



AUSTRALIAN CAPITAL TERRITORY

Air Pollution (Amendment) Act 1993

No. 92 of 1993

An Act to amend the *Air Pollution Act 1984* and for related purposes

[Notified in ACT Gazette S258: 17 December 1993]

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

Short title

1. This Act may be cited as the *Air Pollution (Amendment) Act 1993*.

Commencement

2. This Act commences on the day on which it is notified in the *Gazette*.

Principal Act

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

Interpretation

4. Section 4 of the Principal Act is amended by inserting in subsection (1) the following definitions:

“ ‘AS 4013’ means Australian Standard 4013, ‘Domestic solid fuel burning appliances—Method for determination of flue gas emission’;

‘maximum lead concentration’ means the lead concentration specified in subregulation 30F (5) of the Clean Air Regulations 1964 of New South Wales;

‘sell’ includes exchange and offer for sale;

‘solid fuel-burning equipment’ means fuel-burning equipment that is designed to burn hard wood, soft wood or briquettes;”.

Substitution

5. Section 6 of the Principal Act is repealed and the following section substituted:

Application

“6. (1) Nothing in this Act applies in relation to a railway locomotive, vessel or aircraft.

“(2) Nothing in this Act, other than Part IIIA, applies in relation to a motor vehicle.

“(3) This Act, other than sections 24, 33, 34 and 35, applies in relation to residential premises.”.

Insertion

6. After section 24 of the Principal Act the following sections are inserted:

Sale of solid fuel-burning equipment

“24A. (1) A person shall not sell solid fuel-burning equipment, other than prescribed equipment, for use on residential premises unless—

- (a) it complies with AS 4013; and
- (b) a certificate of compliance has been issued in relation to it by a person or body authorised by the Authority by instrument for the purposes of this paragraph.

“(2) A person who, without reasonable excuse, contravenes subsection (1) is guilty of an indictable offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a natural person—\$3,000; or
- (b) in the case of a body corporate—\$15,000.

“(3) A certificate of compliance issued in accordance with paragraph (1) (b) shall specify that—

- (a) the person or body issuing the certificate has tested an appliance that is the same as the appliance to which the certificate relates in accordance with the test procedure specified in AS 4013; and
- (b) the appliance tested had an appliance particulate emission factor not greater than the maximum allowable appliance particulate emission factor specified in section 7 of AS 4013.

“(4) An instrument under paragraph (1) (b) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

“(5) Paragraph 6 (1) (c) and subsections 6 (7), (7A) and (7B) of the *Subordinate Laws Act 1989* apply to an instrument under paragraph (1) (b) as if a reference in each of those provisions to 15 sitting days were a reference to 5 sitting days.

Interference with solid fuel-burning equipment or attached plates

“24B. (1) A person shall not alter the information on, or remove, a plate attached to solid fuel-burning equipment that contains information required to be marked on a plate in accordance with section 10 of AS 4013.

“(2) A person who sells solid fuel-burning equipment for use on residential premises, or installs solid fuel-burning equipment on residential premises, shall not alter in a material way—

- (a) the structure, exhaust system or inlet air system of the equipment; or
- (b) a part of the equipment that is involved in the combustion process.

“(3) Subsection (2) does not apply to the sale or installation of prescribed equipment.

“(4) A person who, without reasonable excuse, contravenes subsection (1) or (2) is guilty of an indictable offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a natural person—\$3,000; or
- (b) in the case of a body corporate—\$15,000.”.

Summary proceedings for indictable offences

7. Section 25 of the Principal Act is amended by omitting from subsections (1) and (2) “or 24 (2)” and substituting “, 24 (2), 24A (2) or 24B (4)”.

Conduct of employee or agent of body corporate

8. Section 26 of the Principal Act is amended by omitting from subsection (1) “and 24” and substituting “, 24, 24A and 24B”.

Prohibition of sale of leaded petrol unless low lead

9. Section 42BA of the Principal Act is amended by omitting from subsections (4), (5) and (6) “0.40 grams of lead” and substituting “the maximum lead concentration”.

Type of petrol to be used

10. Section 42E of the Principal Act is amended by omitting from paragraph (1) (b) “0.40 grams of lead” and substituting “the maximum lead concentration”.

Further amendments

11. The Principal Act is amended as set out in the Schedule.

Application

12. Sections 24A and 24B of the Principal Act as amended by this Act apply in relation to the sale of solid fuel-burning equipment manufactured or imported after the commencement of this Act.

SCHEDULE

Section 11

FURTHER AMENDMENTS**Subsection 4 (1)—**

Omit “(1)” (first occurring).

Subsection 7 (2)—

Omit “his”.

Subsection 7 (3)—

Insert “or she” after “he”.

Section 8—

(a) Omit “his”.

(b) Insert “or her” after “him”.

SCHEDULE—continued

Subsection 9 (2)—

- (a) Insert “or her” after “his” (first and second occurring).
- (b) Omit “his” (last occurring), substitute “the person’s”.

Paragraph 11 (1) (b)—

Insert “or her” after “his”.

Subsection 11 (5)—

- (a) Omit “he resigns his”, substitute “the person resigns his or her”.
- (b) Insert “or her” after “him”.

Subsection 11 (6)—

Omit “he”, substitute “the person”.

Subsection 11 (7)—

- (a) Insert “or her” after “his” (wherever occurring).
- (b) Omit “him”, substitute “the person”.

Subsection 37 (1)—

Insert “or she” after “he”.

Subsection 37 (2)—

- (a) Insert “or she” after “he” (wherever occurring).
- (b) Insert “or her” after “him”.

Subsection 37 (3)—

Insert “or she” after “he” (first occurring).

Paragraphs 37 (3) (b) and (g)—

Insert “or she” after “he”.

Paragraph 37 (3) (h)—

Insert “or her” after “his”.

Section 38—

Insert “or she” after “he”.

Subsection 39 (1)—

- (a) Insert “or she” after “he”.
- (b) Insert “or her” after “his”.

SCHEDULE—continued**Subsection 39 (4)—**

- (a) Insert “or she” after “he” (wherever occurring).
- (b) Insert “or her” after “his”.
- (c) Omit “him”, substitute “the Authority or inspector”.

Subsection 40 (1)—

- (a) Insert “or she” after “he” (first and second occurring).
- (b) Insert “or her” after “his”.

Paragraph 40 (1) (a)—

Omit “he”, substitute “the Authority or inspector”.

Subsection 40 (2)—

- (a) Insert “or she” after “he” (wherever occurring).
- (b) Insert “or her” after “him”.

Subsection 41 (1)—

- (a) Insert “or she” after “he”.
- (b) Omit “his”.

Subsection 41 (2)—

Insert “or she” after “he” (first occurring).

Paragraphs 41 (2) (a), (b) and (c)—

Omit the paragraphs, substitute the following paragraphs:

- “(a) of the fact that the person has been informed that he or she may refuse to give consent;
- (b) of the fact that the person has voluntarily given consent; and
- (c) of the date on which, and the time at which, the person gave consent.”.

Paragraph 42 (a)—

Insert “or her” after “his”.

Paragraph 43 (a)—

Insert “or she” after “he”.

SCHEDULE—continued

Paragraph 46 (3) (a)—

Insert “or her” after “him”.

Paragraph 46 (3) (b)—

Insert “or her” after “his”.

Paragraph 46 (3) (c)—

Omit “him at his”, substitute “the person at his or her”.

NOTE

1. Reprinted as at 1 March 1993. See also Acts Nos. 44 and 74, 1993.

[Presentation speech made in Assembly on 25 November 1993]

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