

# Contaminated Land Management Regulation 2008

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Contaminated Land Management Act 1997*.

Minister for Climate Change and the Environment

## Explanatory note

The object of this Regulation is to remake, with some amendments, the provisions of the *Contaminated Land Management Regulation 1998* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The amendments made by this Regulation are as follows:

- (a) the fees in relation to accreditation as a site auditor are increased as is the rate at which the Environment Protection Authority (the "EPA") may recover certain costs,
- (b) a notification that land is contaminated is no longer required to be in a prescribed form, instead it is to be given in the manner and form approved by the EPA,
- (c) a number of offences under the Act are prescribed as offences in respect of which a penalty notice (on-the-spot fine) may be issued.

This Regulation also makes provision with respect to the following:

- (a) the time within which an application for renewal of accreditation as a site auditor must be made,
- (b) the particulars to be included in a site auditor's annual return,
- (c) the additional material that the EPA is to maintain a record of,
- (d) the time within which a statement of reasons for certain determinations of the EPA must be provided to persons requesting them,
- (e) savings and formal matters.

This Regulation is made under the *Contaminated Land Management Act 1997*, including sections 34, 50 (2) (c), 51 (5), 52 (1) (c) and (9), 53D (3), 58 (1) (f), 92A, 106 (2) and 112 (the general regulation-making power).

## 1 Name of Regulation

This Regulation is the *Contaminated Land Management Regulation 2008*.

## 2 Commencement

This Regulation commences on 1 September 2008.

This Regulation replaces the *Contaminated Land Management Regulation 1998* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

## 3 Definition

- (1) In this Regulation: "**the Act**" means the *Contaminated Land Management Act 1997*.
- (2) Notes in this Regulation do not form part of this Regulation.

## 4 Recovery of EPA's administrative costs associated with orders

- (1) For the purposes of section 34 (a), (b) and (c) of the Act, the rate of \$60 per hour (or part of an hour) is prescribed in respect of preparing and serving, monitoring action

under, and seeking compliance with, an investigation or remediation order.

(2) On service of an investigation or remediation order, the EPA is to give the person on whom the order is served written notification of the rate prescribed by this clause.

## **5 Accreditation fees**

(1) For the purposes of section 50 (2) (c) of the Act, the prescribed application fee is \$1,000.

(2) For the purposes of sections 51 (5) and 52 (9) of the Act the prescribed accreditation fee is as follows:

(a) if the accreditation period is 1 year or less--\$7,000,

(b) if the accreditation period is 2 years or less but more than 1 year--\$14,000,

(c) if the accreditation period is greater than 2 years--\$21,000.

## **6 Time for making renewal applications**

For the purposes of section 52 (1) (c) of the Act, an application for renewal must be made not more than 60 days and not less than 30 days before expiry of the current accreditation period.

## **7 Particulars to be included in annual returns**

For the purposes of section 53D (3) of the Act, the prescribed particulars to be included in an annual return are the following particulars of each site audit as at the date of completion of the audit (or if the audit is not complete, as at the date of the annual return):

(a) the location of the site (including Lot and DP numbers, street address, suburb and local government area),

(b) the size of the site, its land zoning under the *Environmental Planning and Assessment Act 1979* and (if a change in zoning is proposed) its proposed zoning,

(c) the date when the auditor received the request,

(d) the date of commencement of the audit,

(e) the date or expected date of completion of the audit,

(f) the use or uses of the site that have given rise to the contamination for which remedial action was carried out,

(g) the current use to which the site is being put and any proposed uses,

(h) the auditor's opinion as to the suitability of the site for the current and proposed uses,

(i) the name of the person who carried out the remedial work that was reviewed or is being reviewed by the auditor and the titles of the reports (if any) by that person that were or are being reviewed.

## **8 EPA's record of current declarations and orders**

For the purposes of section 58 (1) (f) of the Act, a copy of any notice served under section 28 of the Act (that is, a notice requiring the maintenance of remediation action in relation to land) is prescribed.

## **9 Duty to report contamination**

A notification under section 60 (1) or (2) of the Act (that is, a notification that land has been contaminated) is to be given in a manner and form approved by the EPA.

## **10 Penalty notices**

For the purposes of section 92A of the Act:

(a) each offence arising under a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence, and

(b) the prescribed penalty for such an offence is the amount specified in relation to the offence in Column 2 of Schedule 1 (in respect of an individual) or in Column 3 of Schedule 1 (in respect of a corporation).

## **11 Reasons for certain decisions**

A statement of reasons requested as referred to in section 106 (1) of the Act must be provided to the person making the request within 30 days after the EPA receives the request.

## 12 Saving

Any act, matter or thing that, immediately before the repeal of the *Contaminated Land Management Regulation 1998*, had effect under that Regulation continues to have effect under this Regulation.

## Schedule 1 Penalty notice offences

(Clause 10)

Column 1	Column 2	Column 3
Offence	Penalty--Individual	Penalty--Corporation
	Offences under the Act	
Section 17 (4)	\$1,500	\$5,000
Section 23 (6)	\$1,500	\$5,000
Section 28 (4)	\$1,500	\$5,000
Section 48 (1)	\$750	--
Section 48 (2)	--	\$1,500
Section 60 (1)	\$750	\$1,500
Section 60 (2)	\$750	\$1,500
Section 89 (1)	\$500	\$1,000

## Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
Cll	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Contaminated Land Management Regulation 2008* (355). GG No 100 of 22.8.2008, p 7742. Date of commencement, 1.9.2008, cl 2.