



Australian Capital Territory

Environment Protection Regulations Amendment

Subordinate Law 2000 No 18

The Australian Capital Territory Executive makes the following regulations under the *Environment Protection Act 1997*.

Dated 13 March 2000.

BRENDAN SMYTH
Minister

GARY HUMPHRIES
Minister



Australian Capital Territory

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1. Commencement

These regulations commence on the day they are notified in the *Gazette*.

2. Regulations amended

These regulations amend the *Environment Protection Regulations*.

3. Interpretation

Regulation 3 is amended—

- (a) by omitting from the definition of *affected land* in subregulation (1) “a parcel of” (wherever occurring); and
- (b) by omitting from the definition of *affected occupier* in subregulation (1) “and” (last occurring); and
- (c) by omitting from the definitions of *threshold concentration* and *threshold quantity* in subregulation (1) “PCB material” and substituting “PCBs”; and
- (d) by omitting from the definition of *zone noise standard* in subregulation (1) “3A, 3B, 3C or 3D” and substituting “4A, 4B, 4C or 4D”.

4. Substitution

Regulation 15 is repealed and the following regulation and Division are inserted:

“15. Entry of Agvet chemical products into the environment

“(1) For paragraph 5 (b) of the Act, an agvet chemical product is taken to cause environmental harm if it enters the environment.

“(2) Despite subregulation (1), an agvet chemical product is not taken to cause environmental harm if the product is—

- (a) registered under the Agvet Code and is being used in accordance with the conditions of registration; or
- (b) being used in accordance with a permit under the Agvet Code.

“Division 1A—Controlled pollutants

“15A. Prescribed pollutant—controlled waste

“(1) For paragraph 5 (b) of the Act, controlled waste is a prescribed pollutant.

“(2) In subregulation (1)—

controlled waste has the same meaning as in Division 4 of Part 3.”.

5. Interpretation

Regulation 16 is amended by omitting “conditioner” from the definition of “discarded domestic article” and substituting “conditioning”.

6. Insertion

After regulation 23 the following Division is inserted in Part 3:

“Division 4 - Transport of controlled waste

“23A. Interpretation

“(1) In this Division—

NEPM means the National Environment Protection (Movement of Controlled Waste between States and Territories) Measure dated 26 June 1998, as in force from time to time, made under the *National Environment Protection Council Act 1994*.

“(2) Unless the contrary intention appears, an expression used in this Division that is defined in the NEPM has the same meaning as in the NEPM.”.

“23B. Application

This Division applies to the transport of controlled waste to which the NEPM applies.

“23C. Consignment authority

“(1) A producer must not transport controlled waste to a participating State or participating Territory unless the person has first obtained from an agency of the State or other Territory, or a facility delegated by that agency, an authority to transport the controlled waste to that State or other Territory.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“(2) A producer must not consign controlled waste to a transporter unless the transporter holds an environmental authorisation in respect of that activity.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“23D. Required information

“(1) A producer must give to the person transporting controlled waste, in writing or electronic form, information of the kind specified in Part 1 of Schedule B of the NEPM.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“(2) Where an authority to transport controlled waste relates to more than 1 consignment of the waste, the producer must identify in the information mentioned in subregulation (1) the number of the consignment being transported.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“(3) A producer must notify the agency of the State or other Territory, or a facility delegated by the agency, to which controlled waste is to be or has been dispatched, in accordance with the terms of the authority given by that agency.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“23E. Records

A producer must retain a copy of information of the kind specified in Schedule B of the NEPM for a period of not less than 12 months commencing on the date on which the information was provided by the producer or came into his or her possession.

Maximum penalty: 5 penalty units for an individual, and 25 penalty units for a corporation.

“23F. Notification about receipt of controlled waste

If a producer does not, within 14 days after the date on which the waste was transported to a participating State or participating Territory, receive written notice of the receipt of the waste from the person to whom the waste was transported, the producer must notify the authority in writing.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

7. Insertion

Before Division 1 of Part 4 the following Division is inserted in Part 4:

“Division 1A—Interpretation

“23G. Interpretation

In this Part—

Crown lease means a lease of land granted by or in the name of the Commonwealth;

unit and ***units plan*** have the same respective meanings as in Part 2 of the *Unit Titles Act 1970*.”.

8. Measurements to be taken at compliance locations

Regulation 25 is amended by omitting paragraph (5) (a) and substituting the following paragraph:

“(a) any 1 of the following:

- (i) if the noise is being emitted from a sole occupancy unit comprising a Crown lease in a building consisting of other Crown leases, whether or not separated by a common boundary—any point within any of the other units in the building;
- (ii) if the noise is being emitted from a sole occupancy unit having a common wall with another sole occupancy unit on a separate Crown lease—any point within that other unit;
- (iii) if the noise is being emitted from 1 of 2 or more sole occupancy units located on the same units plan—any point within any of the other units;
- (iv) any point on or as near as practicable to the boundary of—
 - (A) land to which a units plan applies; or
 - (B) the Crown lease of a sole occupancy unit of a kind mentioned in subparagraph (a) (i) or (ii) from which the noise is being emitted; or”.

9. Noise levels exceeding zone noise standards

Regulation 27 is amended by omitting subregulation (2) and substituting the following subregulation:

“(2) Noise being emitted from a sole occupancy unit that is—

- (a) a Crown lease in a building consisting of other Crown leases, whether or not separated by a common boundary; or
- (b) a unit on the same units plan; or

- (c) on a Crown lease having a common wall with a sole occupancy unit on another Crown lease;

is taken to cause environmental harm—

- (d) in another sole occupancy unit of that kind in that building or on that units plan; or
- (e) in a sole occupancy unit on the other Crown lease mentioned in paragraph (c);

if the noise level at any point within that other unit exceeds 5 dB(A) below the zone noise standard in respect of the period during which the noise is emitted.”.

10. Complaint must be made by affected person

Regulation 31 is amended by omitting paragraph (b) and substituting the following paragraph:

- “(b) in the case of noise being emitted from a sole occupancy unit of the kind referred to in paragraph 27 (2) (a), (b) or (c)—if the noise level in another sole occupancy unit of the kind in the building, on the units plan or in the other Crown lease mentioned in paragraph 27 (2) (c), exceeds 5 dB(A) below the zone noise standard for the noise zone for the land on which the building is situated is in; and”.

11. Sale or hire of articles

Regulation 32 is amended by omitting from subregulation (3) “would have been permitted” and substituting “would not have been prohibited”.

12. Schedule 2

Schedule 2 is amended by omitting from column 4 of table 1 in the item relating to Zone F “3A, 3B, 3C or 3D” and substituting “4A, 4B, 4C or 4D”.

Endnotes

Regulations amended

1 SL 1997 No 36. See also Gazette No S50, 22 January 1998.

Notification

2 Notified in the Gazette on 31 March 2000.

Penalty units

3 Section 33AA of the *Interpretation Act 1967* (as applied by section 9 of the *Subordinate Laws Act 1989*) deals with the meaning of offence penalties that are expressed in penalty units.