

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY

ENVIRONMENT PROTECTION REGULATIONS (AMENDMENT)

EXPLANATORY MEMORANDUM

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Brendan Smyth MLA
Minister for Urban Services

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Regulations 1 & 2 - Formal requirements

Regulations 1 & 2 are formal requirements, specifying commencement, and identifying the Environment Protection Regulations as the Principal Regulations. The Environment Protection Regulations (Amendment) will take effect from the date on which they are notified in the *Gazette*.

Regulation 3 - Interpretation

This regulation amends the meanings of certain terms already defined in the Principal Regulations.

Sub-paragraph (a)

This sub-paragraph amends the definition of "affected land" to enable occupiers of unit titled sole occupancy units (eg flats, townhouses) to lodge a complaint regarding the excessive noise originating from another unit within the same complex.

Sub-paragraph (b)

This sub-paragraph improves the readability of the definition of "affected occupier" by removing an unnecessary "and" from this definition.

Sub-paragraph (c)

This sub-paragraph amends the definitions of "threshold concentration" and "threshold quantity" in relation to PCBs to give them meaning which is technically correct and consistent with the PCB Management Plan.

Sub-paragraph (d)

This sub-paragraph amends the definition of "zone noise standard" so it makes a reference to the correct column of Table 1 in Schedule 2.

Regulation 4 - Substitution

This regulation repeals regulation 15 of the Principal Regulations dealing with agricultural and veterinary

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chemical products (Agvet chemical products) and replaces it with new regulations dealing with Agvet chemical products and with controlled waste.

Paragraph 15 “Entry of Agvet chemical products into the environment”

This paragraph prescribes Agvet chemical products which are used otherwise than in accordance with the:

- terms of registration by the National Registration Authority for Agricultural and Veterinary Chemicals (NRA); or
- terms specified in the permit for the use of an Agvet chemical issued by the NRA.

as pollutants for the purpose of Section 5(b) of the *Environment Protection Act 1997*.

Paragraph 15 A Prescribed pollutant – Controlled waste”

This paragraph prescribes controlled waste (as defined in Regulation 6) as a pollutant for the purpose of Section 5(b) of the *Environment Protection Act 1997*.

Regulation 5 - Interpretation

This regulation corrects a minor drafting inconsistency, namely, amends the definition of “discarded domestic article” to refer to air conditioning equipment rather than to air conditioner equipment.

Regulation 6 - Insertion

This regulation introduces Division 4 “Transport of Controlled Waste” which establishes a system for managing the interstate transport of controlled waste. The adopted approach is consistent with the National Environment Protection (Movement of Controlled Waste between States and Territories) Measure (the CWNEPM) made on 26 June 1998 by the National Environment Protection Council.

Paragraph 23A “Interpretation”

Not all terms used in Division 4 are defined. Some simply have their dictionary definition, while others are terms which are used in many legislation and are defined in the *Interpretation Act 1967*.

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The definition of "NEPM" in sub-paragraph (1) identifies the CWNEPM for the purpose of Division 4.

Sub-paragraph (2) adopts the definitions established in the CWNEPM for the purpose of Division 4.

Paragraph 23B "Application"

This section specifies the type of activities to which Division 4 applies. It ensures that only activities to which the CWNEPM applies are covered by the regulations.

Paragraph 23C "Consignment authority"

Sub-paragraph (1) requires controlled waste producer to obtain a consignment authorisation number from the nominated agency (or a facility delegated by that agency) in the State or Territory of destination prior to dispatching controlled waste to that State or Territory.

Sub-paragraph (2) requires controlled waste producer to ensure that transporter hired to transport controlled waste interstate is authorised by the relevant authority.

Paragraph 23D "Required information"

This paragraph requires the controlled waste producer to provide the information specified in the CWNEPM to the controlled waste transporter and to the relevant agency (or delegated facility) in the State or Territory of destination.

Paragraph 23E "Records"

This paragraph requires the controlled waste producer to keep the information relevant to the dispatched consignment of controlled waste for a minimum period of 12 months after the dispatch.

Paragraph 23F "Notification about receipt of controlled waste"

This paragraph requires the controlled waste producer to notify the Environment Management Authority if he or she does not receive (within 14 calendar days from the date on which the waste was dispatched) a confirmation of disposal from the disposal facility to which controlled waste was transported.

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Regulation 7 - Insertion

This regulation introduces Division 1A "Interpretation" to Part IV of the Principal Regulations.

Paragraph 23 G "Interpretation"

This paragraph defines "crown lease", "unit" and "unit title" for the purpose of Part IV of the Principal Regulations.

Regulation 8 - Measurements to be taken at compliance location

This regulation replaces Sub-regulation 25(5)(a) of the Principal Regulations with a new sub-regulation setting compliance locations consistent with the changes introduced to Sub-regulation 27(2) of the Principal Regulations (see Regulation 9 "Noise levels exceeding zone noise standards").

Regulation 9 - Noise levels exceeding zone noise standards (ZNSs)

This regulation amends Sub-regulation 27(2) of the Principal Regulations to give effect to additional protection for occupiers of sole occupancy units. It sets a standard of ZNS - 5dB(A) which will apply inside any other unit located within the same complex under the following circumstances:

- the noise is being emitted from a sole occupancy unit located on a separate crown lease but which is connected by a common wall to another sole occupancy unit or located within the same building; and
- the noise is being emitted from a sole occupancy unit located within the same unit plan (as defined by the *Unit Titles Act 1970*).

Regulation 10 - Complaint to be made by affected person

This regulation amends Sub-regulation 31(b) of the Principal Regulations to reflect the changes introduced to Sub-regulation 27(2). Specifically, it enables occupiers of sole occupancy units of a kind referred to

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in Sub-regulation 27(2) to lodge a complaint to an authorised officer.

Regulation 11 - Sale or hire of articles

This regulation amends Regulation 32 of the Principal Regulations to make it explicit that it applies only to articles sale or hire of which would have been prohibited under the relevant NSW Noise Control legislation.

Regulation 12 - Schedule 2

This regulation rectifies a minor drafting issue, namely, corrects the reference in the item relating to Zone F in Column 4 of Table 1.