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Environmental Management and Pollution Control (Distributed Atmospheric Emissions) Regulations 2018

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TASMANIA

Environmental Management and Pollution Control (Distributed Atmospheric Emissions) Regulations 2018

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the Environmental Management and Pollution Control Act 1994 .

23 January 2018

C. WARNER

Governor

By Her Excellency's Command,

ELISE ARCHER

Minister for Environment and Parks

PART 1 - Preliminary

1. Short title

These regulations may be cited as the Environmental Management and Pollution Control (Distributed Atmospheric Emissions) Regulations 2018 .

2. Commencement

These regulations take effect on the day on which their making is notified in the *Gazette*.

3. Interpretation

In these regulations, unless the contrary intention appears –

AS/NZS 4012:2014 means the Australian and New Zealand Standard AS/NZS 4012 entitled "Domestic solid fuel burning appliances – Method for determination of power output and efficiency" published by Standards Australia and Standards New Zealand in 2014;

AS/NZS 4013:1999 means the Australian and New Zealand Standard AS/NZS 4013 entitled "Domestic solid fuel burning appliances – Method for determination of flue gas emission" published by Standards Australia and Standards New Zealand in 1999;

AS/NZS 4013:2014 means the Australian and New Zealand Standard AS/NZS 4013 entitled "Domestic solid fuel burning appliances – Method for determination of flue gas emission" published by Standards Australia and Standards New Zealand in 2014;

certificate of compliance has the meaning given by regulation 6(1) ;

heater means a heating appliance that burns solid fuel;

laboratory certificate means a laboratory certificate issued and in force under regulation 7 ;

model, in relation to a heater, means a heater of a particular design made by a particular manufacturer;

pellet fuel means pellet fuel as defined in the Australian and New Zealand Standard AS/NZS 5078 entitled "Domestic solid fuel burning appliances – Pellet heaters – Method for determination of power output and efficiency" published by Standards Australia in 2007, as amended or substituted from time to time;

pellet heater means pellet heater as defined in the Australian and New Zealand Standard AS/NZS 5078 entitled "Domestic solid fuel burning appliances – Pellet heaters – Method for determination of power output and efficiency" published by Standards Australia in 2007, as amended or substituted from time to time.

4. Non-application of regulations

(1) These regulations do not apply to the manufacture, importation into Tasmania for sale, wholesale sale, retail sale or private sale of –

(a) a pellet heater; or

(b) a masonry heating appliance that is built on site; or

(c) a central-heating appliance, as defined in AS/NZS 4012:2014 and AS/NZS 4013:2014, intended for use solely for cooking; or

(d) a cooking stove appliance, as defined in AS/NZS 4012:2014 and AS/NZS 4013:2014, intended for use solely for cooking; or

(e) an appliance intended for use solely for heating water; or

(f) an appliance intended for use solely for distributing heat through ducts; or

(g) an appliance that, when fired at the high burn rate as set out in AS/NZS 4013:2014, has a maximum carbon dioxide output from the combustion chamber of less than 5% by volume when any optional doors that are fitted are closed; or

(h) an appliance with volumetric flow rates through the combustion chamber that are too high to allow for total smoke capture by the method described in AS/NZS 4013:2014; or

(i) a heater intended solely for use outdoors.

(2) These regulations do not apply to –

(a) heaters manufactured or imported for use in primary industry or a secondary industry; or

(b) heaters sold for use in primary industry or a secondary industry; or

(c) heaters modified for use in primary industry or a secondary industry; or

(d) heaters, fireplaces, barbecues, hot water heating appliances or cooking appliances used in primary industry or a secondary industry.

(3) These regulations do not apply to a heater that is not used for burning fuel but is sold for –

(a) recycling; or

(b) display in a museum; or

(c) any other use not involving the burning of fuel in the heater.

(4) These regulations do not apply to the sale of a heater installed in, and sold together with, a building or land.

(5) These regulations do not apply to the sale of parts of a heater, not including the firebox of a heater, for –

(a) the repair of other heaters; or

(b) the manufacture of new heaters that comply with AS/NZS 4012:2014 and AS/NZS 4013:2014; or

(c) scrap metal recycling.

PART 2 - Heaters to comply with AS/NZS 4012:2014 and AS/NZS 4013:2014

5. Manufacture, importation into Tasmania for sale, and sale, of heaters

(1) A person must not manufacture, or import into Tasmania for sale, a heater unless the heater complies with AS/NZS 4012:2014 and AS/NZS 4013:2014.

Penalty: Fine not exceeding 100 penalty units.

(2) For the purposes of subregulation (1) , a heater is taken to comply with AS/NZS 4012:2014 and AS/NZS 4013:2014 if a laboratory certificate is issued in respect of it demonstrating that it complies with AS/NZS 4012:2014 and AS/NZS 4013:2014.

(3) A person must not sell a heater to any other person unless –

- (a) the model of heater complies with AS/NZS 4012:2014 and AS/NZS 4013:2014; and
- (b) a plate is affixed to the heater containing the information required under AS/NZS 4012:2014 and AS/NZS 4013:2014.

Penalty: Fine not exceeding 50 penalty units.

(4) For the purposes of subregulation (3)(a) , a model of a heater complies with AS/NZS 4012:2014 and AS/NZS 4013:2014 –

- (a) if a certificate of compliance is issued in respect of the model of heater; or
- (b) where the Director has not approved a scheme for heater compliance certification under regulation 6(2) , if a laboratory certificate certifying that the model of heater complies with AS/NZS 4012:2014 and AS/NZS 4013:2014 is issued.

(5) A person must not sell or give away the firebox of a heater to any other person unless the firebox –

- (a) is taken from a heater that complies with subregulation (3) ; or
- (b) is designed for use in a heater that complies with subregulation (3) ; or
- (c) is sold or given away for a use not involving the burning of fuel in the firebox.

Penalty: Fine not exceeding 50 penalty units.

6. Certificates of compliance

(1) A certificate of compliance is a certificate that –

- (a) states that the model of heater in respect of which the certificate is issued complies with AS/NZS 4012:2014 and AS/NZS 4013:2014; and
- (b) is issued in accordance with an approved scheme.

(2) In subregulation (1) –

approved scheme means a scheme for heater compliance certification that is approved in writing by the Director as a scheme under which certificates of compliance for models of heaters may be issued.

(3) If a certificate of compliance does not comply with this regulation it is invalid.

7. Laboratory certificates

(1) A laboratory certificate is a certificate that is issued by –

- (a) a laboratory registered with the National Association of Testing Authorities for testing for the purposes of AS/NZS 4012:2014 and AS/NZS 4013:2014; or

(b) an approved laboratory.

(2) In subregulation (1) –

approved laboratory means a laboratory that is approved in writing by the Director as a laboratory for testing for the purposes of AS/NZS 4012:2014 and AS/NZS 4013:2014.

(3) If a laboratory certificate does not comply with this regulation it is invalid.

8. Modification of heaters

(1) A person must not modify a heater in a manner that is reasonably likely to increase emissions from the heater beyond the level specified for that model of heater in AS/NZS 4013:1999 or AS/NZS 4013:2014.

Penalty: Fine not exceeding 50 penalty units.

(2) A person must not remove, or alter or remove any information on, a plate affixed to a heater displaying the information required, for that model of heater, in AS/NZS 4012:2014, AS/NZS 4013:1999 or AS/NZS 4013:2014.

Penalty: Fine not exceeding 50 penalty units.

(3) Subregulation (1) does not apply to a person temporarily modifying a heater during the course of making repairs to the heater.

PART 3 - Emission of Smoke from Heaters, Fireplaces, Barbecues, &c.

9. Emission of smoke from heaters, fireplaces, barbecues, &c.

(1) A person who is the occupier of a building or land is not to cause, or allow, to be emitted, from a heater, fireplace, barbecue, hot water heating appliance, cooking appliance, or heater or appliance specified in regulation 4(1), smoke that –

(a) is visible for a continuous period of 10 minutes or more; and

(b) during that continuous 10-minute period, is visible for a continuous period of 30 seconds or more –

(i) in the case of a heater, fireplace, barbecue, hot water heating appliance or cooking appliance in a building, at a distance of 10 metres or more from the point on the building where the smoke is emitted; or

(ii) in the case of a heater, fireplace, barbecue, hot water heating appliance or cooking appliance that is not in a building, at a distance of 10 metres or more from the point where the smoke is emitted.

(2) If an authorized officer or a council officer is of the opinion that a person who appears to be the occupier of a building or land is contravening subregulation (1), the officer may serve a written notice on that person requiring him or her to take action, within 21 days after the day on which the written notice is served on him or her, to reduce the emission of smoke from the heater, fireplace, barbecue, hot water heating appliance or cooking appliance so that it complies with that subregulation when in use.

(3) A person served with a written notice under subregulation (2) must comply with that written notice.

Penalty: Fine not exceeding 10 penalty units.

PART 4 - Solid Fuels Burnt in Heaters, Fireplaces, Barbecues, &c.

10. Solid fuels burnt in heaters, fireplaces, barbecues, &c.

(1) A person must not burn solid fuel in a heater, fireplace, barbecue, hot water heating appliance, cooking appliance, or heater or appliance specified in regulation 4(1) , unless that solid fuel is –

- (a) unpainted, untreated and uncontaminated wood; or
- (b) vegetative waste; or
- (c) pellet fuel; or
- (d) a briquette; or
- (e) paper; or
- (f) coal; or
- (g) charcoal; or
- (h) peat.

Penalty: Fine not exceeding 50 penalty units.

(2) This regulation does not apply to a person burning a solid fuel that is an accelerant if it is used only for the purpose of lighting solid fuel of a kind referred to in subregulation (1) in a heater, fireplace, barbecue, hot water heating appliance or cooking appliance.

PART 5 - Wastes or Fuels Burnt in Open or in Incinerators on Land

11. Wastes or fuels burnt in open or in incinerators on land

(1) A person must not burn waste or fuel in the open or in an incinerator on land that has an area of less than 2 000 square metres, unless the waste or fuel –

(a) is –

- (i) unpainted, untreated and uncontaminated wood; or
- (ii) vegetative waste; or
- (iii) vegetation; or
- (iv) paper; or
- (v) charcoal; or
- (vi) peat; and

(b) is burnt –

- (i) in accordance with a council by-law made in accordance with the Local Government Act 1993 ; or
- (ii) in accordance with a permit issued under the Fire Service Act 1979 ; or
- (iii) for the sole or primary purpose of reducing a potential fire hazard.

Penalty: Fine not exceeding 50 penalty units.

(2) A person must not burn waste or fuel in the open or in an incinerator on land that has an area of 2 000 square metres or more, unless the waste or fuel is –

- (a) unpainted, untreated and uncontaminated wood; or
- (b) vegetative waste; or
- (c) vegetation; or
- (d) paper; or
- (e) charcoal; or
- (f) peat.

Penalty: Fine not exceeding 50 penalty units.

(3) This regulation does not apply to a person burning waste or fuel that is an accelerant, if it is used only for the purpose of lighting waste or fuel of a kind referred to in subregulations (1) and (2) in the open or in an incinerator.

PART 6 - Miscellaneous

12. Prescribed offences

For the purposes of section 72 of the Environmental Management and Pollution Control Act 1994 –

- (a) an offence specified in column 1 of the table in Schedule 1 is a prescribed offence; and
- (b) a penalty specified in column 2 of the table in Schedule 1 is the penalty prescribed as applicable for the offence to which it relates.

13. Expiry

These regulations expire one year after it commences, inclusive of the day on which it commences.

SCHEDULE 1 - Environmental Infringement Notices

Regulation 12

	Column 2 Regulation	Column 3 Penalty (Penalty units)
1.	5(1)	10
2.	5(3)	5
3.	5(5)	5
4.	8(1)	5
5.	8(2)	5
6.	9(3)	2
7.	10(1)	5
8.	11(1)	5
9.	11(2)	5

Displayed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 31 January 2018