



AUSTRALIAN CAPITAL TERRITORY

Water Pollution (Amendment) Act 1989

No. 3 of 1989

An Act to amend the *Water Pollution Act 1984*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Water Pollution (Amendment) Act 1989*.

Commencement

2. This Act commences on such date as is fixed by the Minister by notice in the *Gazette*.

Principal Act

3. In this Act, “Principal Act” means the *Water Pollution Act 1984*.¹

Interpretation**4.** Section 5 of the Principal Act is amended—

- (a) by omitting subparagraphs (b) (i) and (ii) of the definition of “waste” in subsection (1) and substituting the following subparagraphs:

“(i) suspended solids;

(ii) dissolved solids;

(iiA) a gas other than oxygen;” and

- (b) by inserting in subsection (1) the following definitions:

“ ‘analyst’ means a person appointed by the Minister under section 37A;

‘dissolved solids’, in relation to material, means solids in the material that pass through a standard glass filter and remain after evaporation;

‘Manual’ means the Water Pollution Manual prepared pursuant to section 37C, being that Manual as amended and in force from time to time;

‘suspended solids’, in relation to material, means solids in the material that are retained on a standard glass filter after the material passes through the filter;”.

Insertion

5. After Division 2 of Part IV of the Principal Act, the following Division is inserted:

“Division 2A—Analysis

Appointment of analysts

“37A. The Minister may, by instrument, appoint persons to be analysts for the purposes of this Act.

Analysts’ power of entry

“37B. (1) An analyst may accompany the Authority or an inspector who has entered premises in pursuance of section 32, 33, 34, 35 or 36 in order to conduct such tests as are necessary to determine whether the provisions of this Act and the regulations are being complied with.

“(2) A person shall not, without reasonable excuse, obstruct or hinder an analyst in the exercise of his or her powers under subsection (1).

Penalty: \$1,000 or imprisonment for 6 months, or both.

“(3) An analyst who enters premises in pursuance of subsection (1) is not authorised to remain on the premises if, on request by the occupier or person apparently in charge of the premises, the analyst does not produce a copy of the instrument referred to in section 37A.

Water Pollution Manual

“37C. (1) The Authority shall cause a manual, called the Water Pollution Manual, to be prepared.

“(2) The Manual shall specify the methods to be used by analysts in analysing samples of water or waste for the purposes of this Act.

“(3) The Authority may, by instrument, amend the Manual.

“(4) The Authority shall, within 7 days after the completion of the preparation of the Manual or an amendment, give the Minister a copy of the Manual or amendment.

Publication, tabling and disallowance of Manual

“37D. The Manual and each amendment are disallowable instruments for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Interpretation of Manual

“37E. Unless the contrary intention appears, an expression used in the Manual shall have the same meaning as it would have if the Manual were regulations made under this Act.

Inspection of Manual

“37F. (1) The Authority shall keep a copy of the Manual at his or her office at all times.

“(2) Any person may, upon request at any time at which the Authority’s office is open for business, inspect the copy of the Manual kept by the Authority.

Evidence of Manual

“37G. (1) In any proceedings, evidence of the Manual as in force on a specified date or during a specified period may be given by the production of a copy of the Manual certified by the Authority, in writing, to be a true copy of the Manual, as at that date or during that period.

“(2) For the purposes of subsection (1), a certificate that purports to have been signed by the Authority shall be taken to have been so signed unless the contrary is proved.

Evidence of analysis

“37H. (1) In any proceedings, a certificate purporting to be signed by an analyst and stating—

- (a) that he or she has analysed, or caused to be analysed, a sample from a sealed container to which was affixed a label purporting to be signed by the Authority or an inspector named in the certificate and bearing particulars of the date and time when, and the place at which, the sample was taken by the Authority or the inspector, as the case may be;
- (b) the analysis to which the sample was subjected; and
- (c) the result of the analysis;

is evidence of the matters stated and of the facts on which they are based.

“(2) Evidence of the result of an analysis of a sample of water or waste is inadmissible in proceedings for an offence against this Act or the regulations for the purpose of establishing the presence of a substance in the sample unless the sample was taken, preserved and analysed in accordance with the Manual.

“(3) Evidence of the result of an analysis of a sample of water or waste is not rendered inadmissible by reason only that the analysis was not carried out in accordance with the Manual if the departure from the requirements set out in the Manual was not such as could significantly affect the result of the analysis.”.

Repeal

6. Sections 42, 43 and 44 of the Principal Act are repealed.

Application

7. (1) Notwithstanding section 6, section 44 of the Principal Act as in force immediately before the commencement of this Act continues to apply in relation to proceedings instituted but not completed before that commencement.

(2) Section 37H of the Principal Act as amended by this Act applies only in relation to proceedings instituted after the commencement of this Act.

NOTE

1. Ordinance No. 65, 1984 as amended by No. 67, 1985; No. 8, 1988; Nos. 21 and 38, 1989.

[Minister's presentation speech made in Assembly on 31 May 1989]