

Protection of the Environment Operations (Penalty Notices) Regulation 2004

Does not include amendments by:

Western Sydney Parklands Act 2006 No 92 (not commenced)

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Penalty Notices) Regulation 2004*.

2 Commencement

(1) Except as provided by subclause (2), this Regulation commences on 1 September 2004. This Regulation replaces the *Protection of the Environment Operations (Penalty Notices) Regulation 1999*, which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

(2) The provisions of Schedule 1 to this Regulation that relate to clauses 19F, 19G and 19H of the *Protection of the Environment Operations (Clean Air) Regulation 2002* commence on 15 November 2004.

3 Definitions

(1) In this Regulation: "**penalty notice offence**" means an offence prescribed by clause 4. "**the Act**" means the *Protection of the Environment Operations Act 1997*.

(2) Notes in the text of this Regulation do not form part of this Regulation.

4 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.

5 Enforcement officers: section 226

(1) Officers or employees of a class specified in Column 2 of Schedule 1 are, subject to this clause and section 226 of the Act, prescribed as enforcement officers in relation to the penalty notice offences concerned.

(2) Any such officer or employee of an organisation (being a local authority, Department, statutory authority or university that is referred to in subclause (6)) is an enforcement officer only if the organisation 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 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.

(4) An officer or employee is not an enforcement officer in relation to a penalty notice offence alleged to have been committed by:

(a) the organisation that has authorised the officer or employee as an enforcement officer, or

(b) an officer or employee of that organisation.

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

(6) The classes 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 Department of Environment and Conservation 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 Department of Environment and Conservation,
 - (c) class 2A--an officer or employee of the Department of Environment and Conservation who is employed within a group of staff that is designated by the Director-General of the Department as comprising EPA regulatory staff,
 - (d) class 3--an officer or employee of a Port Corporation within the meaning of the *Ports Corporatisation and Waterways Management Act 1995*,
 - (e) class 4--a police officer,
 - (f) class 5--an officer or employee of the Sydney Water Corporation, the Hunter Water Corporation or a water supply authority within the meaning of the *Water Management Act 2000* (other than a water supply authority that is also a local council),
 - (g) class 6--an officer or employee of the Department of Primary Industries,
 - (h) class 7--an officer or employee of the Sydney Harbour Foreshore Authority,
 - (i) class 8--an officer or employee of:
 - (i) the Department of Tourism, Sport and Recreation in relation to 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, or
 - (ii) the Parramatta Stadium Trust,
 - (j) class 9--an officer or employee of an Australian university within the meaning of the *Higher Education Act 2001*,
 - (k) class 10--an officer or employee of the Sydney Olympic Park Authority,
 - (l) class 11--an officer or employee who is a marine park ranger within the meaning of the *Marine Parks Act 1997*,
 - (m) class 12--an officer or employee of the Sydney Catchment Authority,
 - (n) class 13--an officer or employee of the Waterways Authority.
- (7) A reference in this clause to an officer or employee of an organisation includes a reference to a person who:
- (a) is an officer or employee 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.

6 Amounts of penalty payable: section 227

The prescribed penalty payable under a penalty notice in respect of 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.

7 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.

8 Saving arising on repeal of former regulation

Any act, matter or thing that, immediately before the repeal of the *Protection of the Environment Operations (Penalty Notices) Regulation 1999*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Penalty notice offences

(Clauses 4-7)

Environmentally Hazardous Chemicals Act 1985

Column 1	Column 2	Column 3	Column 4
Provision of Act	Officer	Penalty (individuals)	Penalty (corporations)
Section 26	2	\$1500	\$5000
Section 32 (2)	2	\$1500	\$5000

Ozone Protection Act 1989

Column 1	Column 2	Column 3
Provision of Act	Officer	Penalty
Section 14 (3)	2A	\$300

Ozone Protection Regulation 1997

Column 1	Column 2	Column 3
Provision of Regulation	Officer	Penalty
Clause 9 (1)	2A	\$300
Clause 9 (5)	2A	\$300
Clause 10 (1)	2A	\$300
Clause 10 (2)	2A	\$300
Clause 12 (1)	2A	\$300
Clause 12 (5)	2A	\$300
Clause 22	2A	\$300
Clause 24 (1)	2A	\$300
Clause 25 (1)	2A	\$300
Clause 31 (1)	2A	\$300
Clause 39 (1) (a)	2A	\$300
Clause 39 (1) (b)	2A	\$300
Clause 40 (1)	2A	\$300

Protection of the Environment Operations Act 1997

Column 1	Column 2	Column 3	Column 4
Provision of the Act	Officer	Penalty (individuals)	Penalty (corporations)

Section 47	2A	\$750	\$1500
Section 48	2A	\$750	\$1500
Section 49	2A	\$750	\$1500
Section 64	2A	\$750	\$1500
Section 66 (2)	2A	\$750	\$1500
Section 66 (4)	2A	\$750	\$1500
Section 86	2A	\$750	\$1500
Section 88	2A	\$750	\$1500
Section 91	1, 2, 11, 12, 13	\$750	\$1500
Section 94	1, 2, 11, 12, 13	\$500	\$1000
Section 97	1, 2, 11, 12, 13	\$750	\$1500
Section 100	1, 2, 11, 12, 13	\$500	\$1000
Section 120	1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13	\$750	\$1500
Section 124	1, 2, 13	\$750	\$1500
Section 125	1, 2, 13	\$750	\$1500
Section 126	1, 2, 13	\$750	\$1500
Section 128	1, 2, 13	\$750	\$1500
Section 129	2A	\$750	\$1500
Section 135	1, 2	\$200	\$400
Section 135C (1)	1 (limited to officer or employee of local authority)	\$200	\$400
Section 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 less than 5dB(A).	2A	\$200	\$400
Section 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.	2A	\$400	\$800
Section 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	2A	\$300	\$600

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.			
Section 137	1, 2	\$200	\$400
Section 139	1, 2, 13	\$200	\$400
Section 140	1, 2, 13	\$200	\$400
Section 142A	1, 2	\$750	\$1500
Section 143: Transport waste, being waste comprising asbestos waste or hazardous waste (within the meaning of Schedule 1 to the Act), or any other 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.	1, 2, 4, 12	\$1500	\$5000
Section 143: Transport waste to a place that cannot lawfully be used as a waste facility for that waste.	1, 2, 4, 12	\$750	\$1500
Section 144	1, 2, 4, 12	\$1500	\$5000
Section 144AA (1): Supply information, or cause or permit information to be supplied, that is false or misleading in a material respect about waste that is asbestos waste or hazardous waste (within the meaning of Schedule 1 to the Act)	2	\$1500	\$5000
Section 144AA (1): Supply information, or cause or permit information to be supplied, that is false or misleading in a material respect about any other waste	2	\$750	\$1500
Section 145: Deposit litter, being a small item including confectionary wrapper, cigarette packet, ATM statement, or bus or train ticket (excluding cigarette, and excluding litter deposited from vehicle).	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$60	--
Section 145: Deposit litter (excluding cigarette, and excluding litter deposited from vehicle).	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 145: Deposit litter, being unlit or extinguished cigarette (excluding litter deposited from vehicle).	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$60	--
Section 145: Deposit litter, being lit cigarette (excluding litter deposited from vehicle).	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	--
Section 145: Deposit litter from vehicle.	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 145A: Deposit litter (for example, lit cigarette) in dangerous circumstances, including deposit of syringe.	1, 2, 3, 4, 6, 7, 8, 9, 10,	\$375	\$750

	11, 12, 13		
Section 146A	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 146B	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 146C	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 146E (1)	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 146E (2)	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$200	\$400
Section 146E (3)	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13	\$375	\$750
Section 152	1, 2	\$750	\$1500
Section 155	2A	\$750	\$1500
Section 156	2A	\$750	\$1500
Section 157 (1)	2A	\$750	\$1500
Section 157 (2)	2A	\$750	\$1500
Section 161 (4)	2A	\$300	\$600
Section 161 (7)	2A	\$300	\$600
Section 167	1, 2	\$750	\$1500
Section 211 (1)	1, 2, 3, 4, 12, 13	\$500	\$1000
Section 211 (2)	1, 2, 3, 4, 12, 13	\$500	\$1000
Section 265	1, 2, 3, 13	\$200	\$400
Section 267A (7)	1, 2, 3, 13	\$500	\$1000
Section 277 (1) (a)	1, 2, 3, 4, 7, 13	\$200	\$400
Section 277 (1) (b)	1, 2, 3,	\$200	\$400

	4, 7, 13		
Section 277 (2) (a)	1, 2, 3, 4, 7, 13	\$200	\$400
Section 277 (2) (b)	1, 2, 3, 4, 7, 13	\$200	\$400

Protection of the Environment Operations (Clean Air) Regulation 2002

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty for individuals (and corporations where no penalty in Column 4)	Penalty for corporations
Clause 6C (1)	1, 2	\$500	\$1000
Clause 6D (1)	1, 2	\$500	\$1000
Clause 6E (1)	1, 2	\$500	\$1000
Clause 6E (2)	1, 2	\$500	\$1000
Clause 6E (3)	1, 2	\$500	\$1000
Clause 9 (1)	2A	\$200	\$400
Clause 15 (1): in relation to a failure to have a vertical exhaust pipe fitted so that the exhaust vent is directed away from the nearside of the vehicle.	2A	\$200	
Clause 15 (1): in any other case.	2A	\$300	
Clause 16 (1)	2A	\$300	
Clause 17 (1)	2A	\$300	
Clause 19 (2)	2A	\$300	
Clause 19 (3)	2A	\$300	
Clause 19B (2)	2A	\$300	\$600
Clause 19C (1)	2A	\$300	\$600
Clause 19F (1)	2A	\$750	\$1500
Clause 19F (2)	2A	\$750	\$1500
Clause 19G (1)	2A	\$300	\$600
Clause 19H (1)	2A	\$300	\$600
Clause 37	2A	\$600	
Clause 48 (1)	2A	\$600	
Clause 48 (2)	2A	\$600	
Clause 53 (2)	2A	\$600	
Clause 54 (2)	2A	\$600	
Clause 54 (3)	2A	\$600	
Clause 54 (4)	2A	\$600	
Clause 55 (1)	2A	\$600	
Clause 55 (2)	2A	\$600	

Protection of the Environment Operations (General) Regulation 1998

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty for individuals (and corporations where no penalty in Column 4)	Penalty for corporations
Clause 47 (1)	2A	\$1500	
Clause 51 (1)	2A	\$500	

Clause 57D (2) (a)	2A	\$500	\$1000
Clause 57D (2) (b)	2A	\$500	\$1000
Clause 57E (1)	2A	\$500	\$1000
Clause 57E (2)	2A	\$500	\$1000
Clause 57M	2A	\$750	\$1500
Clause 57N (4)	2A	\$750	\$1500
Clause 57P (1)	2A	\$750	\$1500
Clause 72 (8)	2A	\$500	\$1000
Clause 73 (8)	2A	\$500	\$1000
Clause 75 (3)	2A	\$500	\$1000
Clause 75 (4)	2A	\$500	\$1000

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

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty (individuals)	Penalty (corporations)
Clause 61	2A	\$750	\$1500

Protection of the Environment Operations (Noise Control) Regulation 2000

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty (individuals)	Penalty (corporations)
Clause 6 (1)	2A	\$300	\$600
Clause 11	2A	\$300	\$600
Clause 12 (1)	2A	\$300	\$600
Clause 13 (1): Cause or permit use of vehicle capable of emitting noise exceeding maximum level by up to 5 dB(A).	2A	\$150	\$300
Clause 13 (1): Cause or permit use of vehicle capable of emitting noise exceeding maximum level by between 5 and 15 dB(A).	2A	\$250	\$500
Clause 13 (1): Cause or permit use of vehicle capable of emitting noise exceeding maximum level by more than 15 dB(A).	2A	\$500	\$1000
Clause 14	1, 2, 4	\$200	\$400
Clause 15 (1)	1, 2, 4	\$200	\$400
Clause 16 (1)	1, 2, 4	\$200	\$400
Clause 17	1, 2, 4	\$150	\$300
Clause 17A (1)	2, 4	\$150	
Clause 18 (1)	2, 4	\$200	\$400
Clause 18 (2) (a)	2, 4	\$200	\$400
Clause 18 (2) (b)	2, 4	\$200	\$400
Clause 19 (1)	2, 4	\$200	\$400
Clause 20	2A	\$200	\$400
Clause 21 (1) (a)	2A	\$200	\$400
Clause 21 (1) (b)	2A	\$200	\$400
Clause 21 (2) (a)	2A	\$200	\$400

Clause 21 (2) (b)	2A	\$200	\$400
Clause 23	1, 2, 4	\$200	\$400
Clause 24 (1): Cause or permit use of noisy alarm (for up to 24 hours).	1, 2, 4, 7	\$200	\$400
Clause 24 (1): Cause or permit use of noisy alarm (for more than 24 hours and up to 48 hours).	1, 2, 4, 7	\$400	\$800
Clause 24 (1): Cause or permit use of noisy alarm (for more than 48 hours).	1, 2, 4, 7	\$600	\$1200
Clause 25 (1)	2A	\$200	\$400
Clause 26 (5)	2, 4	\$300	\$600
Clause 27 (4)	2, 4	\$300	\$600
Clause 27 (5)	2, 4	\$300	\$600
Clause 29	1, 3, 4, 13	\$200	\$400
Clause 30	1, 3, 4, 13	\$300	\$600
Clause 31 (1)	3, 4, 13	\$200	\$400
Clause 31 (2) (a)	3, 4, 13	\$200	\$400
Clause 31 (2) (b)	3, 4, 13	\$200	\$400
Clause 32 (1)	1, 3, 4, 13	\$300	\$600
Clause 33 (5)	3, 4, 13	\$300	\$600
Clause 34 (4)	3, 4, 13	\$300	\$600
Clause 34 (5)	3, 4, 13	\$300	\$600
Clause 50 (1)	1, 4	\$200	\$400
Clause 51 (1)	1, 4	\$200	\$400
Clause 52 (1)	1, 4	\$200	\$400
Clause 53 (1): Cause or permit use of noisy intruder alarm (for up to 24 hours).	1, 2, 4	\$200	\$400
Clause 53 (1): Cause or permit use of noisy intruder alarm (for more than 24 hours and up to 48 hours).	1, 2, 4	\$400	\$800
Clause 53 (1): Cause or permit use of noisy intruder alarm (for more than 48 hours).	1, 2, 4	\$600	\$1200

Protection of the Environment Operations (Waste) Regulation 2005

Column 1	Column 2	Column 3
Provision of Regulation	Officer	Penalty
Clause 6 (5)	2A	\$500
Clause 10 (2)	2A	\$500
Clause 10 (3) (a)	2A	\$500
Clause 10 (3) (b)	2A	\$500
Clause 11 (7)	2A	\$500
Clause 12 (1)	2A	\$500

Clause 12 (2)	2A	\$500
Clause 12 (3)	2A	\$500
Clause 13	2A	\$500
Clause 14 (1)	2A	\$500
Clause 14 (2)	2A	\$500
Clause 15 (1)	2A	\$500
Clause 15 (2)	2A	\$500
Clause 16 (3)	2A	\$500
Clause 22 (1)	2A	\$500
Clause 22 (2)	2A	\$500
Clause 22 (3)	2A	\$500
Clause 23	2A	\$500
Clause 24 (1)	2A	\$500
Clause 24 (2)	2A	\$500
Clause 24 (3)	2A	\$500
Clause 24 (4)	2A	\$500
Clause 24 (6)	2A	\$500
Clause 25 (1)	2A	\$500
Clause 25 (3)	2A	\$500
Clause 25 (4)	2A	\$500
Clause 25 (5)	2A	\$500
Clause 25 (6)	2A	\$500
Clause 26 (2)	2A	\$500
Clause 27 (4)	2A	\$500
Clause 27 (5)	2A	\$500
Clause 28 (5)	2A	\$500
Clause 29 (4)	2A	\$500
Clause 32	2A	\$500
Clause 33	2A	\$500
Clause 34	2A	\$500
Clause 35	2A	\$500
Clause 36	2A	\$500
Clause 40 (1)	2A	\$500
Clause 40 (2)	2A	\$500
Clause 42 (2)	1, 2	\$500
Clause 42 (6)	1, 2	\$500
Clause 43	1, 2	\$500
Clause 45 (1)	1, 2	\$750
Clause 46K (1)	2	\$500
Clause 46L (1) or (6)	2	\$500
Clause 46M	2	\$500
Clause 47 (3)	2A	\$500
Clause 47 (4)	1, 2	\$500
Clause 47 (5)	2A	\$500
Clause 48	1, 2	\$500
Clause 49	1,2	\$500
Clause 50 (11)	2A	\$500
Clause 51 (10)	2A	\$500
Clause 52	1, 2	\$500

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
Cll	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 *Protection of the Environment Operations (Penalty Notices) Regulation 2004* published in Gazette No 138 of 27.8.2004, p 7085. This Regulation has been amended as follows:

2005	(241)	<i>Protection of the Environment Operations (Waste) Amendment (Residue Wastes) Regulation 2005</i> . GG No 73 of 17.6.2005, p 2415. Date of commencement, on gazettal.
	(497)	<i>Protection of the Environment Operations (Waste) Regulation 2005</i> . GG No 107 of 26.8.2005, p 5745. Date of commencement of Sch 2 [1], 1.9.2005, cl 2 (1); date of commencement of Sch 2 [2], 1.3.2006, cl 2 (2).
	(535)	<i>Protection of the Environment Operations (Penalty Notices) Amendment (Clean Air) Regulation 2005</i> . GG No 110 of 1.9.2005, p 6968. Date of commencement, 1.9.2005, cl 2.
2006	(218)	<i>Protection of the Environment Operations (Penalty Notices) Amendment (Pollution and Other Offences) Regulation 2006</i> . GG No 58 of 28.4.2006, p 2438. Date of commencement, 1.5.2006, cl 2.
	(491)	<i>Protection of the Environment Operations Legislation Amendment (Control of Burning) Regulation 2006</i> . GG No 106 of 25.8.2006, p 6616. Date of commencement, 1.9.2006, cl 2.
	(524)	<i>Protection of the Environment Operations (Penalty Notices) Amendment (Used Packaging Materials) Regulation 2006</i> . GG No 111 of 1.9.2006, p 7441. Date of commencement, on gazettal.
2007	(123)	<i>Protection of the Environment Operations (General) Amendment (Vehicle Testing and Inspection) Regulation 2007</i> . GG No 36 of 2.3.2007, p 1490. Date of commencement, on gazettal.

Table of amendments

Sch 1	Am 2005 (241), Sch 2; 2005 (497), Sch 2 [1] [2]; 2005 (535), Sch 1 [1] [2]; 2006 (218), Sch 1 [1] [2]; 2006 (491), Sch 3 [1] [2]; 2006 (524), Sch 1; 2007 (123), Sch 2.2.
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