,000	65
More than 4,000	150

**ENERGY RECOVERY**

**Energy recovery from general waste**

**1 Administrative fee**

<b>Annual processing amount (tonnes)</b>	<b>Administrative fee units</b>
More than 200	65

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.00005
Benzene	0.0000011
Benzo(a)pyrene	0.00002
Fine particulates	0.7
Lead	0.035
Mercury	0.003
Nitrogen oxides and nitrogen oxides (summer)	2.5
Sulfur oxides	0.07

**Energy recovery from hazardous and other waste****1 Administrative fee**

<b>Amount of waste on site at any time (kilograms)</b>	<b>Administrative fee units</b>
More than 200	65

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.00005
Benzene	0.0000011
Benzo(a)pyrene	0.00002
Fine particulates	0.7
Lead	0.035
Mercury	0.003
Nitrogen oxides and nitrogen oxides (summer)	2.5
Sulfur oxides	0.07

**ENVIRONMENTALLY HAZARDOUS CHEMICALS**

<b>Administrative fee</b>	<b>Administrative fee units</b>
Environmentally hazardous activities—premises based	5

**EXTRACTIVE ACTIVITIES****Maintenance dredging of navigation channel for vessels carried out by or on behalf of a public authority****Administrative fee**

<b>Annual extraction or processing amount (cubic metres)</b>	<b>Administrative fee units</b>
More than 30,000 but not more than 50,000	15
More than 50,000 but not more than 100,000	50
More than 100,000 but not more than 500,000	135
More than 500,000 but not more than 2,000,000	335
More than 2,000,000	600

**Other extractive activities****Administrative fee**

<b>Annual extraction or processing amount (tonnes)</b>	<b>Administrative fee units</b>
More than 30,000 but not more than 50,000	15
More than 50,000 but not more than 100,000	50
More than 100,000 but not more than 500,000	135
More than 500,000 but not more than 2,000,000	335
More than 2,000,000	600

**HELICOPTER-RELATED ACTIVITIES****Administrative fee**

<b>Annual intended number of flight movements (number of flight movements)</b>	<b>Administrative fee units</b>
Not more than 1,500	5
More than 1,500 but not more than 5,000	15
More than 5,000	50

**IRRIGATED AGRICULTURE****Administrative fee**

<b>Total area of existing area of operations of irrigation corporation (hectares)</b>	<b>Administrative fee units</b>
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Not more than 10,000	15
More than 10,000 but not more than 100,000	50
More than 100,000	135

### **LIVESTOCK INTENSIVE ACTIVITIES**

#### **Animal accommodation**

##### **Administrative fee**

<b>Annual live weight capacity to handle (tonnes)</b>	<b>Administrative fee units</b>
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Not more than 25,000	5
More than 25,000 but not more than 60,000	15
More than 60,000	50

**Note—**

Live weight capacity must be calculated either by using the actual live weight or estimating live weight on the basis that 1 tonne live weight equals 2 cattle, 2 horses, 5 breeding sows, 5 deer, 11 bacon pigs, 13 kangaroos, 17 emus, 17 porker or finisher pigs or 22 sheep.

#### **Bird accommodation**

##### **Administrative fee**

<b>Live weight capacity to accommodate (tonnes)</b>	<b>Administrative fee units</b>
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Not more than 375	5
More than 375 but not more than 1,000	15
More than 1,000 tonnes but not more than 3,000	50
More than 3,000	135

**Note—**

Live weight capacity must be calculated either by using the actual live weight or estimating live weight on the basis that 1 tonne live weight equals 17 emus, 110 turkeys, 165 geese, 310 ducks, 555 layer chickens or 1,100 broiler chickens.

#### **Cattle, sheep or horse accommodation**

##### **Administrative fee**

**Live weight capacity to accommodate (tonnes) Administrative fee units**

Not more than 500	5
More than 500 but not more than 2,500	15
More than 2,500	50

**Note—**

Live weight capacity must be calculated either by using the actual live weight or estimating live weight on the basis that 1 tonne live weight equals 2 cattle, 2 horses or 22 sheep.

**Dairy animal accommodation**

**Administrative fee**

**Live weight capacity to accommodate (tonnes) Administrative fee units**

Not more than 500	5
More than 500 but not more than 1,000	15
More than 1,000	50

**Note—**

Live weight capacity must be calculated either by using the actual live weight or estimating live weight on the basis that 1 tonne live weight equals 1.6 milking cows or 13 other dairy animals.

**Pig accommodation**

**Administrative fee**

**Live weight capacity to accommodate Administrative fee units**

Not more than 250 tonnes	5
More than 250 but not more than 500 tonnes	15
More than 500 tonnes	50

**Note—**

Live weight capacity must be calculated either by using the actual live weight or estimating live weight on the basis that 1 tonne live weight equals 5 breeding sows, 11 bacon pigs, 17 porker or finisher pigs, 31 grower pigs or 62 weaner pigs.

**LIVESTOCK PROCESSING ACTIVITIES**

**General animal products production**

**Administrative fee**

**Annual production capacity (tonnes)**

**Administrative fee units**

More than 5,000 but not more than 100,000

5

More than 100,000

15

**Greasy wool or fleece processing**

**Administrative fee**

**Annual processing capacity (tonnes)**

**Administrative fee units**

More than 200

5

**Rendering or fat extraction**

**Administrative fee**

**Annual production capacity (tonnes)**

**Administrative fee units**

More than 200 but not more than 4,000

5

More than 4,000

15

**Slaughtering or processing animals**

**Administrative fee**

**Annual capacity (tonnes)**

**Administrative fee units**

More than 750 but not more than 30,000

5

More than 30,000

15

**Tanneries or fellmongeries**

**Administrative fee**

**Annual processing capacity (tonnes)**

**Administrative fee units**

More than 2 but not more than 10,000

5

More than 10,000

15

**MARINAS AND BOAT REPAIRS**

**Boat construction/repair/maintenance (dry/floating docks)**

**Administrative fee**

**Handling capacity**

**Administrative fee units**

Any capacity

135

**Boat construction/repair/maintenance (general)**

**Administrative fee**

**Handling capacity of certain vessels at any time  
(number of vessels)**

**Administrative fee units**

More than 5

50

**Boat mooring and storage**

**Administrative fee**

**Handling capacity of certain vessels at any time  
(number of vessels)**

**Administrative fee units**

More than 80

15

**METALLURGICAL ACTIVITIES**

**Aluminium production (alumina)**

**1 Administrative fee**

**Annual processing capacity (tonnes)**

**Administrative fee units**

More than 10,000

420

**2 Load-based fee**

**Air pollutants**

**Threshold factor**

Coarse particulates

0.75

Fine particulates

0.96

Fluoride

0.75

Lead

0.00011

Nitrogen oxides and nitrogen oxides (summer)

0.2

Sulfur oxides

20

**Aluminium production (scrap metal)**

**1 Administrative fee**

<b>Annual processing capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 10,000	165

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	0.048
Fine particulates	0.066
Fluoride	0.056
Nitrogen oxides and nitrogen oxides (summer)	0.74
Sulfur oxides	0.46
VOCs and VOCs (summer)	0.68

**Iron or steel production (iron ore)****1 Administrative fee**

<b>Annual processing capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 10,000	2,650

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.000014
Benzene	0.0011
Benzo(a)pyrene (equivalent)	0.003
Coarse particulates	0.47
Fine particulates	0.38
Hydrogen sulfide	0.018
Lead	0.0014
Mercury	0.000041
Nitrogen oxides and nitrogen oxides (summer)	3.81
Sulfur oxides	6.6
VOCs and VOCs (summer)	7

<b>Water pollutants</b>	<b>Threshold factor</b>
Arsenic	0.0091
Cadmium	0.0018
Chromium	0.0054
Copper	0.0036
Lead	0.0018
Mercury	0.000091
Oil and grease	0.015
Selenium	0.00091
Suspended solids	0.24
Zinc	0.0091

**Iron or steel production (scrap metal)****1 Administrative fee**

<b>Annual processing capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 10,000	165

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.000057
Coarse particulates	0.085
Fine particulates	0.33
Lead	0.00024
Mercury	0.00013
Nitrogen oxides and nitrogen oxides (summer)	0.12
Sulfur oxides	0.5
VOCs and VOCs (summer)	0.09

**Metal coating****Administrative fee**

<b>Annual processing capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 10,000 but not more than 100,000	15
More than 100,000 but not more than 1,000,000	50
More than 1,000,000	135

**Metal processing**

**Administrative fee**

<b>Annual processing capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 10,000 but not more than 100,000	15
More than 100,000 but not more than 500,000	50
More than 500,000	135

**Metal waste generation**

**Administrative fee**

<b>Amount of waste on site at any time (tonnes)</b>	<b>Administrative fee units</b>
More than 5 but not more than 100	8
More than 100	16

**Non-ferrous metal production (ore concentrates)**

**1 Administrative fee**

<b>Annual processing capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 10,000	660

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.03
Coarse particulates	0.33
Fine particulates	0.49
Lead	0.06
Mercury	0.03
Sulfur oxides	230

<b>Water pollutants</b>	<b>Threshold factor</b>
Arsenic	0.0003
Cadmium	0.0003
Chromium	0.0003
Copper	0.0026
Lead	0.03
Mercury	0.0003
Selenium	0.0003
Suspended solids	0.78
Zinc	0.02

**Non-ferrous metal production (scrap metal)**

**1 Administrative fee**

<b>Annual processing capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 10,000	165

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	0.011
Fine particulates	0.033
Lead	0.002
Nitrogen oxides and nitrogen oxides (summer)	0.37
Sulfur oxides	0.99
VOCs and VOCs (summer)	0.11

**Scrap metal processing**

**Administrative fee**

<b>Annual processing capacity (tonnes)</b>	<b>Administrative fee units</b>
Not more than 100,000	15
More than 100,000 but not more than 500,000	50
More than 500,000	135

## **MINERAL PROCESSING**

### **Mineral processing**

#### **Administrative fee**

<b>Annual processing capacity (tonnes)</b>	<b>Administrative fee units</b>
Not more than 30,000	5
More than 30,000 but not more than 100,000	15
More than 100,000 but not more than 500,000	50
More than 500,000 but not more than 2,000,000	135
More than 2,000,000	335

### **Mineral waste generation**

#### **Administrative fee**

<b>Amount of waste on site at any time (tonnes)</b>	<b>Administrative fee units</b>
More than 5 but not more than 100	8
More than 100	16

## **MINING FOR COAL**

#### **Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
Not more than 500,000	50
More than 500,000 but not more than 2,000,000	135
More than 2,000,000 but not more than 3,500,000	335
More than 3,500,000 but not more than 5,000,000	600
More than 5,000,000	850

## **MINING FOR MINERALS**

#### **Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
Not more than 30,000	5
More than 30,000 but not more than 50,000	15

More than 50,000 but not more than 100,000	50
More than 100,000 but not more than 500,000	135
More than 500,000 but not more than 2,000,000	335
More than 2,000,000 but not more than 5,000,000	600
More than 5,000,000	850

## **PAPER OR PULP PRODUCTION**

### **Paper or pulp production**

#### **1 Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
Not more than 150,000	65
More than 150,000	165

#### **2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	0.026
Fine particulates	0.075
Nitrogen oxides and nitrogen oxides (summer)	1.53

<b>Water pollutants</b>	<b>Threshold factor</b>
BOD	0.41
Salt	3.0
Suspended solids	0.57
Total nitrogen	0.078
Total phosphorus	0.001
Zinc	0.0013

### **Paper or pulp waste generation**

#### **Administrative fee**

<b>Amount of waste on site at any time (tonnes)</b>	<b>Administrative fee units</b>
More than 5 but not more than 100	8
More than 100	16

**PETROLEUM EXPLORATION, ASSESSMENT AND PRODUCTION****1 Administrative fee****Administrative fee units**

Base fee per licence, and	155
For each wellhead at licensed premises at beginning of licence fee period up to and including 150 wellheads, and	22
For each wellhead at licensed premises at beginning of licence fee period over 150 wellheads	11

**2 Load-based fee**—if the annual production capacity is more than 0.5 petajoules

<b>Air pollutants</b>	<b>Threshold factor</b>
Benzene	0.004
Benzo(a)pyrene (equivalent)	0.005
Fine particulates	0.2
Hydrogen sulfide	0.031
Nitrogen oxides and nitrogen oxides (summer)	0.5
Sulfur oxides	0.6
VOCs and VOCs (summer)	0.4
<b>Water pollutants</b>	<b>Threshold factor</b>
BOD	0.14
Oil and grease	0.12
Salt	3.6
Suspended solids	0.36
Total PAHs	0.07
Total phenolics	0.27

**PETROLEUM PRODUCTS AND FUEL PRODUCTION****Petroleum products and fuel production (general)****1 Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 100 but not more than 10,000	25
More than 10,000 but not more than 200,000	65
More than 200,000 but not more than 500,000	165
More than 500,000	660

**2 Load-based fee**—if the annual production capacity is more than 10,000 tonnes

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.000011
Benzene	0.0004
Benzo(a)pyrene (equivalent)	0.000002
Fine particulates	0.039
Hydrogen sulfide	0.002
Lead	0.000059
Mercury	0.000011
Nitrogen oxides and nitrogen oxides (summer)	0.33
Sulfur oxides	0.44
VOCs and VOCs (summer)	0.4

<b>Water pollutants</b>	<b>Threshold factor</b>
BOD	0.0034
Oil and grease	0.0015
Suspended solids	0.0052
Total PAHs	0.000005
Total phenolics	0.00011

**Petroleum products and fuel production (blending or mixing)**

**Administrative fee**

<b>Annual production capacity (tonnes)</b>	<b>Administrative fee units</b>
More than 100 but not more than 5,000	5
More than 5,000 but not more than 10,000	15
More than 10,000 but not more than 50,000	50

More than 50,000	135
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**PRINTING, PACKAGING AND VISUAL COMMUNICATIONS WASTE GENERATION**

**Administrative fee**

<b>Amount of waste on site at any time (tonnes)</b>	<b>Administrative fee units</b>
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More than 5 but not more than 100	8
More than 100	16

**RAILWAY ACTIVITIES—RAILWAY INFRASTRUCTURE CONSTRUCTION**

**If the remaining extraction or processing is less than 50,000 tonnes**

**Administrative fee**

<b>Total length of railway track to be constructed (kilometres)</b>	<b>Administrative fee units</b>
---	---------------------------------

Not more than 10	50
More than 10 but not more than 30	135
More than 30	335

**If the remaining extraction or processing is 50,000 tonnes or more and the total length of the railway track to be constructed is not more than 10 kilometres**

**Administrative fee**

<b>Remaining extraction or processing (tonnes)</b>	<b>Administrative fee units</b>
--	---------------------------------

50,000 or more but not more than 100,000	50
More than 100,000 but not more than 500,000	135
More than 500,000 but not more than 2,000,000	335
More than 2,000,000	600

**If the remaining extraction or processing is 50,000 tonnes or more and the total length of the railway track to be constructed is more than 10 kilometres but not more than 30 kilometres**

**Administrative fee**

<b>Remaining extraction or processing (tonnes)</b>	<b>Administrative fee units</b>
--	---------------------------------

50,000 or more but not more than 500,000	135
--	-----

More than 500,000 but not more than 2,000,000 335

More than 2,000,000 600

**If the remaining extraction or processing is 50,000 tonnes or more and the total length of the railway track to be constructed is more than 30 kilometres**

**Administrative fee**

**Remaining extraction or processing (tonnes) Administrative fee units**

50,000 or more but not more than 2,000,000 335

More than 2,000,000 600

**RAILWAY ACTIVITIES—RAILWAY INFRASTRUCTURE OPERATIONS**

**Administrative fee**

**Type of activity Administrative fee units**

Railway activities—railway infrastructure operations 50

**RAILWAY ACTIVITIES—ROLLING STOCK OPERATIONS**

**Administrative fee**

**Type of activity Administrative fee units**

Railway activities—rolling stock operations 50

**RESOURCE RECOVERY**

**Recovery of general waste**

**Administrative fee**

**Type of material recovered Administrative fee units**

General waste 16

**Recovery of hazardous and other waste**

**Administrative fee**

**Type of material recovered Administrative fee units**

Hazardous and other waste 32

### Recovery of waste oil

#### 1 Administrative fee

Annual processing amount (tonnes)	Administrative fee units
Not more than 1,000	25
More than 1,000	65

#### 2 Load-based fee—if the annual capacity exceeds 20,000 tonnes

Air pollutants	Threshold factor
Lead	0.2
VOCs and VOCs (summer)	0.05
Water pollutants	Threshold factor
Oil and grease	4.8

### Recovery of waste tyres

#### Administrative fee

Type of material recovered	Administrative fee units
Waste tyres	12

### ROAD CONSTRUCTION

#### If the remaining extraction or processing is less than 50,000 tonnes

##### Administrative fee

Total length of road to be constructed (kilometres)	Administrative fee units
Not more than 10	50
More than 10 but not more than 30	135
More than 30	335

#### If the remaining extraction or processing is 50,000 tonnes or more and the total length of the road to be constructed is not more than 10 kilometres

##### Administrative fee

<b>Remaining extraction or processing (tonnes)</b>	<b>Administrative fee units</b>
--	---------------------------------

50,000 or more but not more than 100,000	50
More than 100,000 but not more than 500,000	135
More than 500,000 but not more than 2,000,000	335
More than 2,000,000	600

**If the remaining extraction or processing is 50,000 tonnes or more and the total length of the road to be constructed is more than 10 kilometres but not more than 30 kilometres**

**Administrative fee**

<b>Remaining extraction or processing (tonnes)</b>	<b>Administrative fee units</b>
--	---------------------------------

50,000 or more but not more than 500,000	135
More than 500,000 but not more than 2,000,000	335
More than 2,000,000	600

**If the remaining extraction or processing is 50,000 tonnes or more and the total length of the road to be constructed is more than 30 kilometres**

**Administrative fee**

<b>Remaining extraction or processing (tonnes)</b>	<b>Administrative fee units</b>
--	---------------------------------

50,000 or more but not more than 2,000,000	335
More than 2,000,000	600

**ROAD TUNNEL EMISSIONS**

**Administrative fee**

<b>Number of ventilation stacks servicing tunnel</b>	<b>Administrative fee units</b>
--	---------------------------------

Not more than 4	1,128
More than 4 but not more than 8	1,692
More than 8 but not more than 10	2,256

<b>Additional fee if a licence has been in force in relation to a ventilation stack for less than 2 years but only in relation to a tunnel referred to in the Act, Schedule 1, clause 35A(1)(e)-(h)</b>	<b>Administrative fee units</b>
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For each ventilation stack	188
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**SEWAGE TREATMENT****1 Administrative fee**

<b>Annual maximum volume of discharge (megalitres)</b>	<b>Administrative fee units</b>
Not more than 20	5
More than 20 but not more than 100	8
More than 100 but not more than 1,000	25
More than 1,000 but not more than 5,000	65
More than 5,000 but not more than 10,000	165
More than 10,000 but not more than 20,000	300
More than 20,000 but not more than 30,000	420
More than 30,000	2,650

**2 Load-based fee**—if the maximum annual volume of sewage that the relevant licence authorises to be discharged exceeds 219 megalitres**Processing by small plants—not more than 10,000 megalitres annual capacity**

<b>Water pollutants</b>	<b>Threshold factor</b>
BOD	10
Oil and grease	2
Suspended solids	15
Total nitrogen	10
Total phosphorus	0.3

**Processing by large plants—more than 10,000 megalitres annual capacity**

<b>Water pollutants</b>	<b>Threshold factor</b>
BOD	10
Cadmium	0.00005
Chromium	0.0025
Copper	0.01
Lead	0.0005
Mercury	0.00005
Oil and grease	2

Pesticides and PCBs	0.00012
Selenium	0.0025
Suspended solids	15
Total nitrogen	10
Total phosphorus	0.3
Zinc	0.012

#### **SHIPPING IN BULK**

##### **Administrative fee**

##### **Annual handling capacity (tonnes)**

##### **Administrative fee units**

Not more than 100,000	15
More than 100,000 but not more than 500,000	50
More than 500,000	135

#### **STERILISATION ACTIVITIES**

##### **Administrative fee**

##### **Annual use of ethylene oxide (tonnes)**

##### **Administrative fee units**

More than one	32
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#### **WASTE DISPOSAL BY APPLICATION TO LAND**

##### **Administrative fee**

##### **Amount of waste**

##### **Administrative fee units**

Any amount	32
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#### **WASTE DISPOSAL (THERMAL TREATMENT)**

##### **Thermal treatment of general waste**

##### **1 Administrative fee**

##### **Annual processing amount**

##### **Administrative fee units**

Any amount	65
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**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.00005
Benzene	0.0000011
Benzo(a)pyrene	0.00002
Fine particulates	0.7
Lead	0.035
Mercury	0.003
Nitrogen oxides and nitrogen oxides (summer)	2.5
Sulfur oxides	0.07

**Thermal treatment of hazardous and other waste**

**1 Administrative fee**

Amount of waste on site at any time	<b>Administrative fee units</b>
Any amount	65

**2 Load-based fee**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.00005
Benzene	0.0000011
Benzo(a)pyrene	0.00002
Fine particulates	0.7
Lead	0.035
Mercury	0.003
Nitrogen oxides and nitrogen oxides (summer)	2.5
Sulfur oxides	0.07

**WASTE PROCESSING (NON-THERMAL TREATMENT)**

**Non-thermal treatment of general waste**

**Administrative fee**

**Annual processing amount or amount of waste on site at any time**      **Administrative fee units**

Any amount      16

**Non-thermal treatment of hazardous and other waste**

**Administrative fee**

**Amount of waste on site at any time**      **Administrative fee units**

Any amount      32

**Non-thermal treatment of liquid waste**

**Administrative fee**

**Amount of waste on site at any time**      **Administrative fee units**

Any amount      32

**Non-thermal treatment of waste oil**

**Administrative fee**

**Annual processing amount or amount of waste on site at any time**      **Administrative fee units**

Not more than 1,000 tonnes      25

More than 1,000 tonnes      65

**Non-thermal treatment of waste tyres**

**Administrative fee**

**Annual processing amount or amount of waste on site at any time**      **Administrative fee units**

Any amount      12

**WASTE STORAGE**

**Administrative fee**

**Type of waste**      **Administrative fee units**

Hazardous waste, restricted solid waste, liquid waste, clinical and related waste and asbestos waste      32

Waste tyres      12

Other types of waste	16
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**WOOD OR TIMBER MILLING OR PROCESSING**

**Administrative fee**

<b>Annual processing capacity (cubic metres)</b>	<b>Administrative fee units</b>
--	---------------------------------

Not more than 50,000	5
More than 50,000 but not more than 100,000	15
More than 100,000 but not more than 200,000	50
More than 200,000	135

**WOOD PRESERVATION**

**Administrative fee**

<b>Annual processing capacity (cubic metres)</b>	<b>Administrative fee units</b>
--	---------------------------------

More than 10,000 but not more than 30,000	50
More than 30,000	135

**ENVIRONMENTALLY HAZARDOUS CHEMICALS**

**Administrative fee**

**Administrative fee units**

Environmentally hazardous activities—not premises based	4
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**MOBILE WASTE PROCESSING**

**Administrative fee**

<b>Type of activity</b>	<b>Administrative fee units</b>
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Any activity	32
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**TRANSPORTATION OF TRACKABLE WASTE**

**Transportation of category 1 trackable waste**

**Administrative fee**

<b>Transportation amount in any load (kilograms)</b>	<b>Administrative fee units</b>
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More than 200	4
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**Transportation of category 2 trackable waste****Administrative fee****Transportation amount in any load (kilograms) Administrative fee units**

More than 200	4
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**Part 2 Non-scheduled activities****MISCELLANEOUS WATER ACTIVITIES OTHER THAN SCHEDULED ACTIVITIES**

**Miscellaneous licensed discharge to waters—wet weather only**, meaning an activity, other than a scheduled activity, in relation to which a licence to discharge pollutants to waters during or immediately following periods of wet weather, but not at another time, has been granted under the Act

**Administrative fee**

**Maximum annual volume of discharge authorised by licence (megalitres)**—calculated by multiplying maximum allowable daily discharge by 50

**Administrative fee units**

Not more than 3	5
More than 3 but not more than 15	15
More than 15 but not more than 150	50
More than 150	135

**Miscellaneous licensed discharge to waters—at any time**, meaning an activity, other than a scheduled activity, in relation to which a licence to discharge pollutants to waters has been granted under the Act

**Administrative fee**

**Maximum annual volume of discharge authorised by licence (megalitres)**

**Administrative fee units**

Not more than 20	5
More than 20 but not more than 100	15
More than 100 but not more than 1,000	50
More than 1,000	135

**SCHEDULED DEVELOPMENT WORK AT PREMISES**

**Administrative fee**

Type of scheduled development work	Administrative fee units
Any scheduled development work	5

**Schedule 2 Load-based fee calculation**

section 43

**Part 1 Pollutant critical zone weightings**

The catchments referred to in Table 2, Column 2 are the catchments as shown on the maps marked “Catchments of NSW displayed for the purpose of Load-Based Licensing” deposited in the office of the EPA.

**Table 1 Critical zones for air pollutants**

Column 1	Column 2	Column 3
Pollutant	Local government areas in zone	Weighting
Nitrogen oxides and VOCs	Local government areas in the Sydney basin area, City of Blue Mountains, Kiama, City of Shellharbour and City of Wollongong	7
Nitrogen oxides and VOCs	Central Coast, City of Cessnock, City of Lake Macquarie, City of Maitland, Muswellbrook, City of Newcastle, Port Stephens, Singleton, Wollondilly	2

**Table 2 Critical zones for water pollutants**

Column 1	Column 2	Column 3
Pollutant	Catchments in zone	Weighting
Salt	Benanee, Bulloo River, Castlereagh, Condamine/Culgoa, Cooper Creek, Darling, Lachlan, Lake Bancannia, Lake Frome, Macquarie River, Moonie, Murray Riverina, Murray (Lower), Murray (Upper), Murrumbidgee, Paroo, Warrego	3
Total phosphorus and total nitrogen	Benanee, Border Rivers, Bulloo River, Castlereagh, Condamine/Culgoa, Cooper Creek, Darling, Gwydir, Hawkesbury-Nepean, Lachlan, Lake Bancannia, Lake Frome, Macquarie River, Moonie, Murray Riverina, Murray (Lower), Murray (Upper), Murrumbidgee, Namoi, Paroo, Warrego	3

**Part 2 Pollutant weightings**

**Table 1 Air pollutants**

Column 1	Column 2	Column 3
Pollutant	Definition	Weighting

Arsenic	Total arsenic calculated using the method prescribed in the Approved Methods Publication	52,000
Benzene	Benzene	740
Benzo[a]pyrene (equivalent)	Benzo[a]pyrene plus 0.1 times the mass of benzo[a]anthracene, benzo[b]fluoranthene, benzo[k]fluoranthene and ideno[1,2,3-c,d]pyrene plus 0.4 times the mass of dibenz[a,h]anthracene	29,000
Coarse particulates	All solid particulates entrained in air but not including fine particulates as defined in this Table	18
Fine particulates	The fraction of all solid particulates entrained in air with an aerodynamic diameter smaller than 10 micrometres	125
Fluoride	Fluorine, hydrogen fluoride and all other inorganic fluoride compounds expressed as hydrogen fluoride equivalent	84
Hydrogen sulfide	Hydrogen sulfide	320
Lead	Total lead calculated using the method prescribed in the Approved Methods Publication	11,000
Mercury	Total mercury calculated using the method prescribed in the Approved Methods Publication	110,000
Nitrogen oxides and nitrogen oxides (summer)	The sum of nitrogen oxide and nitrogen dioxide expressed as nitrogen dioxide equivalent	9
Sulfur oxides	Sulfur dioxide and (where specified in the load calculation protocol for the activity or in the licence for the premises) sulfur trioxide and sulfuric acid mist	2.2
VOCs and VOCs (summer)	<b>Note—</b> See the Dictionary for the definition of VOC	6.6

**Table 2 Water pollutants**

Column 1	Column 2	Column 3	Column 4	Column 5
Pollutant	Definition	Open coastal waters	Estuarine waters	Enclosed waters
Arsenic	Total arsenic calculated using the method prescribed in the Approved Methods Publication	2,500	2,500	2,500
BOD <sub>5</sub>	Biochemical oxygen demand calculated using the method prescribed in the Approved Methods Publication	0	0.5	1

Cadmium	Total cadmium calculated using the method prescribed in the Approved Methods Publication	67,000	67,000	67,000
Chromium	All trivalent chromium plus ten times hexavalent chromium, whether present in elemental form or contained in compounds or complexes	840	4,200	4,200
Copper	Total copper calculated using the method prescribed in the Approved Methods Publication	1,700	1,700	1,700
Lead	Total lead calculated using the method prescribed in the Approved Methods Publication	6,400	6,400	6,400
Mercury	Total mercury calculated using the method prescribed in the Approved Methods Publication	180,000	180,000	180,000
Oil and grease	Oil and grease calculated using the method prescribed in the Approved Methods Publication	13	30	74
Pesticides and PCBs	The sum of aldrin, chlordane, DDE, DDT, dieldrin, endosulphan (a,b), heptachlor, lindane, PCBs, chlorpyrifos, diazinon, malathion and parathion	930,000	930,000	930,000
Salt	Total dissolved salts calculated using the conductivity method prescribed in the Approved Methods Publication, or using a method provided in a load calculation protocol for the activity  <b>Note—</b>  The pollutant weighting for salt is zero if the salt is discharged into naturally salty surface waters with an electrical conductivity of more than 10,000 micro siemens per centimetre	0	0	8.4
Selenium	Total selenium calculated using the method prescribed in the Approved Methods Publication	710	10,000	10,000
Total nitrogen	Total nitrogen calculated using the method prescribed in the Approved Methods Publication	6	12	23
Total PAHs	The total of polyaromatic hydrocarbons	3,800	3,800	3,800
Total phenolics	Total phenolic compounds calculated using the method prescribed in the Approved Methods Publication	4,900	4,900	4,900

Total phosphorus	Total phosphorus calculated using the method prescribed in the Approved Methods Publication	0	120	680
Total suspended solids	Non-filterable solids calculated using the method prescribed in the Approved Methods Publication	9.5	9.5	78
Zinc	Total zinc calculated using the method prescribed in the Approved Methods Publication	7	7	7

### Schedule 3 Open coastal waters

Schedule 10, Dictionary

For the purposes of Schedule 10, Dictionary, **open coastal waters** are ocean waters east of the natural coast line of New South Wales, defined as follows—

- (a) the natural coast line is defined by a line drawn along the high water mark of the sea,
- (b) where an estuary meets the coast, the natural coast line is defined as follows, unless paragraph (c) applies—
  - (i) if an estuary has 2 break walls at the confluence with the South Pacific Ocean—by a line drawn across the easternmost extremity of both break walls,
  - (ii) if an estuary has only 1 break wall—by a line drawn from the easternmost extremity of the break wall to the northern or southern extremity of the high water mark on the opposite bank,
  - (iii) if an estuary enters the South Pacific Ocean and there are no defined points available—by a line drawn across the entrance between the easternmost extremity of the drying points on each bank,
- (c) in relation to the following waters, the natural coast line is defined as follows—
  - (i) Port Stephens—by a line drawn between the southern extremity of Yacaaba Point to the northern extremity of Tomaree Point,
  - (ii) Broken Bay—by a line drawn from the southern extremity of Box Head to the northern extremity of Barrenjoey Head,
  - (iii) Port Jackson—by a line drawn from the southern extremity of North Head to the northern extremity of South Head,
  - (iv) Botany Bay—by a line drawn from Endeavour Light to the northern extremity of Sutherland Point,
  - (v) Port Hacking—by a line drawn from the southernmost extremity of Hungry Point to the northernmost extremity of Cabbage Tree or Pulpit Point,
  - (vi) Jervis Bay—by a line drawn from the southeastern point of Point Perpendicular to the southeastern point of Bowen Island thence to the northeastern point of Governor Head,

(vii) Wogonga River—by a line drawn northwest across the entrance from the northernmost extremity of Wogonga Head,

(viii) Batemans Bay—by a line drawn from the southwestern extremity of Square Point to the northernmost extremity of Observation Point.

## **Schedule 4 Membership and procedure of Review Panel**

section 59

### **1 Chairperson**

- (1) One of the members of the Review Panel must be appointed by the Minister as Chairperson of the Review Panel. The appointment may be made at the time the person is appointed as a member or after that appointment.
- (2) A person vacates the office of Chairperson if the person—
  - (a) ceases to be a member, or
  - (b) resigns the office by instrument in writing addressed to the Minister, or
  - (c) is removed from the office under this section.
- (3) The Minister may at any time remove a person from the office of Chairperson.

### **2 Deputies of members**

- (1) The Minister may—
  - (a) appoint a person to be the deputy of a member of the Review Panel, and
  - (b) revoke the appointment.
- (2) In the absence of a member, the member's deputy—
  - (a) may, if available, act in the place of the member, and
  - (b) while so acting, has all the functions of the member and must be taken to be a member.
- (3) The deputy of a member who is the Chairperson does not, because of this section, have the member's functions as Chairperson.
- (4) A person while acting in the place of a member is entitled to be paid allowances as the Minister may from time to time decide in relation to the person.

### **3 Terms of office**

Subject to this Schedule, a member of the Review Panel—

- (a) holds office for a period specified in the member's instrument of appointment and not

exceeding 3 years, and

(b) if otherwise qualified, is eligible for re-appointment.

#### **4 Allowances**

A member of the Review Panel is entitled to be paid allowances as the Minister from time to time decides in relation to the member.

#### **5 Vacancy in office of member**

(1) The office of a member of the Review Panel becomes vacant if the member—

(a) dies, or

(b) completes a term of office and is not re-appointed, or

(c) resigns the office by instrument in writing addressed to the Minister, or

(d) is removed from office under this section, or

(e) is absent from 4 consecutive meetings of the Review Panel of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Review Panel or unless, before the expiration of 4 weeks after the last meeting, the member is excused by the Review Panel for having been absent from the meetings, or

(f) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for the member's benefit, or

(g) becomes a mentally incapacitated person, or

(h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Minister may remove a member from office at any time.

#### **6 Filling of vacancy in office of member**

If the office of a member of the Review Panel becomes vacant, a person may, subject to this Regulation, be appointed to fill the vacancy.

#### **7 Disclosure of pecuniary interests**

(1) This section applies to a member of the Review Panel who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Review Panel if the interest appears to raise a conflict with the proper

performance of the member's duties in relation to the consideration of the matter.

- (2) The member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Review Panel.
- (3) If the interest in the matter required to be disclosed relates to a specified company or other body or a specified person, 1 of the following disclosures is a sufficient disclosure of the nature of the interest—
  - (a) that the member is a member, or is in the employment, of the company or other body,
  - (b) that the member is a partner, or is in the employment, of the person,
  - (c) that the member has some other specified interest relating to the company or other body or to the person.
- (4) Particulars of a disclosure made under this section must be recorded by the Review Panel in a book kept for the purpose and the book must be open at all reasonable hours for inspection by a person on payment of a fee decided by the Review Panel.
- (5) After a member has disclosed the nature of an interest in a matter, the member must not, unless the Minister or the Review Panel otherwise decides—
  - (a) be present during a deliberation of the Review Panel in relation to the matter, or
  - (b) take part in a decision of the Review Panel in relation to the matter.
- (6) For the purpose of the making of a decision by the Review Panel under subsection (5), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not—
  - (a) be present during a deliberation of the Review Panel for the purpose of making the decision, or
  - (b) take part in the making by the Review Panel of the decision.
- (7) A contravention of this section does not invalidate a decision of the Review Panel.

## **8 General procedure**

The procedure for the calling of meetings of the Review Panel and for the conduct of business at the meetings is, subject to this Regulation and to a direction of the Minister, to be as decided by the Review Panel.

## **9 Quorum**

The quorum for a meeting of the Review Panel is a majority of the members for the time

being of the Review Panel.

#### **10 Presiding member**

- (1) The Chairperson of the Review Panel or, in the absence of the Chairperson, another member elected to chair the meeting by the members present must preside at a meeting of the Review Panel.
- (2) The person presiding at a meeting of the Review Panel has a deliberative vote and, if there is an equality of votes, has a second or casting vote.

#### **11 Voting**

A decision supported by a majority of the votes cast at a meeting of the Review Panel at which a quorum is present is the decision of the Review Panel.

#### **12 Minutes of meetings**

The Review Panel is required to keep minutes of proceedings at its meetings.

### **Schedule 5 Prescribed matter for the definition of water pollution**

For the Act, Dictionary, definition of **water pollution**, paragraph (c), the following are prescribed as matter—

#### **Note—**

The definition of **water pollution** for the Act includes the placing in or on, or otherwise introducing into or onto, the waters, whether through an act or omission, any matter, whether solid, liquid or gaseous, that is of a prescribed nature, description or class or that does not comply with a standard prescribed in relation to the matter.

- (a) excreta, manure or urine, or waste from an on-site human or animal waste storage facility or treatment device or matter containing faecal coliform or faecal streptococci,
- (b) animal matter, including carcasses of animals, parts or remains of animals, offal, flesh and bones,
- (c) plant matter, including vegetable or fruit wastes, leaves, grass, trees, wood, sawdust, shavings, chips, bark or other forest products or refuse,
- (d) ashes, soil, earth, mud, stones, sand, clay or similar inorganic matter,
- (e) washings or spoil from the following—
  - (i) mineral processing,
  - (ii) an extractive operation,
  - (iii) a dredging operation,
  - (iv) another industrial, agricultural or commercial activity,
- (f) ballast,
- (g) matter of an infectious nature,

- (h) scrap metal, glass, junk, paper, plastic, rubbish, vehicles or vehicle tyres, industrial waste or a refuse of another description,
- (i) oil, grease or flammable liquid,
- (j) thermal waste, being liquid which, after being used in or in connection with an activity, is more than 2 degrees Celsius hotter or colder than the water into which it is discharged,
- (k) matter that causes biochemical or chemical oxygen demand,
- (l) liquid that contains suspended or dissolved solids,
- (m) gas other than oxygen,
- (n) methylene blue active substance,
- (o) matter that has a pH value of less than 6.5 or more than 8.5,
- (p) any pesticide, within the meaning of the *Pesticides Act 1999*,
- (q) radioactive or poisonous substances,
- (r) substances classified as dangerous goods under the *Transport of Dangerous Goods Code*, within the meaning of the Act, Schedule 1,
- (s) substances listed in the *Sydney Water Act 1994*, Schedule 10,
- (t) substances listed in the *Hazardous Chemical Information System* published and maintained by Safe Work Australia,
- (u) toxicants for which guidelines are prescribed by the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2018*, published by the Australian and New Zealand Governments and State and Territory Governments, as in force from time to time,
- (v) arsenic, barium, boron, cadmium, chloride, chromium (hexavalent), copper, cyanide, fluoride, iron (dissolved), lead, manganese (dissolved), mercury, selenium, silver, uranyl ion or zinc,
- (w) matter containing a nitrogen, sulphur, phenolic or phosphorus compound,
- (x) matter containing matter referred to above.

## **Schedule 6 Penalty notice offences**

### **1 Application of Schedule**

- (1) For the Act, section 224—
  - (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
  - (b) the amount payable for the penalty notice is—
    - (i) the amount specified opposite the provision in Column 3, or

- (ii) if the person alleged to have committed the offence is a corporation, and if a greater amount is specified opposite the provision in Column 4—the amount specified in Column 4.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
  - (a) that limited kind of offence, or
  - (b) an offence committed in the limited circumstances.
- (3) A number included in Column 2 is a reference to enforcement officers of a class identified by that number.
- (4) The enforcement officers of the class identified by the number are prescribed as enforcement officers in relation to the penalty notice offence.

## **2 The classes of enforcement officers**

The classes of enforcement officer are as follows—

- (a) class 1—enforcement officers appointed by—
  - (i) a local authority, or
  - (ii) for a penalty notice offence alleged to have been committed in Kosciuszko National Park—the Department of Climate Change, Energy, the Environment and Water,
- (b) class 2—enforcement officers appointed by the EPA,
- (c) class 3—enforcement officers appointed by the Port Corporation within the meaning of the [Ports and Maritime Administration Act 1995](#),
- (d) class 4—police officers,
- (e) class 5—enforcement officers appointed by the following—
  - (i) Sydney Water Corporation,
  - (ii) Hunter Water Corporation,
  - (iii) a water supply authority within the meaning of the [Water Management Act 2000](#), other than a water supply authority that is a local council,
- (f) class 6—authorised officers within the meaning of the [Forestry Act 2012](#),
- (g) class 7—enforcement officers appointed by Place Management NSW,

- (h) class 8—enforcement officers appointed by—
  - (i) for a penalty notice offence alleged to have been committed on land vested in the Centennial Park and Moore Park Trust or in the Parramatta Park Trust—the Department of Planning, Housing and Infrastructure, or
  - (ii) for a penalty notice offence alleged to have been committed on land comprised in the Western Sydney Stadium—Venues NSW,
- (i) class 9—enforcement officers appointed by an Australian university, within the meaning of the *Higher Education Act 2001*,
- (j) class 10—enforcement officers appointed by—
  - (i) the Royal Botanic Gardens and Domain Trust, or
  - (ii) the Sydney Olympic Park Authority,
- (k) class 11—authorised officers within the meaning of the *Marine Estate Management Act 2014*,
- (l) class 12—enforcement officers appointed by the Regulatory Authority within the meaning of the *Water NSW Act 2014*,
- (m) class 13—enforcement officers appointed by Transport for NSW,
- (n) class 14—enforcement officers appointed by the Western Sydney Parklands Trust,
- (o) class 15—enforcement officers appointed by—
  - (i) the Department of Climate Change, Energy, the Environment and Water, or
  - (ii) the Department of Planning, Housing and Infrastructure.

**Ozone Protection Act 1989**

Column 1	Column 2	Column 3	Column 4
Provision of Act	Officer	Penalty	Penalty
Section 14(3)	2	\$300	—

**Plastic Reduction and Circular Economy Act 2021**

Column 1	Column 2	Column 3	Column 4
Provision of Act	Officer	Penalty	Penalty
Section 9(1)—			
(a) if committed by a relevant person, or	2	\$2,750	\$13,750

(b) otherwise	2	\$1,100	\$5,500
Section 37—			
(a) if committed by a relevant person, or	2	\$2,750	\$13,750
(b) otherwise	2	\$1,100	\$5,500
Section 38			
(a) if committed by a relevant person, or	2	\$1,100	\$5,500
(b) otherwise	2	\$550	\$2,750
Section 40(7)	2	\$550	\$550
Section 50(1)			
(a) if committed by a relevant person, or	2	\$2,750	\$13,750
(b) otherwise	2	\$1,100	\$5,500

**Note—**

**Relevant person** is defined in the *Plastic Reduction and Circular Economy Act 2021*, section 47(4).

**Protection of the Environment Operations Act 1997**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Act</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Section 47	2	\$4,000	\$8,000
Section 48(2)	2	For a first offence—\$15,000	For a first offence—\$30,000
		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 49(2)	2	For a first offence—\$15,000	For a first offence—\$30,000
		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 64(1)			
• failing to submit an annual return by the time required by the condition of a licence	2	For a first offence—\$1,500	For a first offence—\$3,000

		For a second or subsequent offence—\$2,250	For a second or subsequent offence—\$4,500
• otherwise	2	For a first offence—\$15,000	For a first offence—\$30,000
		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 66(4)	2	\$4,000	\$8,000
Section 66(6)	2	\$500	\$1,000
Section 66(7)	2	\$500	\$1,000
Section 86	2	\$4,000	\$8,000
Section 88	2	\$4,000	\$8,000
Section 90B(4)	2	\$15,000	\$30,000
Section 91B	1, 2, 11, 12, 13	For a first offence—\$15,000	For a first offence—\$30,000
		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 94	1, 2, 11, 12, 13	\$850	\$1,000
Section 94L	2	\$15,000	\$30,000
Section 97	1, 2, 11, 12, 13	For a first offence—\$15,000	For a first offence—\$30,000
		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 100	1, 2, 11, 12, 13	\$850	\$1,000
Section 120(1)	1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14	For a first offence—\$15,000	For a first offence—\$30,000
		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 124	1, 2, 13	For a first offence—\$4,000	For a first offence—\$8,000
		For a second or subsequent offence—\$6,000	For a second or subsequent offence—\$12,000

Section 125	1, 2, 13	For a first offence—\$4,000	For a first offence—\$8,000
		For a second or subsequent offence—\$6,000	For a second or subsequent offence—\$12,000
Section 126(1)	1, 2, 13	For a first offence—\$4,000	For a first offence—\$8,000
		For a second or subsequent offence—\$6,000	For a second or subsequent offence—\$12,000
Section 128(3)	1, 2, 13	For a first offence—\$15,000	For a first offence—\$30,000
		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 129(3)	2	For a first offence—\$4,000	For a first offence—\$8,000
		For a second or subsequent offence—\$6,000	For a second or subsequent offence—\$12,000
Section 135	1, 2	\$200	\$400
Section 135C(1)	1, limited to member of staff of local authority	\$200	\$400
Section 136 sell article that emits noise in excess of the prescribed level—	2		
• for a motor vehicle horn or a motor vehicle intruder alarm		\$300	\$600
• for other article—if it emits noise in excess of the prescribed level by less than 5dB(A)		\$200	\$400
• for other article—if it emits noise in excess of the prescribed level by 5dB(A) or more		\$400	\$800
Section 137	1, 2	\$200	\$400
Section 139	1, 2, 13	\$750	\$1,500
Section 140	1, 2, 13	\$750	\$1,500
Section 142A(1)	1, 2	For a first offence—\$15,000	For a first offence—\$30,000

		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 143(1) transport the following waste to a place that cannot lawfully be used as a waste facility for the waste—			
(a) waste comprising asbestos waste or hazardous waste, within the meaning of the Act, Schedule 1	1, 2, 4, 12, 14	For a first offence—\$15,000	For a first offence—\$30,000
(b) other waste greater than 1m <sup>3</sup> in volume or 2t in weight			
		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 143(1) transport other waste to a place that cannot lawfully be used as a waste facility for the waste	1, 2, 4, 12, 14	For a first offence—\$8,000	For a first offence—\$16,000
		For a second or subsequent offence—\$12,000	For a second or subsequent offence—\$24,000
Section 144(1)	1, 2, 4, 12	For a first offence—\$15,000	For a first offence—\$30,000
		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 144AAA(1)	1, 2	For a first offence—\$15,000	For a first offence—\$30,000
		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 144AAB	1, 2	For a first offence—\$15,000	For a first offence—\$30,000
		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 144AA(1)	2	For a first offence—\$8,000	For a first offence—\$16,000
		For a second or subsequent offence—\$12,000	For a second or subsequent offence—\$24,000

Section 144AC(2)	2	For a first offence—\$2,000	For a first offence—\$4,000
		For a second or subsequent offence—\$3,000	For a second or subsequent offence—\$6,000
Section 144AE(2) illegal dumping of waste or litter	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15		
• for an offence committed in or on a sensitive place		\$2,500	\$10,000
• otherwise		\$1,000	\$5,000
Section 144AG(2)	1, 2, 11, 12, 13	\$2,500	\$5,000
Section 144AH(3) non-compliance with direction to remove litter or waste	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15		
• if the amount of litter or waste is no more than 50kg or 50L		\$250	\$1,000
• if the amount of litter or waste is more than 50kg or 50L		\$500	\$2,000
Section 145(1) deposit litter that is a small item, including a confectionery wrapper, cigarette packet, ATM statement or bus or train ticket, excluding a cigarette and excluding litter deposited from a vehicle	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$160	\$160
Section 145(1) deposit other litter, excluding a cigarette and excluding litter deposited from a vehicle	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$500	\$1,000
Section 145(1) deposit litter that is an unlit or extinguished cigarette, excluding litter deposited from a vehicle	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$160	\$160
Section 145(1) deposit litter from a vehicle	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$500	\$1,000
Section 145A(1) littering dangerous material	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$1,000	\$5,000
Section 146A	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	\$400

Section 146B	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	\$400
Section 146C	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	\$400
Section 146E(1)	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	\$400
Section 146E(2)	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	\$400
Section 146E(3)	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$375	\$750
Section 152	1, 2	\$4,000	\$8,000
Section 153A	2	\$4,000	\$8,000
Section 153B	2	\$4,000	\$8,000
Section 153D	2	\$4,000	\$8,000
Section 153E	2	\$4,000	\$8,000
Section 153F	2	\$4,000	\$8,000
Section 155	2	\$750	\$1,500
Section 156	2	\$750	\$1,500
Section 157(1)	2	\$750	\$1,500
Section 157(2)	2	\$750	\$1,500
Section 161(4)	2	\$300	\$600
Section 167(4)	1, 2	\$4,000	\$8,000
Section 170E(1)	2	For a first offence—\$1,000	For a first offence—\$5,000
		For a second or subsequent offence—\$1,500	For a second or subsequent offence—\$7,500
Section 170E(2)	2	For a first offence—\$1,000	For a first offence—\$5,000
		For a second or subsequent offence—\$1,500	For a second or subsequent offence—\$7,500

Section 170E(3)	2	For a first offence—\$1,000	For a first offence—\$5,000
		For a second or subsequent offence—\$1,500	For a second or subsequent offence—\$7,500
Section 170F(1)	1, 2	For a first offence—\$1,000	For a first offence—\$5,000
		For a second or subsequent offence—\$1,500	For a second or subsequent offence—\$7,500
Section 170F(2)	1, 2	For a first offence—\$1,000	For a first offence—\$5,000
		For a second or subsequent offence—\$1,500	For a second or subsequent offence—\$7,500
Section 170F(3)	1, 2	For a first offence—\$1,000	For a first offence—\$5,000
		For a second or subsequent offence—\$1,500	For a second or subsequent offence—\$7,500
Section 170H(1)	2	For a first offence—\$500	For a first offence—\$2,500
		For a second or subsequent offence—\$750	For a second or subsequent offence—\$3,750
Section 170H(3)	2	For a first offence—\$500	For a first offence—\$2,500
		For a second or subsequent offence—\$750	For a second or subsequent offence—\$3,750
Section 211(1)	1, 2, 3, 4, 12, 13	For a first offence—\$15,000	For a first offence—\$30,000
		For a second or subsequent offence—\$22,500	For a second or subsequent offence—\$45,000
Section 265	1, 2, 3, 13	\$750	\$1,500
Section 267A(7)	1, 2, 3, 13	\$850	\$1,000
Section 277(1)(a)	1, 2, 3, 4, 7, 13	\$300	\$600
Section 277(1)(b)	1, 2, 3, 4, 7, 13	\$300	\$600

Section 277(2)(a)	1, 2, 3, 4, 7, 13	\$300	\$600
Section 277(2)(b)	1, 2, 3, 4, 7, 13	\$300	\$600
Section 286A(2)	2	\$15,000	\$30,000
Section 286B(1)	2	\$4,000	\$8,000
Section 286C(1)	2	\$4,000	\$8,000
Section 296F(7)	2	\$7,500	\$15,000
Section 296L(1)	2	\$7,500	\$15,000

***Protection of the Environment Operations (Clean Air) Regulation 2022***

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Section 6(1)	1, 2, 15	\$500	\$1,000
Section 7(1)	1, 2, 15	\$500	\$1,000
Section 9(1)	1, 2, 15	\$500	\$1,000
Section 10(1)	1, 2, 15	\$500	\$1,000
Section 12(1)	1, 2, 15	\$500	\$1,000
Section 21(1)	2, 4, 13	\$300	\$600
Section 38(1)			
<ul style="list-style-type: none"> <li>for a failure to comply with section 34(2), definition of <b><i>complying exhaust pipe</i></b>, paragraph (b)(ii)</li> </ul>	2, 4, 13	\$200	\$400
<ul style="list-style-type: none"> <li>otherwise</li> </ul>	2, 4, 13	\$300	\$600
Section 39(1)			
<ul style="list-style-type: none"> <li>if a catalytic converter system or a particulate filter fitted to the motor vehicle has been impaired</li> </ul>	2, 4, 13	\$750	\$1,500
<ul style="list-style-type: none"> <li>otherwise</li> </ul>	2, 4, 13	\$300	\$600
Section 67	2	\$600	\$1,200
Section 68	2	\$600	\$1,200
Section 69	2	\$600	\$1,200
Section 70	2	\$600	\$1,200
Section 76(1)	2	\$600	\$1,200



<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Section 69(1)	2	\$500	—
Section 77(7)	2	\$500	\$1,000
Section 78(7)	2	\$500	\$1,000
Section 81(3)	2	\$500	\$1,000
Section 81(4)	2	\$500	\$1,000
Section 119(2)	2	\$500	\$1,000
Section 120(1)	2	\$500	\$1,000
Section 120(2)	2	\$500	\$1,000
Section 139	2	\$750	\$1,500
Section 141(1)	2	\$750	\$1,500
Section 143(1)	2	\$5,500	\$11,000
Section 143(2)	2	\$5,500	\$11,000

***Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002***

<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 61	2	\$750	\$1,500

***Protection of the Environment Operations (Noise Control) Regulation 2017***

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 5(1) cause or permit use of vehicle capable of emitting noise exceeding maximum level—	2		
• by 5 dB(A) or less		\$150	\$300
• by more than 5 but no more than 15 dB(A)		\$250	\$500
• by more than 15 dB(A)		\$600	\$1,200
Clause 6	1, 2, 4	\$200	\$400
Clause 8(1)	1, 4	\$300	\$600
Clause 9	1, 4	\$300	\$600
Clause 10	2	\$300	\$600
Clause 11	2, 4	\$200	\$400

Clause 12	2	\$200	\$400
Clause 13	2	\$300	\$600
Clause 14	2, 4	\$200	\$400
Clause 15	2	\$200	\$400
Clause 16	2	\$300	\$600
Clause 17	2, 4	\$200	\$400
Clause 18	2	\$200	\$400
Clause 20	2	\$300	\$600
Clause 21	2	\$300	\$600
Clause 22	2	\$300	\$600
Clause 23	2	\$300	\$600
Clause 24	1, 2, 4	\$300	\$600
Clause 25(1) cause or permit use of audible vehicle intruder alarm—	1, 2, 4, 7		
• for 4 hours or less		\$300	\$600
• for more than 4 hours but no more than 8 hours		\$600	\$1,200
• for more than 8 hours		\$900	\$1,800
Clause 26(1)	2	\$300	\$600
Clause 27	2	\$300	\$600
Clause 28	2	\$300	\$600
Clause 31	1, 2, 4	\$300	\$600
Clause 33(1)	2, 4	\$200	—
Clause 34	1, 3, 4, 13	\$300	\$600
Clause 35	1, 3, 4, 13	\$400	\$800
Clause 37(1)	3, 4, 13	\$300	\$600
Clause 38	3, 4, 13	\$300	\$600
Clause 39	1, 3, 4, 13	\$300	\$600
Clause 41	2	\$300	\$600
Clause 42(2) cause or permit use of audible building intruder alarm—	1, 2, 4		

• for 4 hours or less		\$300	\$600
• for more than 4 hours but no more than 8 hours		\$600	\$1,200
• for more than 8 hours		\$900	\$1,800
Clause 45	1, 4	\$300	\$600
Clause 51(1)	1, 4	\$300	\$600
Clause 52(1)	1, 4	\$300	\$600
Clause 53(1)	1, 4	\$300	\$600
Clause 57	1, 4	\$300	\$600
Clause 58(1)	1, 4	\$300	\$600
Clause 62(1)	2, 4	\$300	\$600
Clause 63(1)	3, 4, 13	\$400	\$800
Clause 64(5)	3, 4, 13	\$400	\$800
Clause 64(6)	3, 4, 13	\$400	\$800

***Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019***

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 6	1, 2	\$500	\$1,000
Clause 7	1, 2	\$500	\$1,000
Clause 8	1, 2	\$500	\$1,000
Clause 9	1, 2	\$500	\$1,000
Clause 10	1, 2	\$500	\$1,000
Clause 11	1, 2	\$500	\$1,000
Clause 12(1)	1, 2	\$500	\$1,000
Clause 13(1)	1, 2	\$500	\$1,000
Clause 13(2)	1, 2	\$500	\$1,000
Clause 14	1, 2	\$500	\$1,000
Clause 15(1)	1, 2	\$500	\$1,000
Clause 16	1, 2	\$500	\$1,000
Clause 17	1, 2	\$500	\$1,000

Clause 18(1)	1, 2	\$500	\$1,000
Clause 19	1, 2	\$250	\$500
Clause 20	1, 2	\$500	\$1,000
Clause 21	1, 2	\$500	\$1,000
Clause 22	1, 2	\$250	\$500
Clause 23(2)	1, 2	\$250	\$500
Clause 24(1)	1, 2	\$250	\$500
Clause 25(1)	1, 2	\$250	\$500
Clause 26(1)	1, 2	\$250	\$500
Clause 27(1)	1, 2	\$250	\$500
Clause 28	1, 2	\$250	\$500

***Protection of the Environment Operations (Waste) Regulation 2014***

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 13(6)	2	\$750	\$1,500
Clause 16(5)	2	\$750	\$1,500
Clause 22(2)	2	\$750	\$1,500
Clause 23(1)	2	\$750	\$1,500
Clause 23(2)	2	\$750	\$1,500
Clause 23(3)(a)	2	\$750	\$1,500
Clause 23(3)(b)	2	\$750	\$1,500
Clause 24(1)	2	\$750	\$1,500
Clause 24(2)(a)	2	\$750	\$1,500
Clause 24(2)(b)	2	\$750	\$1,500
Clause 24A	2	\$750	\$1,500
Clause 27	2	\$750	\$1,500
Clause 28	2	\$750	\$1,500
Clause 29	2	\$750	\$1,500
Clause 30	2	\$750	\$1,500
Clause 31(1)	2	\$750	\$1,500

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Clause 31(2)	2	\$750	\$1,500
Clause 32	2	\$750	\$1,500
Clause 33(a)	2	\$750	\$1,500
Clause 33(b)	2	\$750	\$1,500
Clause 33(c)	2	\$750	\$1,500
Clause 34	2	\$750	\$1,500
Clause 36(1)	2	\$750	\$1,500
Clause 36(3)	2	\$750	\$1,500
Clause 37	2	\$750	\$1,500
Clause 39(2)(a)	2	\$750	\$1,500
Clause 39(2)(b)	2	\$750	\$1,500
Clause 39(2)(c)	2	\$750	\$1,500
Clause 43(1)	2	\$750	\$1,500
Clause 43(2)	2	\$750	\$1,500
Clause 44	2	\$750	\$1,500
Clause 45(1)	2	\$750	\$1,500
Clause 45(2)	2	\$750	\$1,500
Clause 45(3)	2	\$750	\$1,500
Clause 45(4)	2	\$750	\$1,500
Clause 45(6)	2	\$750	\$1,500
Clause 46(1)	2	\$750	\$1,500
Clause 46(2)	2	\$750	\$1,500
Clause 46(3)	2	\$750	\$1,500
Clause 46(5)	2	\$750	\$1,500
Clause 46(6)	2	\$750	\$1,500
Clause 47(2)	2	\$750	\$1,500
Clause 48(4)	2	\$750	\$1,500
Clause 48(5)	2	\$750	\$1,500
Clause 49(5)	2	\$750	\$1,500
Clause 50(4)	2	\$750	\$1,500

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Clause 53	2	\$750	\$1,500
Clause 54	2	\$750	\$1,500
Clause 55	2	\$750	\$1,500
Clause 56	2	\$750	\$1,500
Clause 57(a)	2	\$750	\$1,500
Clause 57(b)	2	\$750	\$1,500
Clause 58	2	\$750	\$1,500
Clause 62	2	\$750	\$1,500
Clause 67	2	\$750	\$1,500
Clause 68(1)	2	\$750	\$1,500
Clause 68(2)	2	\$750	\$1,500
Clause 68(3)	2	\$750	\$1,500
Clause 70(1)	1, 2	\$750	\$1,500
Clause 70(2)	1, 2	\$750	\$1,500
Clause 70(3)	1, 2	\$750	\$1,500
Clause 71	2	\$7,500	\$15,000
Clause 72(1)	1, 2	\$750	\$1,500
Clause 72(2)	1, 2	\$750	\$1,500
Clause 73	1, 2	\$750	\$1,500
Clause 76(3)	2	\$750	\$1,500
Clause 76(4)	2	\$750	\$1,500
Clause 76(5)	2	\$750	\$1,500
Clause 76(6)	2	\$750	\$1,500
Clause 76(7)	2	\$750	\$1,500
Clause 78(1)	1, 2	\$7,500	\$15,000
Clause 78(2)	1, 2	\$7,500	\$15,000
Clause 78(3)	1, 2	\$7,500	\$15,000
Clause 78(4)	1, 2	\$7,500	\$15,000
Clause 79(3)	2	\$750	\$1,500
Clause 79(4)	2	\$750	\$1,500

Clause 79(5)	2	\$750	\$1,500
Clause 79(6)	2	\$750	\$1,500
Clause 80(2)	1, 2	\$7,500	\$15,000
Clause 80(3)	1, 2	\$7,500	\$15,000
Clause 80(4)	1, 2	\$7,500	\$15,000
Clause 87(1)(a)	2	\$750	\$1,500
Clause 88(1)	2	\$750	\$1,500
Clause 88(6)	2	\$750	\$1,500
Clause 89(1)	2	\$750	\$1,500
Clause 89(2)(a)	2	\$750	\$1,500
Clause 89(2)(b)	2	\$750	\$1,500
Clause 104(2)	2	\$750	\$1,500
Clause 105(1)(a)	2	\$750	\$1,500
Clause 105(1)(b)	2	\$750	\$1,500
Clause 106(1)	2	\$750	\$1,500
Clause 107(1)	2	\$750	\$1,500
Clause 108(5)	2	\$750	\$1,500
Clause 109(3)	2	\$750	\$1,500
Clause 109(4)	2	\$750	\$1,500
Clause 110(1)	2	\$750	\$1,500
Clause 110A(1)	1, 2	\$7,500	\$15,000
Clause 112	1, 2	\$750	\$1,500
Clause 113(5)	1, 2	\$1,500	\$3,000
Clause 113(6)	1, 2	\$1,500	\$3,000
Clause 114(1)	1, 2	\$1,500	\$3,000
Schedule 1A, clause 4(1)	2	\$750	\$1,500
Schedule 1A, clause 4(2)	2	\$750	\$1,500
Schedule 1A, clause 4(3)	2	\$750	\$1,500

***Waste Avoidance and Resource Recovery Act 2001***

**Column 1**

**Column 2**

**Column 3**

**Column 4**

Provision of Act	Officer	Penalty	Penalty
Section 38(1)	2	\$1,500	\$3,000
Section 39	2	\$1,500	\$3,000
Section 40(8)	2	\$750	\$1,500
Section 42(1)	2	\$500	\$1,000
Section 43(3)	2	\$250	\$500
Section 43(5)	2	\$250	\$500
Section 44(1) claim refund for containers not subject to Scheme—	2		
• not more than 300 containers		\$250	\$500
• more than 300 containers but not more than 1,000 containers		\$500	\$1,000
• more than 1,000 containers but not more than 5,000 containers		\$1,000	\$2,000
• more than 5,000 containers		\$2,000	\$4,000
Section 44(2)	2	\$1,500	\$3,000

### **Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation 2017**

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty	Penalty
Clause 20(1)	2	\$1,000	\$2,000
Clause 20(2)	2	\$1,000	\$2,000

## **Schedule 7 Forms relating to noise abatement directions**

section 135

### **Form 1 Protection of the Environment Operations Act 1997**

the Act, section 280

#### **MAGISTRATE'S RECORD OF COMPLAINT REQUESTING THE ISSUE OF A WARRANT TO ENTER PREMISES**

##### **Details of the complaint**

On *[insert date]* at *[insert time]*, I, the undersigned Magistrate, received a complaint alleging that the complainant had been denied entry to premises at *[insert address of premises]*.

The complaint was made in person\*/by telephone\*.

The complaint was made by *[insert name of police officer]*, a police officer stationed at *[insert name of police station]*.

The complainant caused the complaint to be transmitted to me by [*insert name of police officer*], a police officer stationed at [*insert name of police station*]\*.

Further details of the complaint are set out on the other side of this page.

### **Grounds of the complaint**

The complainant stated their belief that—

- offensive noise was being emitted from the premises\*
- offensive noise had, within the 7 days preceding the complaint, been emitted from the premises\*.

The police officer requested the grant of a warrant because the officer believed it was necessary to enter the premises immediately in order—

- to give a noise abatement direction in relation to offensive noise emitted from the premises\*
- to investigate whether a noise abatement direction has been contravened\*.

### **Outcome of consideration of the complaint**

After considering the complaint I was satisfied that there were reasonable grounds for that belief.

The grounds on which I relied to justify my finding that there were reasonable grounds for that belief are as follows—

### **Details of grant of warrant**

I have granted my warrant authorising and requiring the complainant to enter the premises and—

- to give a noise abatement direction\*
- to investigate whether a noise abatement direction has been contravened\*.

The warrant was granted on [*insert date*] at [*insert time*].

Signed—

[*Magistrate*]

\* Delete if inapplicable.

[*Overleaf*]

### **Details of Complaint**

- 1 Names of persons involved (if known)—
- 2 Location of premises—
- 3 Name of civilian informant (if known)—
- 4 The complainant police officer believed that—
  - (a) offensive noise was being emitted from the premises\*
  - (b) offensive noise had, within the past 7 days, been emitted from the premises\*.

\* Delete if inapplicable.
- 5 Other information obtained by complainant police officer—
  - (a) Personal observations by police (eg noise from the house is being emitted, type of noise, etc)—
  - (b) Civilian informant's information (indications that noise has recently been emitted)—
  - (c) Any other information cited as grounds for the belief of the complainant because of which the warrant

was requested and granted—

- 6 The officer had been denied entry to the premises, details of which (including anything said or done) are—

### **Form 2 Protection of the Environment Operations Act 1997**

the Act, section 280

#### **NOTICE OF GRANT OF WARRANT TO ENTER PREMISES**

A warrant has been granted to enter premises at *[insert address of premises]*.

The warrant was granted on the basis of a complaint made by a police officer stationed at *[insert name of police station]*.

The warrant was granted on *[insert date]* at *[insert time]*.

The warrant was granted by *[insert name of Magistrate]* a Magistrate of the Local Court.

The warrant was granted subject to the following additional terms: \*

Signature of complainant police officer

\* Delete if inapplicable.

### **Form 3 Protection of the Environment Operations Act 1997**

the Act, section 280

#### **IMPORTANT INFORMATION FOR OCCUPIERS CONCERNING THE WARRANT**

A warrant has been granted by a Magistrate.

The warrant gives the authority and power to police to enter premises and—

- (a) give a noise abatement direction (which is a direction under the *Protection of the Environment Operations Act 1997* to cause the emission of offensive noise to stop or to stop making or contributing to offensive noise), or
- (b) investigate whether a noise abatement direction has been breached.

#### **Reasons for the issue of the warrant**

A member of the police force has made a complaint to a Magistrate that the police officer was denied entry to the premises and that the member of the police force believed—

- (a) that offensive noise was being emitted from the premises (or that offensive noise had been emitted within the previous 7 days), and
- (b) that it was necessary for a police officer to enter the premises immediately to give a noise abatement direction in relation to offensive noise emitted from the premises or to investigate whether a noise abatement direction has been contravened.

The Magistrate was satisfied that there were reasonable grounds for that belief.

#### **Details of the warrant**

The police officer who was the complainant should have prepared a form containing details of—

- (a) the address of the premises the subject of the warrant, and
- (b) the name of the Magistrate who granted the warrant, and
- (c) the name of the police officer, and
- (d) the time at which the warrant was granted.

You should have been given that form by the police officer who entered the premises.

### **Execution of warrant**

The warrant must be executed as soon as practicable after the time it is granted.

The warrant must be executed within 24 hours after the time it was granted.

The warrant may be executed at any time during the day or night.

### **Use of force**

The police may use reasonable force for the purpose of entering any premises.

This may include breaking open any door.

Any force used must be reasonably necessary.

### **Limitations on the powers conferred**

Only functions and powers authorised under the warrant or by the [Protection of the Environment Operations Act 1997](#) authorising the issue of the warrant may be performed.

The police officer is not authorised to stay on your premises any longer than is necessary.

## **Schedule 8 Savings and transitional provisions**

### **Part 1 Provisions consequent on commencement of Protection of the Environment Operations (General) Regulation 2022**

#### **1 Members of Review Panel**

A person who, immediately before the repeal of the [Protection of the Environment Operations \(General\) Regulation 2021](#), is a member of the Load-based Licensing Technical Review Panel under that Regulation, Chapter 2, Part 2, is taken to be a member of the Review Panel under this Regulation until the member completes the member's term of office, as specified in the member's instrument of appointment, or the office of the member otherwise becomes vacant in accordance with Schedule 4, section 5.

#### **2 Pollutant weightings**

If a load-based fee is payable after the commencement of this Regulation in respect of a period that started before that commencement, a pollutant weighting specified in Schedule 2, Part 2 extends to the whole of that period.

#### **3 Waiver of licence application fee—extractive activities**

A person is not required to pay an application fee for a licence for the scheduled activity of extractive activities if the person—

- (a) previously held a licence for the activity, and
- (b) surrendered the licence because it was no longer required following the commencement of the [Protection of the Environment Operations Legislation Amendment \(Scheduled Activities\) Regulation 2019](#), and
- (c) is now required to hold the licence because of the commencement of this Regulation.

## **Schedule 9 Amendment of Protection of the Environment Operations Act 1997 No 156**

### **[1] Schedule 1 Scheduled activities**

Omit “oysters” from clause 3(1).

Insert instead “bivalve molluscs and seaweed propagules”.

### **[2] Schedule 1, clause 19(1)**

Omit “for the primary purpose of the sale of extracted material”.

### **[3] Schedule 1, clause 19(2)-(4)**

Omit the subclauses. Insert instead—

(2) However, this clause does not apply to the following—

(a) cut and fill operations, or the excavation of foundations or earthworks, that are ancillary to development that is subject to development consent or approval under the *Environmental Planning and Assessment Act 1979*,

(b) extractive activities to which clauses 33 or 35 applies.

(3) The activities to which this clause applies are declared to be scheduled activities if they involve the extraction or processing of more than—

(a) for maintenance dredging of a navigation channel for vessels carried out by or on behalf of a public authority—30,000 cubic metres of extractive materials per year, or

(b) otherwise—30,000 tonnes extractive materials per year, where 0.65 cubic metres of extractive material that is wet is taken to weigh 1 tonne.

(4) For the purposes of this clause, if more than 30,000 tonnes of extractive material is transported in a year from premises at which extraction occurs, more than 30,000 tonnes of extractive material are taken to have been extracted in that year at the premises.

### **[4] Schedule 1, clause 22(1)**

Omit the definitions of ***dairy animal***, ***dairy animal accommodation*** and ***milking facilities***.

Insert in alphabetical order—

***dairy animal accommodation***, meaning accommodation—

- (a) of animals used for the production of milk (***dairy animals***), and
- (b) in free stall complexes, feed pads, loading pads, milking sheds or stand-off areas, but not in pasture, calving areas or calving sheds.

**[5] Schedule 1, clause 31A(1) and (2)**

Omit the subclauses. Insert instead—

- (1) This clause applies to the following activities—

***petroleum products and fuel production (general)*** means the production of petroleum products by—

- (a) refining, distillation, fermentation, esterification, pyrolysis, cracking or hydrogenation, or

**Note—**

Refining may occur in the processing of crude petroleum or shale oil, fermentation in the production of ethanol and esterification in the production of biodiesel.

- (b) another means, other than blending or mixing, involving the chemical transformation of hydrocarbons or the separation, purification or liquefaction of hydrocarbon mixtures.

***petroleum products and fuel production (blending or mixing)*** means the production of petroleum products by blending or mixing.

**Note—**

Blending may occur in the production of lubricants and fuels.

- (2) However, this clause does not apply to—

- (a) the activity of blending a fuel with ethanol or biodiesel if the activity is carried on at a petroleum fuel storage terminal and the occupier of the premises is, at the time the activity is carried on, the holder of an environment protection licence authorising the activity of petroleum products storage, or
- (b) the activity of blending additives with fuel to produce petroleum products if the activity is—
  - (i) carried on at a service station and the petroleum products are sold only at the service station, or
  - (ii) carried on at a petroleum fuel storage terminal and the occupier of the premises is, at the time the activity is carried on, the holder of an environment protection licence authorising the activity of petroleum products storage.

**[6] Schedule 1, clause 31A(3)**

Omit “The”. Insert instead “Each”.

**[7] Schedule 1, clause 31A(4)**

Insert in alphabetical order—

***petroleum products*** include aviation fuel, petrol, kerosene, mineral turpentine, fuel oils, lubricants, wax, bitumen, liquefied gas and the precursors to petrochemicals, for example, acetylene, ethylene, toluene and xylene.

***petroleum products storage*** has the same meaning as in clause 9.

**[8] Schedule 1, clause 35A(1)(a)**

Omit “eastbound and westbound tunnels connecting the Kings Cross Tunnel”.

Insert instead “tunnel connecting New South Head Road at Rushcutters Bay”.

**[9] Schedule 1, clause 35A(1)(d)**

Omit “Freeway”. Insert instead “Motorway”.

**[10] Schedule 1, clause 35A(1)(e)**

Omit “eastbound and westbound tunnels that form”. Insert instead “tunnel that forms”.

**[11] Schedule 1, clause 35A(1)(f)**

Omit “M5 Tunnel”. Insert instead “M8 Tunnel”.

**[12] Schedule 1, clause 35A(1)(g)**

Omit “M5 East Motorway”. Insert instead “M8 Tunnel”.

**[13] Schedule 1, clause 35A(1)(g)**

Insert “and the Rozelle Interchange” after “St Peters”.

**[14] Schedule 1, clause 35A(1)(h)**

Omit “northbound and southbound tunnels”. Insert instead “tunnel”.

**[15] Schedule 1, clause 35A(1)(j) and (k)**

Insert after clause 35A(1)(i)—

(j) the Western Harbour Tunnel, being the tunnel that forms part of the Western Harbour Tunnel and Warringah Freeway Upgrade Project connecting the M4-M5 Link

at Rozelle to the Warringah Freeway at North Sydney,

- (k) the M6, being the M6 Tunnel connecting the M8 Motorway at Arncliffe to President Avenue at Kogarah.

**[16] Schedule 1, clause 37**

Omit “or chemicals” wherever occurring.

Insert instead “, chemicals, sand, soil, clay, sandstone, gravel, stone or similar substances”.

## Schedule 10 Dictionary

section 3

**Activation Precinct** has the same meaning as in *State Environmental Planning Policy (Precincts—Regional) 2021*, Chapter 3.

**actual load**, in relation to an assessable pollutant, means the actual load of the pollutant decided in accordance with section 32.

**administrative fee**, in relation to a licence, means the administrative fee decided in accordance with Chapter 3, Part 1, Division 3 payable as part of the annual fee for the licence.

**administrative fee unit** means the administrative fee unit for a licence fee period decided in accordance with section 18.

**agreed load**, in relation to an assessable pollutant, means the load specified under a load reduction agreement as the maximum load that will be discharged during the final licence fee period for the licence covered by the agreement.

**air pollutant** means a pollutant specified as an air pollutant in Schedule 2, Part 2, Table 1.

**annual levy**, for Chapter 7, Part 1—see section 93.

**annual levy**, for Chapter 7, Part 2—see section 105.

**annual return**, in relation to a licence fee period, means the annual return required to be provided to the EPA, under the licence, in relation to the period.

**application fee**—see section 21.

**approved inspection station**, for Chapter 5—see section 76.

**approved mechanic**, for Chapter 5—see section 76.

**approved mechanic’s report**, for Chapter 5—see section 76.

**Approved Methods Publication** means the following documents prepared by the EPA and published in the Gazette, as in force from time to time—

- (a) in relation to air pollutants—*Approved Methods for the Sampling and Analysis of Air Pollutants in*

*New South Wales,*

- (b) in relation to environmental noise pollutants—*Approved Methods for the Measurement and Analysis of Environmental Noise in NSW,*
- (c) in relation to noise pollutants—*Approved Methods for Testing Noise Emissions,*
- (d) in relation to water pollutants—*Approved Methods for the Sampling and Analysis of Water Pollutants in New South Wales.*

**assessable load**—see section 40.

**assessable pollutant** means an air pollutant or water pollutant specified in relation to an activity in Schedule 1.

**Australian native tree**, for Chapter 9, Part 3—see section 138.

**Australian Statistician** means the Australian Statistician referred to in the [Australian Bureau of Statistics Act 1975](#) of the Commonwealth, section 5(2).

**combustible accelerant fire**, for Chapter 6, Part 1A—see section 89A.

**construction levy**, for Chapter 7, Part 1—see section 93.

**CPI** means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of the index.

**electricity generating work**, for Chapter 9, Part 3—see section 138.

**enclosed waters** means all waters other than open coastal waters or estuarine waters.

**environmental management calculation protocol**—see section 25.

**estuarine waters** means waters, other than open coastal waters, that—

- (a) are ordinarily subject to tidal influence, and
- (b) have a mean tidal range greater than 0.8 metres, being the average difference between the mean high water mark and the mean low water mark over the course of a year.

**financial year** means a period of 12 months commencing on 1 July.

**forestry operations**, for Chapter 9, Part 3—see section 138.

**functions of an enforcement officer**, for Chapter 9, Part 1—see section 126.

**general program costs**, for Chapter 7, Part 2—see section 105.

**heads and off-cuts**, for Chapter 9, Part 3—see section 138.

**late payment standard rate** for an unpaid amount means simple interest at the rate of 5% per fortnight on the unpaid amount for each whole fortnight that elapses after the due date and before the date of payment.

**levy period**, for Chapter 7, Part 1—see section 93.

**levy period**, for Chapter 7, Part 2—see section 105.

**licence fee period**—see section 19.

**load**, in relation to an assessable pollutant, means the mass or quantity of the pollutant.

**load-based fee**, in relation to a licence, means the load-based fee, calculated in accordance with Chapter 3, Part 1, Division 5, payable as part of the annual fee for the licence.

**load calculation protocol**—see section 33.

**load reduction agreement**—see section 47.

**marine park**, for Chapter 2—see section 5.

**motor vehicle** has the same meaning as in the [Road Transport Act 2013](#).

**native forest bio-material**, for Chapter 9, Part 3—see section 138.

**Newcastle**, for Chapter 7, Part 2—see section 105.

**Newcastle licence holder**, for Chapter 7, Part 2—see section 105.

**Newcastle licence holder's emissions**, for Chapter 7, Part 2—see section 105.

**Newcastle monitoring program**, for Chapter 7, Part 2—see section 105.

**non-pilotage vessel**, for Chapter 2—see section 5.

**NPI**, for Chapter 8—see section 117.

**open coastal waters**—see Schedule 3.

**particulate matter** means particulate matter measuring less than 10 micrometres.

**PFAS firefighting foam**, for Chapter 6, Part 1A—see section 89A.

**PIRM plan**, for Chapter 4—see section 70.

**private native forestry plan**, for Chapter 9, Part 3—see section 138.

**proprietor**, for Chapter 5—see section 76.

**Private Sector Wage Price Index** means the Wage Price Index (Private Sector) for New South Wales published by the Australian Bureau of Statistics in the latest published series of the index.

**pulp wood logs**, for Chapter 9, Part 3—see section 138.

**Public Sector Wage Price Index** means the Wage Price Index (Public Sector) for New South Wales published by the Australian Bureau of Statistics in the latest published series of the index.

**reported load** means—

- (a) the actual load of an assessable pollutant discharged during a licence fee period that is reported to the EPA by the licence holder in the annual return relating to the period, or
- (b) if a weighted load of the assessable pollutant is reported to the EPA by the licence holder in the annual return—the weighted load.

**reporting threshold**, for Chapter 8—see section 117.

**Review Panel** means the Load-based Licensing Technical Review Panel constituted under section 56.

**saw logs**, for Chapter 9, Part 3—see section 138.

**scheduled PFAS**, for Chapter 6, Part 1A—see section 89A.

**Step**, in relation to the calculation of a load-based fee, means a step set out in section 39.

**summer period**, in relation to a licence fee period for a licence, means all the days during the licence fee period that occur during the months of December, January and February.

**Sydney basin area** means the local government areas of Bayside, City of Blacktown, Burwood, Camden, City of Campbelltown, Canada Bay, Canterbury-Bankstown, Cumberland, City of Fairfield, Georges River, City of Hawkesbury, Hornsby, Hunter's Hill, Inner West, Ku-ring-gai, Lane Cove, City of Liverpool, Mosman, North Sydney, Northern Beaches, City of Parramatta, City of Penrith, City of Randwick, City of Ryde, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Waverley, City of Willoughby and Woollahra.

**tests or inspections**, for Chapter 5—see section 76.

**the Act** means the [Protection of the Environment Operations Act 1997](#).

**thinning**, for Chapter 9, Part 3—see section 138.

**total LGA emissions**, for Chapter 7, Part 2—see section 105.

**Transport for NSW** means Transport for NSW constituted under the [Transport Administration Act 1988](#).

**Upper Hunter coal mining licence holder**, for Chapter 7, Part 1—see section 93.

**Upper Hunter electricity generation licence holder**, for Chapter 7, Part 1—see section 93.

**Upper Hunter licence holder**, for Chapter 7, Part 1—see section 93.

**Upper Hunter monitoring program**, for Chapter 7, Part 1—see section 93.

**use**, for Chapter 6, Part 1A—see section 89A.

**VOC or volatile organic compound** means a chemical compound based on carbon chains or rings, that contains hydrogen and has a vapour pressure greater than 2mm of mercury (0.27 kPa) at 25°C and 101.3 kPa—

- (a) including compounds containing oxygen, nitrogen or other elements, but

- (b) excluding methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides and carbonate salts.

**water pollutant** means a pollutant specified as a water pollutant in Schedule 2, Part 2, Table 2.

**weighted load** of an assessable pollutant is the actual load of the pollutant adjusted in accordance with an applicable load calculation protocol.

**wellhead** means a wellhead of a petroleum well which includes a production well, exploration well, appraisal well, assessment well or pilot well, that is active, under construction, shut-in or suspended, but does not include—

- (a) a decommissioned petroleum well, or
- (b) a slim core hole drilled for the purpose of recovering information about petrology, lithology, stratigraphy or geological structure and not for the purpose of petroleum production.

**Western Sydney Stadium**—see section 11(2).