

AUSTRALIAN CAPITAL TERRITORY

Air Pollution (Amendment) Ordinance 1987

No. 54 of 1987

I, THE ADMINISTRATOR of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 25 September 1987.

J. A. ROWLAND
Administrator

By His Excellency's Command,

JOHN BROWN
Minister of State for the Arts, Sport,
the Environment, Tourism and Territories

An Ordinance to amend the *Air Pollution Ordinance 1984*

Short title

1. This Ordinance may be cited as the *Air Pollution (Amendment) Ordinance 1987*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Air Pollution Ordinance 1984*.²

Exemption

3. Section 6 of the Principal Ordinance is amended by adding at the end the following subsection:

(Ord. 43/87)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

“(4) In subsection (1), ‘dwelling-house’ includes any part of a building which is occupied, or has been designed for occupation, as a separate residence but, in the case of a building that contains 2 or more parts occupied or designed for occupation as separate residences, does not include any part of the building used or designed for use in common by persons who occupy those parts of the building as separate residences.”.

Emission of pollutants in excess of prescribed concentrations

4. Section 23 of the Principal Ordinance is amended:

- (a) by omitting from subsection (1) “An occupier of premises” and substituting “A person”; and
- (b) by omitting from subsection (2) “An occupier of premises” and substituting “A person”.

Fugitive emissions

5. Section 24 of the Principal Ordinance is amended:

- (a) by omitting from subsection (1) “an occupier of premises” and substituting “a person”; and
- (b) by omitting from subsection (1) “the occupier” and substituting “the person”.

Fires in open air

6. Section 27 of the Principal Ordinance is amended:

- (a) by inserting after paragraph (2) (a) the following paragraph:
 - “(aa) the burning of plant matter on unleased land in accordance with a permit issued under section 27A;”;
- (b) by omitting the penalty set out at the foot of subsection (1) and substituting the following penalty:
 - “Penalty: (a) in the case of a body corporate—\$2,500; and
 - (b) in the case of a natural person—\$500.”.

7. After section 27 of the Principal Ordinance the following section is inserted:

Permit for burning plant matter

“27A. (1) On application in accordance with a form approved by it, the Authority may issue a permit for the burning of plant matter on unleased land on specified days and at specified times and subject to other specified conditions (if any).

“(2) A permit shall not be issued unless the Authority is satisfied that:

(a) the purpose of burning the plant matter will be:

- (i) to reduce a fire hazard; or
- (ii) to clear the land; and

(b) it would not be against the public interest for the plant matter to be burned in accordance with the proposed permit.

“(3) In considering the public interest in relation to a proposed permit, the Authority shall have regard to:

- (a) the quantity and type of pollutant likely to be emitted by the burning;
- (b) whether the expected meteorological conditions are such that it is likely that the pollutant would be carried to a place where it could cause damage to the health of, or discomfort to, members of the public; and
- (c) whether it would be impractical or uneconomic to remove the plant matter by some means other than burning.

“(4) Where the Authority refuses to issue a permit, the Authority shall, by notice in writing, inform the applicant of the refusal.”

Review of decisions

8. Section 44 of the Principal Ordinance is amended by inserting before paragraph (a) the following paragraph:

“(aa) refusing to issue a permit under section 27A or issuing such a permit subject to specified conditions;”.

9. Section 45 of the Principal Ordinance is repealed and the following section substituted:

Notification of decisions

“45. (1) A notice under subsection 27A (4) or 30 (3), or section 31, shall:

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the

Administrative appeals Tribunal for a review of the decision to which the notice relates; and

- (b) except where subsection 28 (4) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 28 of that Act.

“(2) The validity of a decision referred to in subsection (1) shall not be taken to have been affected by a failure to comply with that subsection.”

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 7 October 1987.
2. No. 59, 1984 as amended by Nos. 67 and 72, 1985; Nos. 12, 74 and 85, 1986.