

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

**ENVIRONMENT PROTECTION (PRESCRIBED ACTIVITIES)
REGULATIONS 2000**

EXPLANATORY MEMORANDUM

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Minister for Urban Services

ENVIRONMENT PROTECTION (PRESCRIBED ACTIVITIES) REGULATIONS 2000

EXPLANATORY MEMORANDUM

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1 Outline

The Environment Protection (Prescribed Activities) Regulations 2000 have been made to give effect to a Pollutant Load Based Discharge Licensing scheme in the ACT.

There is a need to introduce mechanisms to encourage managers of activities that emit pollutants to reduce emissions to the lowest possible levels.

Pollutants from activities have a spillover cost to the broader community in the form of increasing environmental degradation and reduced amenity. As this cost is not directly borne by the managers of activities that emit the pollutants there is little incentive to improve environmental performance.

Under the *Environment Protection Act 1997*, there are regulatory constraints on emissions set out in environmental authorisation conditions or in Environment Protection Regulations. The levels stipulated are the maximum permissible and there is little incentive to encourage activity managers to reduce their emissions below these maximum levels. In addition there is currently no requirement for managers of some activities that have the potential to emit pollutants to hold an environmental authorisation although they may enter into a voluntary environmental agreement with the Environment Management Authority.

There are a number of activities, which have the potential to pollute, that currently are not required to operate under an environmental authorisation. These activities are included in the NSW licensing scheme, on which the ACT scheme is modelled.

It was therefore necessary to amend the Regulations (Schedule 1 Class A activities) in requiring an Environment Authorisation for those activities which are relevant to the ACT.

2 Formal requirements (Clauses 1, 2 and 3)

Clauses 1 and 2 of the Regulations are formal requirements of all Acts, specifying the title and commencement arrangements. These clauses take effect from the date on which the regulations are notified in the *Gazette*.

Clause 3 defines the regulations as amendments to Schedule 1 of the Environment Protection Act 1997.

3 Objects

Consistent with the objectives of the *Environment Protection Act 1997*, the Prescribed Activities Regulations establish a framework that:

- Encourages improved environmental outcomes
- Encourages activity managers to reduce pollutant emissions to our air, water and soil.
- is relevant to the scale of activities in ACT
- promotes the principles of ecologically sustainable development
- is similar to the NSW scheme giving consistency between jurisdictions

4 Interpretation Schedule 1 [1.1] Clause 1 - Insertion

There are four new definitions in **clause 1**. The words "live animal weight"; "logging", "mobile plant" and "year" have been defined.

Definition of "live animal weight"

Provides a method of calculating live animal weight (similar to NSW) without the necessity to weigh all animals, as a basis for the holding capacity of livestock activities.

Definition of "logging"

Is inclusive of cutting and removal of pulpwood

Definition of "mobile plant"

Allows for the processing of agricultural crops on a temporary basis, for up to six months, in the one location.

Definition of "year"

Any 12 month period. Provides for activity to be measured over a 12 month period from the time the activity starts without being restricted to for example a calendar year 1 January to 31 December or a financial year 1 July to 30 June.

5 Schedule 1 Clause [1.2]

Paragraph 2(b) – Substitution

Paragraph 2(b) amends paragraph 2(b) of Schedule 1 of the Principal Act to incorporate the extraction of any material from a waterway and removes the 1 in 100 year flood level reference which is replaced by the definition of waterway in **Schedule 1 Interpretation** of the Principal Act.

Paragraph 2(ba) – Insertion

Paragraph 2(ba) requires activity managers who operate equipment designed to extract more than 30,000 tonnes of material from land outside waterways to apply for an environmental authorisation. The intent is to regulate quarrying and other similar large extractive operations that have a significant potential to emit pollutants. It is desirable that these activities are regulated and pollutant discharges be minimised consistent with NSW regulations.

Paragraph 2(c) – Substitution

Paragraph 2(c) amends paragraph 2(c) of Schedule 1 of the Principal Act to incorporate the operation of all commercial incineration facilities, not just those facilities conducting commercial incineration activities primarily for the destruction of waste by thermal oxidation.

6 Schedule 1 Clause [1.3]

Paragraph 2(e) - Substitution

Paragraph 2(e) amends paragraph 2(e) of Schedule 1 of the Principal Act. The amendment includes a reference to commercial landfill that receives or intends

to receive more than 5000 tonnes of waste per year, and deletes the specific reference to household or commercial waste disposed of under layers of earth.

7 Schedule 1 Clause [1.4]

New Paragraphs 2(ga) to (ge) - Insertion

Paragraph 2(ga) and (gb) deal with the treatment, handling and storage of contaminated soil and have been included to regulate these activities in a manner similar to that which applies in NSW.

New Paragraphs 2(gc) to (gd) - Insertion

Paragraphs 2(gc) and (gd) relate to substantial sized milking facilities and milk processing facilities. Similar activities are regulated and subject to the Load Based Licensing Scheme in NSW.

New Paragraph 2(ge) - Insertion

Paragraph (ge) is included to regulate large agricultural crop processing that operates from a fixed location. These activities have the potential to pollute the environment from accidental discharges to waterways. Similar activities are regulated and subject to the Load Based Licensing Scheme in NSW.

8 Schedule 1 Clause [1.5]

Paragraph 2(j) - Substitution

Paragraph 2(j) amends paragraph 2(j) of Schedule 1 of the Principal Act to incorporate the designed holding capacity of live animal weight held at any one time. The 200 tonnes live animal weight reflects the size of this type of operation in the ACT.

Paragraphs 2(ja) - Insertion

New Paragraph 2(ja) is included to regulate intensive poultry operations, the size of 180 tonnes live animal weight of birds reflects the size of this industry in the ACT.

Paragraph 2(k) - Substitution

Paragraph 2(k) amends paragraph 2(k) of Schedule 1 of the Principal Act to incorporate the intention sell or exchange 10,000 tonnes live animal weight of animals in a year. Currently the regulations refer to a holding capacity of 500 animals. The regulated activity is the sale or exchange of animals with the potential for environmental degradation dependent on the throughput; this is reflected in the rewording of paragraph 2(k).

Paragraph 2(ka) - Insertion

New Paragraph 2(ka) is included to regulate the operations of abattoirs. These activities have the potential to pollute the environment and similar activities are regulated and subject to the Load Based Licensing Scheme in NSW.

9 Schedule 1 Clause [1.6]

Paragraph 2(m) - Substitution

Paragraph 2(m) amends paragraph 2(m) of Schedule 1 of the Principal Act to incorporate the designed processing capability of cleaning or carbonising of wool facilities. Only those facilities capable of processing greater than 200 tonne of wool per year will be required to apply for an environmental authorisation.

Paragraph 2(ma) - Insertion

New Paragraph 2(ma) is included to regulate tannery or fellmongery activities. These activities have the potential to pollute the environment and similar activities are regulated and subject to the Load Based Licensing Scheme in NSW.

10 Schedule 1 Clause [1.7]

Paragraph 2(v) - Substitution

Paragraph 2(v) amends paragraph 2(v) of Schedule 1 of the Principal Act by removing waste oil recovery activities which are treated as a separate activity under paragraph 2(w). Paragraph 2(v) still regulates the storage of more than 500m³ of petroleum products.

Paragraph 2(w) - Insertion

New Paragraph 2(w) is included to regulate the production of petroleum products. These activities have the potential to pollute the environment through vapours to air and contaminants to water and similar activities are regulated and subject to the Load Based Licensing Scheme in NSW.

Paragraph 2(x) – Insertion

New Paragraph 2(x) is included to regulate large-scale waste petroleum product recovery, processing or disposal facilities. The 20 tonnes per year precludes small operations that collect and recycle oil and better reflects the likely size of major waste oil or grease recovery and treatment that is likely to occur in the ACT. These activities have the potential to pollute the environment and similar activities are regulated and subject to the Load Based Licensing Scheme in NSW.

Paragraph 2(y) – Insertion

New Paragraph 2(y) is included to ensure protection of the environment from commercial helicopter facilities emissions. Only helicopter aerodromes that are used frequently are included and emergency operations are not covered by the regulation. Similar activities are regulated and subject to the Load Based Licensing Scheme in NSW.

Paragraph 2(z) – Insertion

New Paragraph 2(z) is included to ensure protection of the environment from logging operations that log or intend to log more than 5,000 tonnes per year. Similar activities are regulated and subject to the Load Based Licensing Scheme in NSW, however the annual tonnage reflects operations of logging activities in the ACT.

Paragraph 2(za) – Insertion

Paragraph 2(za) is moved from **Schedule 1 Class B activities** of the Principal Act that require activity managers to hold an environmental authorisation if an environmental agreement with the Environment Management Authority is not in place to **Schedule 1 Class A activities** that require an environmental authorisation. Similar activities are regulated and subject to the Load Based Licensing Scheme in NSW, however the annual production volume reflects operations likely to be established in the ACT.

Paragraph 2(zb) – Insertion

New Paragraph 2(zb) is included to regulate the application of biosolids to land. Similar activities are regulated and subject to the Load Based Licensing Scheme in NSW, however the annual production volume reflects operations likely to be occurring in the ACT.

Paragraph 2(zc) – Insertion

New Paragraph 2(zc) covers composting activities. These activities have the potential to pollute through nutrient rich run-off, particulate emissions and odours. Similar activities are regulated and subject to the Load Based Licensing Scheme in NSW.

Paragraph 2(zd) – Insertion

New Paragraph 2(zd) is included to regulate large-scale timber milling, chipping or pulping. Similar activities are regulated and subject to the Load Based Licensing Scheme in NSW.

Paragraph 2(ze) – Insertion

Paragraph 2(ze) is moved from **Schedule 1 Class B activities** of the Principal Act that require activity managers to hold an environmental authorisation if an environmental agreement with the Environment Management Authority is not in place to **Schedule 1 Class A activities** that require an environmental authorisation. Similar activities are regulated and subject to the Load Based Licensing Scheme in NSW,

however the annual production * volume reflects operations likely to be established in the ACT.

Paragraph 2(zf) – Insertion

Paragraph 2(zf) is moved from **Schedule 1 Class B activities** of the Principal Act that require activity managers to hold an environmental authorisation if an environmental agreement with the Environment Management Authority is not in place to **Schedule 1 Class A activities** that require an environmental authorisation. Similar activities are regulated and subject to the Load Based Licensing Scheme in NSW.

Paragraph 2(zg) – Insertion

Paragraph 2(zg) is moved from **Schedule 1 Class B activities** of the Principal Act that require activity managers to hold an environmental authorisation if an environmental agreement with the Environment Management Authority is not in place to **Schedule 1 Class A activities** that require an environmental authorisation. Similar activities are regulated and subject to the Load Based Licensing Scheme in NSW, however the annual production volume reflects operations in the ACT.

Paragraph 2(zh) – Insertion

New Paragraph 2(zh) regulates the large-scale production of bituminous materials. These activities have the potential to cause environmental degradation and similar activities are regulated and subject to the Load Based Licensing Scheme in NSW.

Paragraph 2(zi) – Insertion

New Paragraph 2(zi) regulates crushing and grinding activities. These activities have the potential to emit particulate pollutants to air and water. Similar activities are regulated and subject to the Load Based Licensing Scheme in NSW.

11 Schedule 1 Class B activities Clause [1.8] - Insertion

Paragraph 3(a) – Insertion

Paragraph 3(a) in **Schedule 1 Class B activities** of the Principal Act that require activity managers of smaller facilities manufacturing things in furnaces or kilns to hold an environmental authorisation if an environmental agreement with the Environment Management Authority is not in place. The size of facilities requiring an agreement or authorisation reflects the scale of these activities likely to occur in the ACT.

Paragraph 3(b) – Insertion

Paragraph 3(b) in **Schedule 1 Class B activities** of the Principal Act that require activity managers of smaller wood preservation facilities to hold an environmental authorisation if an environmental agreement with the Environment Management Authority is not in place. The preservation of wood has the potential to cause environmental harm even with small-scale production. The size of facilities requiring an agreement or authorisation reflects the scale of these activities likely to occur in the ACT.