

Environmentally Hazardous Chemicals Regulation 1999

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmentally Hazardous Chemicals Act 1985*.

Minister for the Environment.

Explanatory note

The object of this Regulation is to repeal and remake, with minor modifications, the *Environmentally Hazardous Chemicals Regulation 1994*. The new Regulation deals with the following matters:

- (a) providing for the appointment of alternate members of the Hazardous Chemicals Advisory Committee,
- (b) matters to be included in applications for assessment of prescribed activities by the Environment Protection Authority ("**the EPA**") and the fees for applications,
- (c) specifying the matters to be included in notices issued by the EPA about assessments of chemicals,
- (d) fees for licences to carry on prescribed activities in relation to environmentally hazardous chemicals or declared chemical waste, and specifying the matters to be included in notices issued by the EPA about applications for licences,
- (e) fees for the transfer of licences, and specifying the matters to be included in notices issued by the EPA about applications for the transfer of licences,
- (f) fees for the assessment by the EPA of the technology to be used in relation to processing chemicals, or declared chemical wastes, that are the subject of a chemical control order,
- (g) providing for the time within which appeals under the Act may be made,
- (h) the form of a receipt for property seized by authorised officers and the manner of advertising the proposed forfeiture of seized property,
- (i) the information to be included in registers under the Act.

This Regulation is made under the *Environmentally Hazardous Chemicals Act 1985*, including section 58 (the general regulation-making power) and the various provisions referred to in the Regulation.

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

1 Name of Regulation

This Regulation is the *Environmentally Hazardous Chemicals Regulation 1999*.

2 Commencement

This Regulation commences on 1 September 1999.

3 Definitions

- (1) In this Regulation: "**fee unit**" means \$6. "**the Act**" means the *Environmentally Hazardous Chemicals Act 1985*.
- (2) The explanatory note and table of contents do not form part of this Regulation.

4 Alternate members of Hazardous Chemicals Advisory Committee

- (1) For the purposes of Schedule 1 to the Act, a person or body entitled to nominate one or

more nominees for membership of the Committee is entitled to nominate an alternate member for each nominee of the person or body.

(2) The Local Government Association of New South Wales or the Shires Association of New South Wales, or both, may nominate alternatives for the persons nominated by them.

(3) The Minister may select:

(a) from the persons nominated under subclause (2), a person as an alternate member for the member selected from persons nominated by the Local Government Association of New South Wales or the Shires Association of New South Wales, or both, and

(b) a person as an alternate member for the member of the Committee selected by the Minister to represent major users of chemicals in New South Wales.

(4) During the illness or absence of a member of the Committee, the alternate member has and may exercise the functions of the member.

5 Application for assessment of prohibited activities

(1) For the purposes of section 13 (2) of the Act, the prescribed fee to accompany an application for an assessment of a prescribed activity in relation to a chemical or a declared chemical waste is 280 fee units.

(2) For the purposes of section 13 (3) of the Act, the prescribed kinds of data relating to a prescribed activity to be restricted are as follows:

(a) a name, description or formula of a chemical in relation to which the prescribed activity is proposed to be carried on, or any other information which would reveal its chemical identity,

(b) any physical or chemical data which would reveal the chemical identity of a chemical referred to in paragraph (a),

(c) data from toxicological and ecotoxicological tests, but not the results of any such tests,

(d) genuine manufacturing or other industrial or commercial secrets,

(e) data which are the same as, or virtually the same as, or which include, data whose disclosure has been restricted in accordance with the Act or any Act of the Commonwealth or of a State or a Territory relating to chemicals or chemical wastes.

6 Assessment of chemicals

(1) For the purposes of section 19 of the Act, the prescribed particulars to be contained in a notice of intention to assess a chemical are as follows:

(a) the chemical name or identity of the chemical,

(b) the name and address of the person with whom submissions may be lodged and the date by which any such submissions must be lodged,

(c) the address at which data, if any, on the chemical may be inspected.

(2) For the purposes of section 19 of the Act, the prescribed time in relation to submissions is 30 days.

7 Application fee

For the purposes of section 28 (1) (b) of the Act:

(a) the prescribed fee to accompany an application for a licence to carry on a prescribed activity with respect to an environmentally hazardous chemical or a declared chemical waste is 150 fee units, and

(b) the prescribed fee to accompany an application for renewal of a licence to carry on a prescribed activity with respect to an environmentally hazardous chemical or a declared chemical waste is 100 fee units.

8 Notice of licence application

(1) For the purposes of section 28 (3) (a) of the Act, the prescribed particulars to be included in a notice of an application for a licence are as follows:

- (a) the applicant's name and address,
 - (b) the address of the premises, if any, in respect of which the application is made,
 - (c) the name or description of the chemical or declared chemical waste to which the application relates,
 - (d) details or a description of any chemical control order in force in respect of the chemical or declared chemical waste,
 - (e) a list and details of the prescribed activities for which the licence is sought.
- (2) Nothing in this clause requires the inclusion in the notice of matter that is required by the Act not to be disclosed or the disclosure of any matter except in the manner in which it is required by the Act to be disclosed.

9 Licence fee

- (1) The fee for a licence (including a renewed licence) is 30 fee units for each year for which the licence is granted or renewed. In the case of a licence that is granted or renewed for a period of less than one year, the licence fee is 30 fee units.
- (2) The Authority may refuse to grant or renew a licence until the fee for the licence has been paid.

10 Fee for transfer of licence

For the purposes of section 29A (2) (b) of the Act, the prescribed fee to accompany an application for the transfer of a licence is 50 fee units.

11 Notice of application for transfer of licence

- (1) For the purposes of section 29A (4) (a) of the Act, the prescribed particulars to be included in a notice of an application for the transfer of a licence are as follows:
- (a) the applicant's name and address,
 - (b) the name and address of the current holder of the licence,
 - (c) the address of the premises, if any, in respect of which the licence is held,
 - (d) the name or description of the chemical or declared chemical waste to which the licence relates,
 - (e) details or a description of any chemical control order in force in respect of the chemical or declared chemical waste,
 - (f) a list and details of the prescribed activities for which the licence is sought.
- (2) Nothing in this clause requires the inclusion in the notice of matter that is required by the Act not to be disclosed or the disclosure of any matter except in the manner in which it is required by the Act to be disclosed.

12 Fee for carrying out technology assessment

- (1) A person may request the Authority to carry out an assessment of any technology that the person proposes to use in relation to processing a chemical, or a declared chemical waste, that is the subject of a chemical control order.
- (2) The Authority may charge the person a fee not exceeding 350 fee units to carry out any such assessment.

13 Time before appeal may be made

For the purposes of section 37 (1) of the Act, the prescribed time within which the Authority must notify a decision is 60 days.

14 Time within which appeal may be made

- (1) For the purposes of section 38 (1) of the Act, the prescribed time within which a person may appeal against a chemical control order or a determination under section 20 (d) of the Act is 30 days.
- (2) For the purposes of section 39 (1) of the Act, the prescribed time within which a person may appeal against a decision of the Authority about a licence is 30 days.

15 Form of receipt

For the purposes of section 45 (3) of the Act, the prescribed form of receipt to be given by an

authorised officer is the form in Schedule 1.

16 Seized property

For the purposes of section 48 (3) (b) of the Act, the prescribed manner for advertising a notice of an application for forfeiture of seized property is by advertising in a newspaper circulating throughout New South Wales.

17 Registers of declared chemical wastes, chemical control orders and licences

For the purposes of section 52 (2) of the Act, the prescribed particulars to be included in a register are as follows:

- (a) in the case of the register of declared chemical wastes--a copy of every order in force under section 10 of the act,
- (b) in the case of the register of chemical control orders--a copy of every chemical control order in force,
- (c) in the case of the register of licences--a certified copy of each licence currently in force.

18 Repeal and savings

- (1) The *Environmentally Hazardous Chemicals Regulation 1994* is repealed.
- (2) Any act, matter or thing which had effect immediately before the repeal of that Regulation is taken to have effect under this Regulation.

Schedule 1 Form

(Clause 15)

Environment Protection Authority

Environmentally Hazardous Chemicals Act 1985 (section 45 (3) (a) and (b))

Receipt for taking sample of substance or removing substance or container

- ⌘ This receipt is to: (name of occupier of premises) (address of premises)
- ⌘ I (name of authorised officer): an authorised officer under the *Environmentally Hazardous Chemicals Act 1985*, acknowledge by this receipt that: (delete whichever of the following does not apply)
 - I have today taken from the above premises a sample of the following substance in the following quantity: (name or description of substance) (approximate quantity of substance)
 - I have today removed from the above premises the following substance or the following container/s: (name or description of substance) (size and number of containers)
- ⌘ Signature of authorised officer: Address of authorised officer:

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
ClI	clauses	pp	pages	Secs	sections
Div	Division	Reg	Regulation	Subdiv	Subdivision
Divs	Divisions	Regs	Regulations	Subdivs	Subdivisions

GG	Government Gazette	Rep	repealed	Subst	substituted
Ins	inserted	Sch	Schedule		

Table of amending instruments *Environmentally Hazardous Chemicals Regulation 1999*
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