

Protection of the Environment Operations (Penalty Notices) Regulation 1999

As at 24 November 2003

Reprint history:

Reprint No 1 22 April 2003

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Penalty Notices) Regulation 1999*.

2 Commencement

This Regulation commences on 1 July 1999.

3 Definitions

In this Regulation:

penalty notice offence means an offence prescribed by clause 5.

the Act means the *Protection of the Environment Operations Act 1997*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

5 Penalty notice offences: section 222

(1) Each offence created by a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence for the purposes of Division 3 of Part 8.2 of the Act.

(2) If the reference to a provision in Column 1 of Schedule 1 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or is committed in the circumstances so specified.

6 Enforcement officers: section 226

(1) The officers or employees of the class specified in Column 2 of Schedule 1 are, subject to this clause, prescribed as enforcement officers in relation to the penalty notice offences concerned.

(2) Any such officer or employee of an authority is an enforcement officer only if that authority has duly authorised that officer or employee to exercise the functions of an enforcement officer under Division 3 of Part 8.2 of the Act.

(3) An officer or employee of an authority that is a local council is an enforcement officer in respect of another local council only if that other local council has also duly authorised that officer or employee to exercise the functions of an enforcement officer under Division 3 of Part 8.2 of the Act.

(3A) An officer or employee is not an enforcement officer in relation to a penalty notice offence alleged to have been committed by the authority that has authorised the officer or employee as an enforcement officer.

(4) In Schedule 1, a number included in Column 2 of Schedule 1 is a reference to an officer or employee of a class identified by that number.

(5) The class of officers or employees in Schedule 1 are as follows:

(a) class 1--an officer or employee of:

(i) a local authority, or

(ii) the National Parks and Wildlife Service in relation to a penalty notice offence alleged to have been committed in Kosciuszko National Park,

(b) class 2--an officer or employee of the EPA,

(c) class 3--an officer or employee of the National Parks and Wildlife Service,

(d) class 4--an officer or employee of a Port Corporation within the meaning of the *Ports Corporatisation and Waterways Management Act 1995* ,

(e) class 5--a police officer,

(f) class 6--an officer or employee of the Sydney Water Corporation, of the Hunter Water Corporation or of a Water Supply Authority within the meaning of the *Water Management Act 2000* (other than a Water Supply Authority that is also the council of a local government area),

(g) class 7--an officer or employee of the Forestry Commission,

(h) class 8--an officer or employee of the Sydney Harbour Foreshore Authority,

(i) class 9--an officer or employee of the Centennial Park and Moore Park Trust, of the Parramatta Stadium Trust, of the Parramatta Park Trust or of the Royal Botanic Gardens and Domain Trust,

(j) class 10--an officer or employee of an Australian university within the meaning of the *Higher Education Act 2001* ,

(k) class 11--an officer or employee of the Sydney Olympic Park Authority,

(l) class 12--an officer or employee who is a marine park ranger within the meaning of the *Marine Parks Act 1997* ,

(m) class 13--an officer or employee of NSW Fisheries,

(n) class 14--an officer or employee of the Sydney Catchment Authority,

(o) class 15--an officer or employee of the Waterways Authority.

(6) A reference in subclause (5) to an officer or employee of the following authorities is taken to include a reference to an officer or employee of a body corporate providing services under an arrangement with that authority whereby the officer or employee is acting under the direction and control of the authority:

(a) Sydney Harbour Foreshore Authority,

(b), (c)

(d) Sydney Olympic Park Authority.

(7) A person who, immediately before the amendment of this clause by the *Environment Protection Legislation Amendment Act 2002* , was duly authorised by an authority as an authorised officer is taken to be so authorised as an enforcement officer.

7 Amounts of penalty payable: section 227

The prescribed penalty payable under a penalty notice in relation to a penalty notice offence is:

(a) the amount specified in Column 3 of Schedule 1, or

(b) if the person alleged to have committed the offence is a corporation, and if a greater amount is specified in Column 4 of Schedule 1, the amount specified in Column 4 of Schedule 1.

8 Service of penalty notices on owners of vehicles or vessels: section 224 (3)

(1) This clause applies to offences under the Act or the regulations 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 clause applies, be served by leaving it on, or attaching it to, the vehicle or vessel.

(3) A penalty notice may, if it relates to an offence to which this clause applies, be addressed to the owner of a vehicle or vessel without naming the owner or stating his or her address.

9 (Repealed)

10 Savings provision

An officer or employee duly authorised as referred to in clause 6 (2) by the Waterways Authority in relation to class 4 under clause 6 (5) immediately before the commencement of the *Protection of the Environment Operations Amendment (Waterways Authority) Regulation 2001* is taken to be duly authorised by the Waterways Authority in relation to class 15 under clause 6 (5).

Schedule 1 Penalty notice offences

(Clauses 5-8)

Protection of the Environment Operations Act 1997

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on of the Act		uals)	ations)
47			
48			
49			
64			
66 (2)			
66 (4)			
86			
88			
91	, 14, 15		
94	, 14, 15		
97	, 14, 15		
100	, 14, 15		
120	6, 7, 9, 12, 13,		
124			
125			
126			
128			

129

135

136:

Sell article of prescribed class (other than a motor vehicle horn or motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs

136:

Sell article of prescribed class (other than a motor vehicle horn or motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs by 5dB(A) or more

136:

Sell article of prescribed class (being a motor vehicle horn or a motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs

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143: Transport waste, being waste comprising asbestos waste or waste greater than 1 cubic metre in volume or 2 tonnes in weight, to a place that cannot lawfully be used as a waste facility for that waste

143: Transport waste to a place that cannot lawfully be used as

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145:

Deposit litter, being a small item including confectionary wrapper, cigarette packet, ATM

4, 5, 7,
, 11, 12,
15

statement, or bus or train ticket (excluding cigarette, and excluding litter deposited from vehicle)

145:	Deposit litter (excluding cigarette, and excluding litter deposited from vehicle)	4, 5, 7, 11, 12, 15
145:	Deposit litter, being unlit or extinguished cigarette (excluding litter deposited from vehicle)	4, 5, 7, , 11, 12, 15
145:	Deposit litter, being lit cigarette (excluding litter deposited from vehicle)	4, 5, 7, , 11, 12, 15
145:	Deposit litter from vehicle	4, 5, 7, , 11, 12, 15
145A:	Deposit litter, for example syringe, or lit cigarette in dangerous circumstances	4, 5, 7, , 11, 12, 15
146A		4, 5, 7, , 11, 12, 15
146B		4, 5, 7, , 11, 12, 15
146C		4, 5, 7, , 11, 12, 15
146E (1)		4, 5, 7, , 11, 12, 15
146E (2)		4, 5, 7, , 11, 12, 15
146E (3)		4, 5, 7, , 11, 12, 15

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157 (1)

157 (2)

161 (4)

161 (7)

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211 (1) 5, 14,

265 15

277 (1) (a) 5, 8, 15

277 (1) (b) 5, 8, 15

277 (2) (a) 5, 8, 15

277 (2) (b) 5, 8, 15

Protection of the Environment Operations (General) Regulation 1998

1 1 1 2 1 3

on of Regulation

47 (1)

51 (1)

57D (2) (a)

57D (2) (b)

57E (1)

57E (2)

57M

57N (4)

57P (1)

Protection of the Environment Operations (Control of Burning) Regulation 2000

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on of Regulation (individuals) (corporations)

5 (1)

6 (1)

7 (1)

7 (2)

7 (3)

Protection of the Environment Operations (Clean Air) Regulation 2002

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on of Regulation for individuals (and for
tions where no penalty in tions
1 4)

9 (1)

15 (1): in relation to a failure to have a vertical
hat the exhaust vent is directed away from the

15 (1): in any other case

16 (1)

17 (1)

19 (2)

19 (3)

Clean Air (Plant and Equipment) Regulation 1997

1 1 1 2 1 3

on of Regulation

8 (1)

8 (2)

20A (1)

20A (2)

24 (2)

25 (2)

25 (3)

25 (4)

Protection of the Environment Operations (Noise Control) Regulation 2000

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on of Regulation

luals)

ations)

6 (1)

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12 (1)

13 (1): Cause/permit use of vehicle capable of emitting noise
up to 5 dB(A)

13 (1): Cause/permit use of vehicle capable of emitting noise
between 5 and 15 dB(A)

13 (1): Cause/permit use of vehicle capable of emitting noise
more than 15 dB(A)

14

15 (1)

16 (1)

17

17A (1)

18 (1)

18 (2) (a)

18 (2) (b)

19 (1)

20

21 (1) (a)

21 (1) (b)

21 (2) (a)

21 (2) (b)

23

24 (1): Cause/permit use of noisy alarm (for up to 24 hours) 8

24 (1): Cause/permit use of noisy alarm (for 24 to 48 hours) 8

24 (1): Cause/permit use of noisy alarm (for more than 48 8

25 (1)

26 (5)

27 (4)

27 (5)

29 15

30 15

31 (1)

31 (2) (a)

31 (2) (b)

32 (1) 15

33 (5)

34 (4)

34 (5)

50 (1)

51 (1)

52 (1)

53 (1): Cause/permit use of noisy intruder alarm (for up to 24

53 (1): Cause/permit use of noisy intruder alarm (for 24 to 48

53 (1): Cause/permit use of noisy intruder alarm (for more than

1 1 1 2 1 3

on of the Act

14 (3)

Ozone Protection Regulation 1997

1 1 1 2 1 3

on of Regulation

9 (1)

9 (5)

10 (1)

10 (2)

12 (1)

12 (5)

22

24 (1)

25 (1)

31 (1)

39 (1) (a)

39 (1) (b)

40 (1)

Waste Minimisation and Management Act 1995

1 1 1 2 1 3 1 4

on of the Act (individuals) (corporations)

39 (4)

Protection of the Environment Operations (Waste) Regulation 1996

1 1 1 2 1 3

on of Regulation

15 (3)

15 (4)

15 (5)

16 (2) (a)

16 (2) (b)

16 (2) (c)

16 (2) (d) (i)

16 (2) (d) (ii)

16 (2) (e) (i)

16 (2) (e) (ii)

16 (2) (e) (iii)

16 (2) (f)

16 (2) (g)

16 (2) (h)

16 (2) (i)

16 (2) (j)

16 (4) (a) (i)

16 (4) (a) (ii)

16 (4) (a) (iii)

16 (4) (b) (i)

16 (4) (b) (ii)

16 (4) (b) (iii)

16 (4) (b) (iv)

17 (2) (a) (i)

17 (2) (a) (ii)

17 (2) (b)

17 (2) (c)

17 (2) (d)

17 (2) (e)

17 (2) (f)

17 (2) (g) (i)

17 (2) (g) (ii)

17 (2) (g) (iii)

17 (2) (g) (iv)

17 (2) (g) (v)

17 (2) (h)

17 (2) (i)

17 (2) (j)

17 (2) (k)

21 (2)

21 (3) (a) (i)

21 (3) (a) (ii)

21 (3) (b)

22 (4) (a)

22 (4) (b)

22 (4) (c)

22 (4) (d) (i)

22 (4) (d) (ii)

22 (4) (e)

23 (1)

23 (2)

23 (3) (a)

23 (3) (b)

23A

24 (1) (a)

24 (1) (b)

24 (1A) (a)

24 (1A) (b)

25 (1)

25 (2) (a)

25 (2) (a1)

25 (2) (b)

25 (2) (c)

25 (2) (d)

25 (2) (d1)

25 (2) (e)

25 (2) (f)

25 (2) (g)

26 (2) (a)

26 (2) (b)

26 (2) (c)

27

28 (11)

29 (2)

29 (6)

30 (a)

30 (b)

30 (c)

30 (d)

30 (e)

30 (f)

30 (g)

**Protection of the Environment Operations (Hunter River Salinity Trading Scheme)
Regulation 2002**

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1 2

1 3

1 4

on of Regulation

(individuals)

(corporations)

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Historical notes

Table of amending instruments *Protection of the Environment Operations (Penalty Notices) Regulation 1999* published in Gazette No 53 of 30.4.1999, p 2863 and amended in Gazette No 72 of 25.6.1999, p 4226 and as follows: *Protection of the Environment Operations (Penalty Notices) Amendment Regulation 2000* (GG No 29 of 25.2.2000, p 1402) *Protection of the Environment Operations Amendment (Littering) Act 2000 No 20* . Assented to 30.5.2000. Date of commencement of Sch 2, except so much of Sch 2 [4] as inserts matter relating to secs 146A, 146B and 146C into Sch 1, 1.7.2000, sec 2 and GG No 81 of 30.6.2000, p 5357; date of commencement of so much of Sch 2 [4] as inserts matter relating to secs 146A, 146B and 146C into Sch 1, 1.4.2001, sec 2 and GG No 60 of 30.2.2001, p 1579. *Protection of the Environment Operations (Control of Burning) Regulation 2000* (GG No 109 of 25.8.2000, p 8319) *Protection of the Environment Operations (Noise Control) Regulation 2000* (GG No 112 of 1.9.2000, p 9316) *Protection of the Environment Operations Amendment (Balloons) Act 2000 No 82* . Assented to 29.11.2000. Date of commencement, 1.7.2001, sec 2 and GG No 60 of 30.3.2001, p 1578. *Protection of the Environment Operations (Penalty Notices) Amendment (Authorised Officers) Regulation 2000* (GG No 168 of 22.12.2000, p 13548) *Protection of the Environment Operations (Penalty Notices) Amendment (Sydney Catchment Authority) Regulation 2000* (GG No 168 of 22.12.2000, p 13551) *Parramatta Park Trust Act 2001 No 17* . Assented to 30.4.2001. Date of commencement, 1.7.2001, sec 2 and GG No 100 of 22.6.2001, p 4246. *Sydney Olympic Park Authority Act 2001 No 57* . Assented to 17.7.2001. Date of commencement, 1.7.2001, sec 2. *Protection of the Environment Operations Amendment (Waterways Authority) Regulation 2001* (GG No 188 of 7.12.2001, p 9596) *Higher Education Act 2001 No 102* . Assented to 11.12.2001. Date of commencement, 1.7.2003, sec 2 and GG No 104 of 27.6.2003, p 5977. *Environment Protection Legislation Amendment Act 2002 No 14* . Assented to 15.5.2002. Date of commencement of Sch 5.6, 1.7.2002, sec 2 and GG No 102 of 21.6.2002, p 4467. *Protection of the Environment Operations (Penalty Notices) Amendment (National Pollutant Inventory) Regulation 2002* (GG No 87 of 17.5.2002, p 2954) *Protection of the Environment Operations (Penalty Notices) Amendment (Waste Offences) Regulation 2002* (GG No 102 of 21.6.2002, p 4479) *Protection of the Environment Operations (Penalty Notices) Amendment (Noisy Vehicle Sound Systems) Regulation 2002* (GG No 106 of 28.6.2002, p 4787) *Olympic Co-ordination Authority Dissolution Act 2002 No 55* . Assented to 8.7.2002. Date of commencement, 1.7.2002, sec 2. *Protection of the Environment Operations (Clean Air) Regulation 2002* (GG No 135 of 30.8.2002, p 7496) *Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002* (GG No 225 of 22.11.2002, p 9803) *Protection of the Environment Operations (General) Amendment (Burning of Bio-material) Regulation 2003* (GG No 13 of 10.1.2003, p 104) *Protection of the Environment Operations Amendment (Kosciuszko*

National Park) Regulation 2003 (GG No 121 of 1.8.2003, p 7542) Protection of the Environment Operations (Penalty Notices) Amendment Regulation 2003 (GG No 121 of 1.8.2003, p 7546)
Table of amendments

00 No 20, Sch 2 [1].

2.2000; 22.12.2000; 2001 No 17, Sch 5.4; 2001 No 57, Sch 7.4 [1] [2]; 7.12.2001; 2001 No 2.2; 2002 No 14, Sch 5.6 [1]-[4]; 21.6.2002; 28.6.2002; 2002 No 55, Sch 1.5 [1] [2]; 3.

6.2002.

00 No 20, Sch 2 [2]. Rep 21.6.2002.

1.2001.

6.1999; 25.2.2000; 2000 No 20, Sch 2 [3] [4]; 25.8.2000; 1.9.2000; 2000 No 82, Sch 2; 000; 7.12.2001; 17.5.2002; 21.6.2002; 28.6.2002; 30.8.2002; 22.11.2002; 10.1.2003; 3.