

AUSTRALIAN CAPITAL TERRITORY
WATER POLLUTION ORDINANCE 1984
ORDINANCE NO. 65 OF 1984
EXPLANATORY STATEMENT

The Water Pollution Ordinance 1984 is designed to control the pollution of the waters of the Australian Capital Territory, and the Jervis Bay Territory, by chemical and organic waste. For the purposes of the Ordinance waters are classified into six groups as follows:

- Class S - waters used for drinking and domestic supply;
- Class P - streams discharging directly into Class S waters;
- Class C - waters in outer catchments or drainage areas, and waters of recreational, aesthetic or ecological importance;
- Class R - streams and drains discharging into Class C waters;
- Class O - ocean outfall waters; and
- Class U - underground waters.

Different limits of acceptable pollution are prescribed for each class. These limits will be enforced chiefly by the Pollution Control Authority (established by the Air Pollution Ordinance 1984) and by water pollution inspectors who have been given appropriate powers to enter premises and conduct tests for pollution. A Water Pollution Advisory Committee will be established to conduct research into water pollution and to make recommendations to the Minister.

Sections 1-6 of the Ordinance deal with preliminary formal matters and interpretation. The Ordinance binds the Crown.

Section 7 empowers the Minister to appoint inspectors, who are to be given certificates of appointment.

Section 8 enables the Pollution Control Authority to delegate his powers under the Ordinance.

Section 9 establishes the Water Pollution Advisory Committee.

Section 10 permits the Committee to make recommendations to the Minister with respect to water pollution, to report to him on related matters at his request, and to engage in research and consultation for these purposes.

Section 11 gives the Committee power to do all things necessarily incidental to the performance of its functions.

Section 12 provides for the Committee to consist of the Authority, a member of the House of Assembly nominated by the House, and between five and eleven other members appointed by the Minister. All are eligible for re-appointment.

Section 13 provides for the Pollution Control Authority to be Chairman of the Committee.

Section 14 allows members of the Committee (other than the Authority) to resign by giving notice in writing to the Minister.

Section 15 allows the Minister to terminate a Committee member's appointment by reason of misbehaviour, incapacity, bankruptcy or ceasing to be a member of the House of Assembly (in the case of the member nominated by the House).

Section 16 permits the Minister to appoint acting members of the Committee for up to twelve months during vacancies or when regular members are unable to perform their functions.

Section 17 sets out formal requirements for meetings of the Committee.

Section 18 requires Committee members to disclose pecuniary interests in matters under consideration by the Committee, and to refrain from participating in deliberations on such matters unless authorised to do so by the Committee.

Section 19 sets out the procedures to be followed and information to be given by a person in applying for a licence to discharge waste into waters other than Class S waters.

Section 20 obliges the Authority to grant a licence to a person who has applied in the proper manner, provided that the proposed discharge will not contravene the Ordinance or Regulations.

Section 21 empowers the Authority to grant licences subject to conditions designed to ensure the reduction of pollution to the lowest practicable level.

Section 22 authorizes a licensee to discharge waste into waters in accordance with the specifications and conditions of his licence.

Section 23 states that a licence is in force for twelve months or such lesser period as is specified in the licence.

Section 24 enables the Authority to refuse to grant a licence to a person who has been convicted of an offence under the Ordinance, or to cancel a licence already issued to such a person.

Section 25 enables a licence to be transferred when a licensee ceases to occupy or use the premises specified in the licence.

Section 26 empowers the Authority to require licensees to keep records and supply information in relation to the discharge of waste.

Section 27 prohibits licensees from installing, constructing or modifying equipment or works which are used for the discharge, treatment or storage of waste, without the approval of the Authority. The steps to be followed are set out. Once they are followed, the Authority must grant the approval unless the proposed action would be likely to result in a breach of the Ordinance or Regulations.

Section 28 gives the Minister power, in an emergency, to authorize a specified discharge into particular waters or to suspend the operation of a licence for a specified period, where this is in the public interest. The Minister must have regard, in the case of a licence suspension, to the licence specifications, the rate of flow of the receiving waters and the concentration of restricted substances therein, the health and welfare of the public and the effect of the suspension on the licensee and on downstream water users.

Section 29 states that a licence, or an authorization under section 28, does not relieve a person from his civil liability in respect of the discharge of waste.

Section 30 requires the Authority to publish details of the granting of, or refusal to grant, a licence.

Section 31 is an interpretation provision.

Section 32 enables the Authority and inspectors to enter licensed non-residential premises at any reasonable hour of the day or night. The Authority or inspector must produce his certificate. He may then inspect the premises, take samples of waste, conduct tests, take measurements and take photographs, for the purpose of ascertaining whether there has been any contravention of the legislation.

Section 33 gives a general power of entry onto premises exercisable by the Authority and inspectors pursuant to a warrant, a situation of emergency or the consent of the occupier.

Section 34 sets out the conditions for the issue of a search warrant referred to in section 33, viz. that there are reasonable grounds for suspecting the existence on the premises of something connected with an offence against the Ordinance. The warrant must contain a statement of its purposes and limitations, and may be valid for up to one month from its issue.

Section 35 sets out further details of the emergency entry power given by section 33.

Section 36 requires consent to entry under section 33 to be evidenced by a statement signed by the consenting person.

Section 37 creates an offence of obstructing, threatening or delaying the Authority or an inspector, or failing to comply with a reasonable requirement of the Authority or an inspector.

Section 38 prohibits a person absolutely from discharging waste into Class S waters, or into any other waters except in accordance with a licence. Penalties are provided for summary conviction and for conviction on indictment. This section,

however, will (by virtue of sub-section 2(2)) not come into effect until a date to be fixed by the Minister by notice in the Gazette.

Section 39 allows the Minister to determine licence fees, fees for licence transfer and fees for approvals under section 27, by notice published in the Gazette.

Section 40 gives a right of appeal to the Administrative Appeals Tribunal against decisions of the Authority in relation to licences and approvals, and against decisions of the Minister in relation to authorizations and suspensions under section 28.

Section 41 requires the Authority or the Minister (as the case may be) to notify in writing persons adversely affected by his decision of the decision, the facts on which it was based and the reasons for the decision. The person must also be informed of the appeal rights given by section 40.

Section 42 enables the Minister to appoint analysts.

Section 43 allows an analyst to accompany the Authority or an inspector onto premises to conduct tests, provided he produces an instrument of appointment.

Section 44 provides for evidentiary certificates, to be signed by analysts, setting out the results of analyses, which are to be evidence of the matters stated therein.

Section 45 sets out the formal requirements for delivery of documents which are required by the Ordinance.

Section 46 requires the Authority to provide an annual report.

Section 47 contains the usual regulation-making power. Penalties not exceeding \$500 may be included in the Regulations.

Ord No. 99/82