

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

AIR POLLUTION (AMENDMENT) ORDINANCE 1987

ORDINANCE NO. 54 OF 1987

**ISSUED BY AUTHORITY OF THE MINISTER OF STATE FOR THE ARTS, SPORT,
THE ENVIRONMENT, TOURISM AND TERRITORIES**

The Air Pollution Ordinance 1984 (the 'Principal Ordinance') provides a comprehensive code for the regulation of air pollution in the Australian Capital Territory. The Air Pollution (Amendment) Ordinance 1987 amends the Principal Ordinance to provide a further exemption to the prohibition on lighting or maintaining fires in the open air in that the Pollution Control Authority may grant a permit to burn plant matter on unleased land on specified days. When deciding whether to grant a permit, the Pollution Control Authority is to consider the pollutant likely to be emitted by the burning, the expected meteorological conditions and whether it would be impractical or uneconomic to remove the plant matter by some other means. A right of appeal to the Administrative Appeals Tribunal in respect of a refusal to grant a permit is provided. A definition of "dwelling-house" is included in the Principal Ordinance to enable control to be exercised over the burning of waste, other than refuse which is exempted, in incinerators attached to flats.

The effect of each of the provisions of the Ordinance is outlined in the attachment.

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Section 1 cites the short title of the proposed Ordinance as the Air Pollution (Amendment) Ordinance 1987.

Section 2 defines the Principal Ordinance for the purpose of the proposed Ordinance as the Air Pollution Ordinance 1984.

Section 3 amends section 6 of the Principal Ordinance by inserting a definition of 'dwelling-house' to enable control to be exercised over the burning of waste, other than refuse excepted under sub-section 27(2)(b), in incinerators attached to flats.

Section 4 amends section 23 of the Principal Ordinance by substituting the words 'A person' for the words 'An occupier of the premises'.

Section 5 amends section 24 of the Principal Ordinance by substituting the words 'a person' for the words 'an occupier of premises' and the words 'the person' for the words 'the occupier'.

Section 6 amends section 27 of the Principal Ordinance by inserting a new paragraph that provides that the ban on lighting or maintaining a fire in the open air will not apply to the burning of plant matter on unleased land in accordance with a permit issued by the Pollution Control Authority. The amendment increases the penalties applicable to section 27 of the Principal Ordinance to \$500 for a natural person and \$2500 for a body corporate.

Section 7 amends the Principal Ordinance by inserting section 27A to allow the Pollution Control Authority to issue a permit to burn off plant matter on unleased land on specified days and at specified times. The permit may also be subject to special conditions. The new section identifies the criteria the Authority is to have regard to when deciding whether to issue a permit and provides that the Authority is to advise the applicant in writing of any refusal to issue a permit.

Section 8 amends section 44 of the Principal Ordinance by providing that an applicant may appeal to the Administrative Appeals Tribunal if a permit is refused under section 27A or the permit is issued subject to specified conditions.

Section 9 amends section 45 of the Principal Ordinance by:

- . replacing the existing sub-section (1) to provide that notices given under sub-section 27A(4) or 30(3) and section 31 shall include a statement setting out the relevant decision and giving reasons for that decision;
- . omitting the word 'adversely' from sub-section (2) so that any person whose interests are affected may apply to the Administrative Appeals Tribunal for a review of that decision; and
- . substituting the words 'sub-section (2)' in sub-section (3) for the words 'that sub-section'.