



Antarctic Treaty (Environment Protection) (Environmental Impact Assessment) Regulations 1993

Statutory Rules 1993 No. 115 as amended

made under the

Antarctic Treaty (Environment Protection) Act 1980

This compilation was prepared on 30 January 2003
taking into account amendments up to SR 2002 No. 8

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Contents

Part 1 Preliminary

1	Name of Regulations [see Note 1]	4
2	Commencement	4
3	Interpretation	4

Part 2 Application of procedures for dealing with environmental evaluations

4	Compliance with Parts 3 and 4	5
5	Notification of emergency contravention of procedures	5

Part 3 Initial environmental evaluations

6	Contents of an initial environmental evaluation	7
7	Notice of completion of an initial environmental evaluation	8

Part 4 Comprehensive environmental evaluations

Division 1 Draft comprehensive environmental evaluations

8	Contents of a draft comprehensive environmental evaluation	10
9	Overseas distribution of an Australian draft comprehensive environmental evaluation	11
10	Notification of availability in Australia of a draft comprehensive environmental evaluation	12
11	Forwarding comments on an Australian draft comprehensive environmental evaluation	12

Division 2 Final comprehensive environmental evaluations;

12	Contents of a final comprehensive environmental evaluation	13
13	Notice of availability of an Australian final comprehensive environmental evaluation	13

	Page
14 Notice of availability of a foreign final comprehensive environmental evaluation	14
Division 3 Prescribed condition on authorisation	
15 Starting an authorised activity	14
Part 5 Notice of variation of authorisation	
16 How must a notice varying an authorisation be given?	15
Notes	16

Regulation 1

Part 1 Preliminary**1 Name of Regulations** [see Note 1]

These Regulations are the *Antarctic Treaty (Environment Protection) (Environmental Impact Assessment) Regulations 1993*.

2 Commencement

These Regulations commence on 11 June 1993.

3 Interpretation

In these Regulations, unless the contrary intention appears:

Act means the *Antarctic Treaty (Environment Protection) Act 1980*.

authorised person means a person authorised by the Minister by notice published in the *Gazette* for the purpose of the provision in which the expression occurs.

Committee means the Committee for Environmental Protection established under Article 11 of the Madrid Protocol;

dispatch day means the day, or the first day, on which the Minister sends, under regulation 9, a copy of a draft comprehensive environmental evaluation to a signatory to the Madrid Protocol or the Committee.

evaluated activity means an activity that is the subject of an initial environmental evaluation, or a draft or final comprehensive environmental evaluation.

proponent, in relation to an activity, means the person proposing to carry on the activity.

Note Under section 3 of the Act, unless the contrary intention appears, terms used in both these Regulations and the Madrid Protocol have the same meaning in these Regulations as in the Protocol.

Part 2 Application of procedures for dealing with environmental evaluations

4 Compliance with Parts 3 and 4

- (1) Subject to subregulation (3), a person preparing or dealing with an initial environmental evaluation must comply with the requirements of Part 3.
- (2) Subject to subregulation (3), a person preparing or dealing with a draft or final comprehensive environmental evaluation must comply with the requirements of Part 4.
- (3) A proponent of an activity may contravene a requirement of Part 3 or 4 for preparing or dealing with an environmental evaluation before carrying on the activity in an emergency:
 - (a) to save a person from death or serious injury; or
 - (b) to secure the safety of a ship or aircraft or the safety of equipment or facilities of high value; or
 - (c) to protect the environment.

5 Notification of emergency contravention of procedures

- (1) The person responsible for carrying on, in circumstances described in subregulation 4 (3), an activity in contravention of a requirement of Part 3 or 4, must, unless he or she has a reasonable excuse, give the Minister or an authorised person notice of the contravention within 30 days of starting the activity.

Penalty: 20 penalty units.

- (2) Within a further 30 days, the person must, unless he or she has a reasonable excuse, give the Minister or an authorised person a written report:
 - (a) describing the activity that was carried on in contravention of the requirement; and

Regulation 5

(b) explaining why the requirement was contravened.

Penalty: 20 penalty units.

(3) An offence under subregulation (1) or (2) is an offence of strict liability.

Note 1 For **strict liability**, see section 6.1 of the *Criminal Code*.

Note 2 A defendant bears an evidential burden in relation to whether or not he or she had a reasonable excuse (see section 13.3 of the *Criminal Code*).

Part 3 Initial environmental evaluations

6 Contents of an initial environmental evaluation

For the purposes of paragraph 12g (2) (a) of the Act, an initial environmental evaluation for an activity must include:

- (a) a description of the activity, including a statement of:
 - (i) the purpose; and
 - (ii) the location; and
 - (iii) the duration; and
 - (iv) the intensity of the activity; and
- (b) a description of possible alternatives to the activity, including the alternative of not carrying on the activity; and
- (c) a description of the consequences of each possible alternative to the activity; and
- (d) a description of the environmental reference state with which predicted changes are to be compared; and
- (e) a prediction of the future environmental reference state if the activity does not take place; and
- (f) an estimation of the nature, extent, duration and intensity of the likely direct impacts of the activity; and
- (g) consideration of possible indirect impacts of the activity; and
- (h) consideration of the cumulative impacts of the activity in the context of other activities in the same area that are planned, in progress, or reasonably foreseeable when the evaluation is being prepared; and
- (i) consideration of the effects of the activity on scientific research and other uses and values, including historic values, of the areas that will be affected by the activity; and
- (j) identification of unavoidable impacts of the activity; and

Regulation 7

- (k) a description of the methods and data used to forecast the impacts of the activity; and
- (l) identification of uncertainties and lack of knowledge relevant to preparation of the evaluation; and
- (m) identification of measures, including monitoring programs, that are proposed to be taken to:
 - (i) minimise or mitigate impacts of the activity; and
 - (ii) detect impacts of the activity that were not predicted in the evaluation; and
 - (iii) provide early warning of adverse effects of the activity; and
 - (iv) deal promptly and effectively with accidents; and
- (n) a description of:
 - (i) consultation of persons and organisations, other than the proponent of the activity, during preparation of the evaluation; and
 - (ii) the comments received from persons consulted; and
 - (iii) how the matters raised during consultation have been addressed; and
- (o) a summary, in language that is not technical, of the information described in paragraphs (a) to (n) inclusive; and
- (p) a statement of the arrangements that will be made to report to the Minister the results of the monitoring; and
- (q) the name and address of the person who prepared the evaluation.

7 Notice of completion of an initial environmental evaluation

- (1) After the Minister has made a determination under section 12h of the Act, he or she must publish a notice in the *Gazette*:
 - (a) stating that copies of the initial environmental evaluation or revised initial environmental evaluation that he or she considered are available from an address specified in the notice; and
 - (b) summarising the determination.

Regulation 7

- (2) If the Minister has determined that the evaluated activity is likely to have a minor or transitory impact on the environment, he or she must not publish the notice until after he or she has authorised the proponent of the activity to carry on the activity.
- (3) The address specified in the notice must be the address of:
 - (a) the proponent of the evaluated activity; or
 - (b) the person that prepared the evaluation.

Part 4 Comprehensive environmental evaluations

Division 1 Draft comprehensive environmental evaluations

8 Contents of a draft comprehensive environmental evaluation

For the purposes of paragraph 12k (2) (a) of the Act, a draft comprehensive environmental evaluation for an activity must include:

- (a) a detailed description of the activity, including a statement of:
 - (i) the purpose; and
 - (ii) the location; and
 - (iii) the duration; and
 - (iv) the intensity of the activity; and
- (b) a detailed description of possible alternatives to the activity, including the alternative of not carrying on the activity; and
- (c) a detailed description of the consequences of each possible alternative to the activity; and
- (d) a detailed description of the environmental reference state with which predicted changes are to be compared; and
- (e) a prediction of the future environmental reference state if the activity does not take place; and
- (f) an estimation of the nature, extent, duration and intensity of the likely direct impacts of the activity; and
- (g) detailed consideration of possible indirect impacts of the activity; and
- (h) detailed consideration of the cumulative impacts of the activity in the context of other activities in the same area that are planned, in progress, or reasonably foreseeable when the evaluation is being prepared; and

Regulation 9

- (i) detailed consideration of the effects of the activity on scientific research and other uses and values, including historic values, of the areas that will be affected by the activity; and
- (j) identification of unavoidable impacts of the activity; and
- (k) a detailed description of the methods and data used to forecast the impacts of the activity; and
- (l) identification of uncertainties and lack of knowledge relevant to preparation of the evaluation; and
- (m) identification of measures, including monitoring programs, that are proposed to be taken:
 - (i) to minimise or mitigate impacts of the activity; and
 - (ii) detect impacts of the activity that were not predicted in the evaluation; and
 - (iii) to provide early warning of adverse effects of the activity; and
 - (iv) to deal promptly and effectively with accidents; and
- (n) a summary, in language that is not technical, of the information described in paragraphs (a) to (m) inclusive; and
- (o) a statement of the arrangements that will be made to report to the Minister the results of the monitoring; and
- (p) the name and address of the person who prepared the evaluation; and
- (q) the address to which comments on the draft should be sent.

9 Overseas distribution of an Australian draft comprehensive environmental evaluation

As soon as practicable after receiving a draft comprehensive environmental evaluation under subsection 12k (1) of the Act, the Minister must:

- (a) send a copy of the draft evaluation by the proper diplomatic channels to each signatory to the Madrid Protocol; and
- (b) if the Committee has been established-send a copy of the draft evaluation to the Committee.

Regulation 10

10 Notification of availability in Australia of a draft comprehensive environmental evaluation

- (1) As soon as practicable after receiving a draft comprehensive environmental evaluation under subsection 12K (1) of the Act or from a foreign party to the Madrid Protocol, the Minister must publish a notice in the *Gazette*, stating:
 - (a) that the Minister has received the draft evaluation; and
 - (b) the name of the party to the Protocol under whose jurisdiction the draft evaluation has been prepared; and
 - (c) the address within Australia from which a person may obtain a copy of the draft evaluation.
- (2) If the draft evaluation was received under subsection 12K (1), the address referred to in paragraph (1) (c) must be the address of the proponent or the person who prepared the draft evaluation.
- (3) A notice relating to an evaluation received under subsection 12k (1) must also state:
 - (a) that a person may give comments on the draft evaluation to the Minister on or before a day, at least 28 days after publication of the notice, specified in the notice; and
 - (b) the address to which the comments must be sent.
- (4) A notice relating to a draft evaluation received from a foreign party must also state:
 - (a) that a person may give comments on the draft evaluation to the Minister on or before a day specified in the notice; and
 - (b) the address to which the comments must be sent.
- (5) The day specified in a notice under paragraph (4) (a) must be earlier than 90 days after the day on which the foreign party sent the draft evaluation to Australia.

11 Forwarding comments on an Australian draft comprehensive environmental evaluation

- (1) This regulation sets out the Minister's obligations to forward, to the proponent of an activity that is the subject of a draft

comprehensive environmental evaluation prepared under the Act, comments received by the Minister on the draft evaluation.

- (2) As soon as practicable after the day specified in the notice given under paragraph 10 (3) (a), the Minister must forward to the proponent any comments that the Minister has received (except from a foreign signatory).
- (3) The Minister must, as soon as practicable, forward to the proponent any comments that the Minister receives from foreign signatories within 90 days of the dispatch day.

Division 2 Final comprehensive environmental evaluations;

12 Contents of a final comprehensive environmental evaluation

For the purposes of paragraph 12K (2) (a) of the Act, a final comprehensive environmental evaluation in respect of an activity must include:

- (a) information required by regulation 8 to be included in a draft comprehensive environmental evaluation; and
- (b) if the Minister has forwarded comments to the proponent under regulation 11-the text or a summary of the comments, and material responding to them.

13 Notice of availability of an Australian final comprehensive environmental evaluation

- (1) As soon as practicable after the Minister has:
 - (a) received a final comprehensive environmental evaluation prepared in accordance with the Act; and
 - (b) decided under section 12L of the Act whether or not to authorise the carrying on of the evaluated activity; and
 - (c) if the Minister has decided to authorise the carrying on of the evaluated activity-notified foreign signatories to the Madrid Protocol of the decision;he or she must publish a notice in the *Gazette*.

Regulation 14

(2) The notice must state:

- (a) that the Minister has received a final comprehensive environmental evaluation and made a decision on authorisation of the evaluated activity; and
- (b) the address from which a person may obtain a copy of:
 - (i) the evaluation; and
 - (ii) if the activity has been authorised-the notice of authorisation.

[NOTE: Section 12L of the Act requires the Minister to gazette an authorisation, or a notice of a decision not to authorise, an activity that is the subject of a final comprehensive environmental evaluation.]

(3) The address must be the address of:

- (a) the proponent of the evaluated activity; or
- (b) the person that prepared the evaluation.

14 Notice of availability of a foreign final comprehensive environmental evaluation

As soon as practicable after the Minister has received from a foreign party to the Madrid Protocol:

- (a) a final comprehensive environmental evaluation; and
- (b) notice of a decision relating to the evaluation;

he or she must publish in the *Gazette* a notice stating that a person may obtain, from the address in Australia specified in the notice in the *Gazette*, a copy of the documents received from the foreign party.

Division 3 Prescribed condition on authorisation

15 Starting an authorised activity

For the purposes of subsection 12l (4) of the Act, it is a condition of authorisation of an activity that the activity is not begun in the Antarctic earlier than 60 days after publication in the *Gazette* of a notice under regulation 13 in relation to the evaluation and authorisation of the activity.

Part 5

Notice of variation of authorisation

16 How must a notice varying an authorisation be given?

For the purposes of subsections 12N (1), (2) and (3) and section 12P of the Act, a notice must be given in one of the following ways:

- (a) in writing to the person who has been given the authorisation to which the notice relates;
- (b) by a message transmitted by radio, telephone or other electronic means to the person who has been given the authorisation to which the notice relates;
- (c) by publishing the notice in the *Gazette*.

Table of Statutory Rules

Notes to the *Antarctic Treaty (Environment Protection) (Environmental Impact Assessment) Regulations 1993*

Note 1

The *Antarctic Treaty (Environment Protection) (Environmental Impact Assessment) Regulations 1993* (in force under the *Antarctic Treaty (Environment Protection) Act 1980*) as shown in this compilation comprise Statutory Rules 1993 No. 115 amended as indicated in the Tables below.

Table of Statutory Rules

Year and number	Date of notification in Gazette	Date of commencement	Application, saving or transitional provisions
1993 No. 115	3 June 1993	11 June 1993	
2002 No. 8	21 Feb 2002	21 Feb 2002	—

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1	rs. 2002 No. 8
R. 5	am. 2002 No. 8