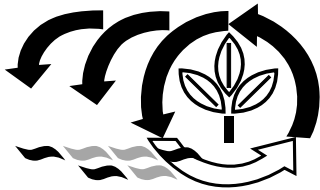


PPI

Processing & Product Innovation



## The Australian Meat Processors Environmental Legislative Review 2001

### WARNING!

The Australian Meat Processors Environmental Legislative Review 1996 (orange cover) and Review 1994 (green cover) are both now out of date and should be disregarded and discarded.

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## **Executive Summary**

This report has been prepared on behalf of Meat & Livestock Australia Limited. It comprises a review of environmental legislation in all states and territories of Australia that may impact on the processing sector of the Australian meat and livestock industry.

This report does not deal with legislation relating to workplace health and safety or with the inspection of meat for domestic sale or export.

In addition to the review of existing legislation, codes of practice or industry guidelines have also been examined and reviews included. Contact details of appropriate government departments or industry bodies have been included at the conclusion of each State, Territory and Commonwealth report.

To assist readers in identifying the impact of any piece of legislation on the industry, where appropriate, a common reporting form has been adopted. With respect to each piece of legislation and, where applicable, the following sub-headings are used:

- A. Title of Act or Regulation;
- B. Objective;
- C. Application of Act or Regulation;
- D. Authorisations required; and
- E. Consequences of Application

A brief overview of the relevant legislation in each State and Territory of Australia can be found at the beginning of each section of this report. Each piece of legislation has been categorised as “Primary” or “Secondary”. Primary Acts are those which we envisage as having the most direct impact on the day to day operations of participants in the meat processing sector of the meat industry.

We have also included a “How to Use Guide” and a “Legal Glossary” to assist you in your use and understanding of this report.

The information in this report is current as at October 2001.

The extent of the change in applicable legislation, codes of practice and guidelines necessitates that the 1996 edition of this Review be discarded.

## How to Use this Guide

It is important to remember when using this Review that it contains general information only and should not be relied on as a substitute for legal or other professional advice in relation to any specific matter.

Its intention is to provide participants in the meat processing sector of the meat industry with an overview of their environmental obligations and a basis for the development of environmental compliance programmes.

In order to use this Review we recommend that you:

- refer to the legislative review in respect of the State or Territory in which your activities are conducted;
- consider the legislative summary in respect of that State or Territory with a view to identifying those pieces of legislation or codes of practice which are of potential application;
- turn to the more detailed summaries in respect of the relevant pieces of legislation or codes of practice;
- consider the Commonwealth legislative summary and its potential application;
- consult the relevant professional or governmental body if you require further information; and
- seek professional, legal or technical advice in respect of any areas of potential concern.

Words such as meat processors, abattoir, slaughterhouse and other associated words appear in **bold** text throughout the Review. Other unassociated words, which appear in **bold** text are defined in the Legal Glossary. Words which appear in *italics* text are defined in the section in which they appear.



## Legal Glossary

<b>Act (statute):</b>	a law as passed by Parliament.
<b>appeal:</b>	any proceeding taken to challenge the decision of a lower court.
<b>codes of practice:</b>	Guidelines published to assist industry meet or exceed its legal obligations. Generally do not have the same force and effect as an Act.
<b>defendant:</b>	a person against whom an action is brought.
<b>environment:</b>	includes ecosystems; all natural and physical resources; the qualities and characteristics of locations, places and areas that contribute to their biological diversity and integrity, intrinsic scientific value or interest, amenity, harmony, and sense of community; and the social, economic, aesthetic and cultural conditions that affect or are affected by the foregoing.
<b>environmental assessment:</b>	<b>impact</b> the critical appraisal of the likely effects of a proposed project, activity, or operation on the environment.
<b>environmental statement:</b>	<b>impact</b> a document prepared after environmental impact assessment describing a proposed development or activity and disclosing the possible, probable or certain effects of the proposal on the environment.
<b>environmental law:</b>	a body of law dealing with the relationship between people and their environment.

<b>environmental planning:</b>	the identification by the community of desirable objectives for the physical environment including social and economic objectives, and the creation of administrative procedures and programmes to achieve those objectives.
<b>EPA:</b>	Environmental Protection Agency (Queensland)  Environment Protection Authority (New South Wales)  Environment Protection Authority (Victoria)  Environment Protection Agency (South Australia)  Environmental Protection Authority (Western Australia)
<b>ESD:</b>	development that meets the needs of the present without compromising the ability of future generations to meet their own needs.
<b>executive officer:</b>	a member of the governing body of a corporation or a person who is involved in the management of a company.
<b>injunction:</b>	an order or decree by which a party to an action is required to do, or refrain from doing a particular thing. Injunctions are either restrictive (preventive) or mandatory (compulsive).
<b>law:</b>	an obligatory rule of conduct imposed and enforced by the State.
<b>legal action:</b>	a proceeding prescribed by rules of court and initiated to protect an alleged right.
<b>local law:</b>	a law made by local government.
<b>liability:</b>	a legal obligation.

## **Legal Glossary**

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<b>negligence:</b>	an omission to do something which a reasonable person would do or doing something a reasonable person would not do.
<b>offence:</b>	an action prohibited by law or an action of which the contrary is commanded by law.
<b>penalty:</b>	a punishment particularly a fine or money payment provided for in a law.
<b>Regulation:</b>	a legally enforceable rule passed by bodies or persons so authorised by Parliament.
<b>strict liability:</b>	liability without fault. Where a person is responsible for accidental harm, independently of the existence of either wrongful intent or negligence.
<b>sustainable development:</b>	development which provides economic social and environmental benefits in the long term.
<b>waste:</b>	includes any matter whether liquid, solid, gaseous or radioactive, which is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause alteration to the environment.

## **Queensland**

## Legislative Summary Queensland

### A. Primary Legislation

#### ***Environmental Protection Act 1994***

This **Act** is the principal piece of environmental legislation in Queensland.

It is an **offence** under the **Act** to carry out **meat processing** without an environmental authority.

The **Act** also contains various environmental mechanisms to control pollution such as environmental protection policies, environmental evaluations and environmental management programs. Penalties and environmental protection orders may be imposed in the event of non-compliance with the **Act**.

#### ***Environmental Protection Regulation 1998***

The **Regulation** works in conjunction with the **Act** in defining and classifying environmentally relevant activities such as **meat processing**. Additionally, the **Regulation**:

- allows for nuisance abatement notices to control emissions causing *unlawful environmental nuisance*;
- regulates ozone-depleting substances;
- gives effect to the National Pollutant Inventory in Queensland; and
- give effect to the *National Environment Protection (Used Packaging Materials) Measure*.

#### ***Environmental Protection (Interim Waste) Regulation 1996***

This regulates the storage, removal, collection and disposal of **waste** in Queensland. Unless **waste** is discharged to a sewer or treatment process, **meat processors** must comply with the **Regulation**.

#### ***Environmental Protection (Waste Management) Regulation 2000***

This **Regulation** provides a system of waste tracking consistent with the *National Environment Protection (Waste Tracking) Measure*. Animal effluent is a *trackable waste*, and **abattoirs**, as generators of such **waste**, will be required to disclose prescribed information specified in the **Regulation**.

***Environmental Protection (Air) Policy 1997***

The policy must be considered by the Administering Authority in deciding applications by meat processors for new or amended environmental authorities and the approval of draft environmental management programs.

***Environmental Protection (Noise) Policy 1997***

The policy must be considered by the Administering Authority in deciding applications by **meat processors** for environmental authorities or environment management programs which involve a noise relevant activity.

***Environmental Protection (Waste Management) Policy 2000***

**Meat processors** who hold or apply for an environmental authority may be required to prepare and submit a waste management program as a condition of the environmental authority.

***Environmental Protection (Water) Policy 1997***

The policy provides a framework for managing environmental impacts on water and the identification of environmental values and guidelines needed to protect Queensland Waters.

**B. Secondary Legislation*****Health Act 1937***

This **Act** provides for the prevention, notification and treatment of diseases or disabilities. If **meat processing** premises are not operated in a hygienic way or **waste** is not properly disposed of, the area may be deemed a nuisance. Local government can serve a notice requiring the abatement of a nuisance and the execution of works necessary to remedy the nuisance.

***Integrated Planning Act 1997***

This **Act** provides for the Integrated Development Approval System (IDAS) in which environmental authorities will be issued at the same time as development approvals in certain circumstances. **Environmental impact assessment** may also be required when applying for development approvals.

***Standard Sewerage Law***

This regulates the discharge by **abattoirs** of *trade waste* into a sewerage or water supply system. A permit from the local government is required in order to discharge trade waste into a sewer.

### ***Soil Conservation Act 1986***

A notice or order can be issued to an **abattoir** requiring certain soil conservation measures to be taken if a property is within a Project Area or subject to a Property Plan.

### ***State Development and Public Works Organisation Act 1971***

The **Act** requires that an **environmental impact statement** be prepared for any proposed project declared to be a significant project under the **Act**.

### ***Water Act 2000***

The **Act** introduces a new framework for the allocation and management of water in Queensland. The provisions relating to issuing water licences are not expected to commence until 2002.

### ***Water Resources Act 1989***

This **Act** still provides for the issuing of water licences until the provisions of the *Water Act 2000* commence.

## **C. Codes of Practice and Guidelines**

### ***Due Diligence Guidelines***

The Guideline is designed to assist **executive officers** of corporations by explaining the concept of due diligence.

### ***Environmental Management Guidelines***

The Guideline provides information on environmental management programs including what they are, the circumstances in which they can be used and how to prepare them.

### ***Waste Management Guidelines: Managing Waste Tracking in Queensland***

The Guideline provides information to assist **waste** generators (including **abattoirs**) in complying with the legislative requirements under the *Environmental Protection (Waste Management) Regulation 2000*.

### ***Preparing an Integrated Environmental Management System (IEMS) submission to support an integrated authority application***

The guideline explains how to prepare an Integrated Environmental Management System Submission (IEMS Submission) which is required as part of any application for an integrated authority.

## **D. Draft Legislation, Codes of Practice and Guidelines**

### ***Draft Enforcement Guidelines***

The Guidelines explain the approach of the **EPA** in enforcing Queensland's environmental legislation. The guidelines assist companies to minimise the likelihood of prosecution.

### ***Draft Guidelines for Completing an Application for an Environmental Authority***

The Guidelines explain how to complete an application for an environmental authority under the *Environmental Protection Act 1994*.



## Existing Legislation Queensland Primary

### A. Title of Act

*Environmental Protection Act 1994*

### B. Objective

To protect Queensland's **environment** while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains **ESD**.

### C. Application of Act

#### General environmental duty

There is a general environmental duty on all persons to refrain from carrying out any activity that causes or is likely to cause environmental harm, unless all reasonable and practicable measures are taken to prevent or minimise the harm.

*Environmental harm* is defined to mean any adverse effect, or potentially adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an *environmental value*<sup>1</sup>, and includes *environmental nuisance*<sup>2</sup>.

---

<sup>1</sup> *Environmental value* means:

- a quality or physical characteristic of the **environment** that is conducive to ecological health or public amenity or safety; or
- another quality of the **environment** identified and declared to be an *environmental value* under an environmental protection policy or **regulation**.

<sup>2</sup> *Environmental nuisance* means unreasonable interference or likely interference with an *environmental value* caused by:

- noise, dust, odour, light; or
- an unhealthy, offensive or unsightly condition because of *contamination*.

### Duty to notify Environmental Protection Agency (EPA) of environmental harm

There is a duty on a person who becomes aware that *serious* or *material environmental harm*<sup>3</sup> is caused or threatened, to notify the **EPA** in writing of:

- the event causing the harm;
- the nature of the event; and
- the circumstances in which it happened.

If the person who becomes aware of the harm is carrying out the activity under the employment of someone else, then as soon as practicable, the person must inform the employer of the matters listed above. Once an employer is given such notice, the employer must then notify the **EPA** in writing immediately.

### Contaminated Land

There is a duty on the owner/occupier of land to give notice to the **EPA** that:

- a *notifiable activity* is being carried out on the land; or
- the land has been or is being contaminated by a *hazardous contaminant*<sup>4</sup>;

---

<sup>3</sup> *Material environmental harm* is *environmental harm* (other than *environmental nuisance*) that:

- is not trivial or negligible in nature, extent or context; or
- causes actual or potential loss or damage to property of more than \$5,000 but less than \$50,000; or
- results in costs of more than \$5,000 but less than \$50,000 being incurred in taking appropriate action to:
  - prevent or minimise the harm; and
  - rehabilitate or restore the **environment** to its condition before the harm.

*Serious environmental harm* is *environmental harm* (other than *environmental nuisance*) that:

- causes actual or potential harm to *environmental values* that is irreversible, of a high impact or widespread; or
- causes actual or potential harm to *environmental values* of an area of high conservation value or special significance; or
- causes actual or potential loss or damage to property of an amount of, or amounts totalling, more than \$50,000; or
- results in costs of more than \$50,000 being incurred in taking appropriate action to:
  - prevent or minimise the harm; and
  - rehabilitate or restore the **environment** to its condition before the harm.

within 30 days of becoming aware of the activity/*contamination*.

*Notifiable activities* are activities that cause or are likely to cause *contamination*<sup>5</sup>. For **abattoirs** these include:

- chemical storage;
- fertiliser manufacture;
- herbicide or pesticide manufacture;
- livestock dip or spray race operations;
- petroleum product or oil storage; and
- tannery, fellmongery or hide curing.

The **EPA** maintains two *contamination* registers which are available for public search.

- *Environment Management Register* (EMR). The EMR records land that the **EPA** has been notified that is being or has been used for a *notifiable activity*.
- *Contaminated Land Register* (CLR). The CLR is a register of *risk sites* – proven contaminated land that is causing or may cause *serious environmental harm*. Land is recorded on the CLR when scientific investigation shows that it is contaminated and that action needs to be taken to remediate or manage the land.

When land on which an **abattoir** is situated is recorded on the EMR, the owner must inform any potential purchaser of the listing before entering into any agreement of sale.

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<sup>4</sup> *Hazardous contaminant* means a *contaminant*, other than unexploded ordnance, that, if improperly treated, stored, disposed of or otherwise managed, is likely to cause *serious* or *material environmental harm* because of:

- its quantity, concentration, acute or toxic effects, carcinogenicity, teratogenicity, mutagenicity, corrosiveness, explosiveness, radioactivity or flammability; or
- its physical, chemical or infectious characteristics.

<sup>5</sup> *Contamination* is defined to mean the release of a *contaminant* into the **environment**. A *contaminant* can be:

- a gas, liquid or solid;
- an odour;
- an organism (whether dead or alive), including a virus;
- energy, including noise, heat, radioactivity and electromagnetic radiation; or
- a combination of *contaminants*.

If land on which an **abattoir** is situated is recorded in the CLR the owner must inform:

- any occupier of the listing;
- any potential occupier of the listing before entering into any agreement; and
- any potential buyer of the listing before entering into any agreement.

### What are site investigation reports?

Any person may voluntarily conduct a site investigation of land recorded on the EMR.

The **EPA** may compulsorily require a site investigation to be conducted where:

- the land is recorded on the EMR because it is contaminated land;
- the *hazardous contaminant* is in such concentration that it has the potential to cause *serious* or *material environmental harm*; or
- a person, animal or another part of the **environment** may be exposed to the *hazardous contaminant*.

After receiving the site investigation report, the **EPA** must decide whether the land is contaminated land. If the **EPA** decides that:

- the land is not contaminated – it must remove the land from the EMR; or
- the land is contaminated – it may:
  - where the land can be used for certain purposes – leave the land on the EMR and have a site management plan prepared;
  - where the land needs to be remediated to prevent *serious environmental harm* to a person, animal or another part of the **environment** – record the land in the CLR; or
  - in any other case – leave the land on the EMR.

### When is remediation required?

Voluntary remediation may be conducted where land is recorded on the EMR or CLR.

Compulsory remediation may also be required by the **EPA** in certain circumstances where land is recorded on the CLR.

The order of responsibility for compulsory remediation is as follows:

- the person who released the hazardous contaminant – if the person can be found;
- the local government (in limited circumstances); and
- the owner of the land (in limited circumstances).

The **EPA** can waive the requirement to remediate land in certain cases.

### **Environmental evaluations**

Where *environmental harm* has been identified by the **EPA**, it may require an environmental evaluation to be carried out to assess:

- the source, cause and extent of *environmental harm*; and
- if an environmental management program (EMP) is required.

There are two types of environmental evaluation that may be carried out:

- *Environmental audit* - if the **EPA** determines that:
  - a licensee is not complying with licence conditions; or
  - a person is contravening:
    - an EPP; or
    - an EMP.
- *Environmental investigation* - if the **EPA** determines that:
  - *environmental harm* has been caused while an activity was being carried out; or
  - *serious* or *material environmental harm* has been or is likely to be caused by an activity or proposed activity.

Reports are submitted to the **EPA** as part of the process of environmental evaluation.

## Environmental Management Programs (EMPs)

The **EPA** may require the preparation of an EMP in the following circumstances:

- as a condition of a licence;
- where an activity is causing or may cause *environmental harm*; or
- where a condition of an environmental authority has been contravened.

The **EPA** has published EMP Guidelines to assist industry to develop EMPs.

An EMP is intended to be a broad strategy for best practice environmental management with milestones and target dates, rather than a detailed management plan. The development of EMPs is a move towards self regulation in environmental management.

EMPs must be approved by the **EPA**.

## Voluntary submission of EMPs

If *environmental harm* is caused or threatened in the carrying out of an activity by a person, then that person may give a program notice to the **EPA**:

- giving details of the *environmental harm* caused or threatened; and
- undertaking to prepare an EMP.

Neither the program notice nor any supporting documents are admissible in evidence against the person in a prosecution for an **offence** of causing unlawful *environmental harm*. However, other materials obtained as a result of the giving of the program notice, may be admissible in evidence in a prosecution.

The benefit of giving program notices to the **EPA** for harm caused or threatened is that the person carrying out the activity may not be prosecuted for a continuation of the **offence** where a number of specified conditions are met.

## Environmental Protection Orders (EPOs)

### What will an EPO require?

The **EPA** may issue an EPO where:

- there has been a failure to comply with a requirement to:
  - conduct and submit to the **EPA** an environmental evaluation;

- prepare and submit to the **EPA** an EMP;
- the **EPA** has determined that unlawful *environmental harm* is being or is likely to be caused;
- to secure compliance with certain things including:
  - the general environmental duty;
  - an environmental protection policy; and
  - a condition of an environmental authority.

## D. Authorisations required

### Environmentally relevant activities (ERAs)

It is an **offence** to carry out an ERA<sup>6</sup> without an applicable Environmental Authority (EA).

ERAs are classed as either level 1 or level 2. Level 1 ERAs generally have a greater environmental impact than Level 2 ERAs. ERAs that may be carried out by **meat processors** include those listed in the table below:

Activity	ERA Level	Annual Fee \$
<b>Meat processing</b> – slaughtering animals for commercially producing meat or meat products for human consumption, or processing (other than smoking) or packaging of meat or meat products for human consumption –		
(a) if an integral part of the activity involves the operation of a rendering plant with a design production capacity of more than 300 t per year – in works (other than a retail butcher shop) having a design production capacity of –		
(1) 1,000 t or more but less than 3,000 t per year	1	1,000
(2) 3,000 t or more but less than 6,000 t per year	1	3,000

<sup>6</sup> ERAs are listed in Schedule 1 of the *Environmental Protection Regulation 1998*.

Activity	ERA Level	Annual Fee \$
(3) 6,000 t or more per year	1	6,020
(b) if paragraph (a) does not apply – in works (other than a retail butcher shop) having a design production capacity of –		
(1) 1,000 t or more but less than 3,000 t per year	1	875
(2) 3,000 t or more but less than 6,000 t per year	1	2,600
(3) 6,000 t or more per year	1	5,200
Rendering operation – commercially processing or extracting substances, including, for example, fat, tallow, derivatives of fat or tallow or proteinaceous matter, from animal <b>wastes</b> or by-products (other than an operation using <b>wastes</b> solely derived from <b>meat processing</b> or pet food processing) in works having a design production capacity of:		
(a) more than 10t but less than 300 t per year	2	nil
(b) 300 t or more per year	1	6,020
Soil conditioner manufacturing – commercially manufacturing soil conditioners by receiving and blending, storing, processing, drying or composting organic material or organic <b>waste</b> , including, for example, animal measures, sewage, septic sludges and domestic <b>waste</b> , in works having a design production capacity of 200 t or more per year	1	400
<i>Regulated waste</i> <sup>7</sup> storage – operating a facility for receiving and storing regulated waste, other than on a farm for use as soil conditioner or fertiliser in carrying out an agricultural activity.	1	1,400

<sup>7</sup> *Regulated waste* includes animal effluent.



## Types of Environmental Authorities

There are five types of environmental authority (EA):

- a licence for a level 1 ERA;
- a provisional licence for a level 1 ERA;
- a level 1 approval for a level 1 ERA;
- a level 2 approval for a level 2 ERA; and
- an integrated authority.

The most common are level 1 licences, level 2 approvals and integrated authorities. These are discussed below.

There are two types of licence or level 1 approval that may be issued:

- a licence or level 1 approval (with development approval) where a development approval under the *Integrated Planning Act 1997* (IPA) is also required; or
- a licence or level 1 approval (without development approval) where a development approval under IPA is not required.

## Interaction with Integrated Planning Act 1997 (IPA)

In some instances, an ERA such as meat processing, will also constitute a *material change of use of premises*<sup>8</sup> under the IPA. Where this is the case, a development approval under the IPA will be required in addition to an EA under the EP Act.

See the IPA summary for further details as to development approvals.

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<sup>8</sup> *Material change of use of premises* is defined to include:

- the start of a use;
- the re-establishment of a use;
- a material change in the scale or intensity of a use; or
- the increase of 10% or more in the release of contaminant into the **environment** where the holder of an EA proposes to:
  - construct or alter premises; or
  - install or alter plant and equipment.

### Level 1 Licence with development approval

The following conditions may be imposed on a licence:

- integrated environmental management system (IEMS); or
- a financial assurance.

The relevant development approval will be issued under IPA and may contain substantive conditions that will apply to the **abattoir**.

### Level 1 Licence without development approval

Conditions are imposed on licences.

### Provisional licences

Where the applicant has applied for a licence, the **EPA** may instead issue a provisional licence where satisfied that the applicant:

- can not give enough information to allow the **EPA** to make a decision (*missing information*);
- will be able to comply with all relevant EPPs; and
- has given the **EPA** a written undertaking to comply with the EPPs.

The **EPA** cannot issue more than one provisional licence for the same ERA carried out at the same place. A provisional licence is valid for five years from the date of issue unless an earlier date is specified.

Those conditions that may be imposed by the **EPA** on a licence, may be imposed on a provisional licence.

The holder of a provisional licence may apply to the **EPA** for a new licence if the *missing information* is obtained.

### Duration of licences

A licence continues in force unless and until:

- surrendered;
- cancelled;
- suspended; or
- converted into a level 1 approval following the grant of a conversion application.

A level 1 approval continues in force unless and until it is cancelled or suspended.

### **Level 2 approval**

A Level 2 approval is valid until the date of expiry.

Conditions may be imposed on an approval and may continue to apply to the holder of the approval after the approval has ended.

A level 2 approval is valid for the period specified.

### **Dealings with licences**

Only licences (without development approval) may be transferred. Before agreeing to transfer its business to someone else, a licence holder must give written notice to the proposed transferee of the requirement for the transferee to apply for:

- transfer of the licence; or
- a new licence.

A licence (without development approval) may be surrendered by giving written notice to the **EPA**.

The following EAs can be neither transferred nor surrendered:

- licences (with development approval);
- level 1 approvals; and
- level 2 approvals.

### **Cancellation or suspension of EAs by the EPA**

EAs (except level 2 approvals) may be cancelled or suspended by the **EPA** if:

- EA was issued on the basis of a materially false/misleading representation/declaration;
- risk of *environmental harm* from an activity carried out under a level 1 approval is no longer insignificant;
- after issue of EA, holder is convicted of an environmental **offence**; or
- holder has failed to comply with an annual notice.

The **Act** sets out the procedure that must be followed by the **EPA** when amending, without the holder's agreement, cancelling or suspending and EA.

Within 14 days of ceasing to conduct an ERA (ie. **meat processing**), the holder of a licence or level 1 approval (with development approval) must notify the ERA in writing.

### **Integrated authorities**

An integrated authority may be granted by the **EPA** where a person makes a single application for an EA to carry out:

- multiple ERAs at the same site;
- the same ERA in different places; or
- multiple ERAs at different places.

An advantage of obtaining an integrated authority is a reduction in the annual licence fee.

An application for an integrated authority must be accompanied by an Integrated Environmental Management System (IEMS) submission.

An IEMS submission must address:

- the monitoring of releases of *contaminants* and assessment of the releases;
- staff training;
- the conduct of **environment** and energy audits;
- **waste** prevention, treatment and disposal;
- a program for continuous improvement; and
- reporting arrangements on the effectiveness of the environmental management of activities.

## **E. Consequences of Application**

The Act creates a large number of offences relating to EA's, contaminated land and causing *environmental harm*. The following table lists some major offences.

## Offences

<b>Environmental harm offences</b>	<b>Maximum Penalty in dollars (x 5 if corporation)</b>
Failing to notify of <i>environmental harm</i>	\$7,500
Unlawfully causing <i>environmental nuisance</i>	\$12,375
Wilfully and unlawfully causing <i>environmental nuisance</i>	\$62,625
Unlawfully causing <i>material environmental harm</i>	\$62,625
Wilfully and unlawfully causing <i>material environmental harm</i>	\$124,875
Unlawfully causing <i>serious environmental harm</i>	\$124,875
Wilfully and unlawfully causing <i>serious environmental harm</i>	\$312,375 or 5 years imprisonment
Failing to notify the Administering Authority within 30 days of a <i>notifiable activity</i> being carried out	\$3,750

<b>Contamination offences</b>	<b>Maximum Penalty in dollars (x 5 if corporation)</b>
Failing to notify the Administering Authority within 30 days of land being contaminated by a <i>hazardous contaminant</i>	\$7,500
Failing to comply with a notice for the remediation of land (unless waived)	\$75,000
Failing to give an occupant notice that land is recorded in the CLR	\$3,750

<b>Contamination offences</b>	<b>Maximum Penalty in dollars (x 5 if corporation)</b>
Failing to give a purchaser notice as required that land is recorded in EMR or CLR	\$3,750
Removing or disposing of contaminated soil without a permit	\$7,500
Carrying on a level 1 ERA without a licence or level 1 approval	\$30,000
Unlawfully contravening an EMP	\$62,625
Wilfully contravening an EMP	\$124,875 or 2 years imprisonment
Wilfully contravening an EPP (depends upon classification of <b>offence</b> , ie. classes 1, 2 and 3)	Class 1 (maximum \$124,875 or 2 years imprisonment)

<b>EA offences</b>	<b>Maximum Penalty in dollars (x 5 if corporation)</b>
Carrying on a level 1 ERA without a licence or level 1 approval	\$30,000
Carrying on a level 2 ERA without a level 2 approval	\$12,375
Wilfully contravening a condition of a licence or a level 1 approval	\$150,000 or 2 years imprisonment
Wilfully contravening a condition of a level 2 approval	\$22,500
Unlawfully contravening a condition of a licence or a level 1 approval	\$124,875
Unlawfully contravening a condition of a level 2 approval	\$18,750
Wilfully contravening a development approval	\$150,000 or 2 years imprisonment

EA offences	Maximum Penalty in dollars (x 5 if corporation)
Contravening a development approval	\$124,875
Failing to conduct an audit or environmental investigation if required to do so	\$7,500
Wilfully contravening an EPO	\$2,000 or 2 years imprisonment
Wilfully contravening a Site Management Plan	\$124,875 or 2 years imprisonment
Contravening a Site Management Plan	\$62,625

### Executive officer liability

**Executive officers** of a corporation may be personally liable for **offences** committed by the corporation. However, it is a defence for an **executive officer** to prove that:

- the officer took all reasonable steps to ensure the corporation complied with the **Act** (due diligence); or
- the officer was not in a position to influence the conduct of the corporation in relation to the **offence**.

### Environmental Protection Orders (EPOs)

An EPO can be issued by the Administering Authority requiring a person to:

- not start or stop an activity;
- carry out an activity during specified times or subject to certain conditions; or
- take specified action within a specified period.

Failure to comply with an EPO is an **offence**.

**A. Title of Regulation*****Environmental Protection Regulation 1998*****B. Objective**

The main purpose of the **Regulation** is to regulate:

- environmental nuisance;
- environmentally relevant activities;
- ozone depleting substances;
- the *National Environment Protection (National Pollutant Inventory) Measure* (NPI NEPM); and
- the *National Environment Protection (Used Packaging Materials) Measure* (Used Packaging NEPM).

**C. Application of Regulation****Environmental Authorities**

The provisions of the **Regulation** relating to environmental authorities is dealt with in the *Environmental Protection Act 1994* summary.

**Environmental Nuisance**

The objective of Part 2A of the **Regulation** is to provide for nuisance abatement notices to control emissions causing *unlawful environmental nuisance*<sup>9</sup>.

Animal noise can only be *unlawful environmental nuisance* if the animal is a domestic animal. Consequently, noise from livestock will not be regulated.

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<sup>9</sup> *Unlawful environmental nuisance* means environmental nuisance not authorised by:

- an environmental protection policy;
- an environmental management program;
- an environmental protection order;
- an environmental authority;
- a condition of a development approval; or
- an emergency direction.



Other *emissions*<sup>10</sup> from **abattoirs** may however be regulated. However, the Administering Authority (the **EPA** in the case of commercial premises) in practice will only take action under Part 2A of the **Regulation** if the **abattoir** is not licensed under the **Act**.

The **Regulation** allows a person to make a complaint about an *unlawful environmental nuisance* to the **EPA**. The complaint may be oral or written and must include the complainant's name, address and phone number as well as details of the *emission*. The **EPA** must not investigate an *emission* unless a relevant complaint has been made.

The **EPA** is under a duty to investigate a complaint unless it feels that the complaint is frivolous, vexatious or mistaken or it could be more appropriately dealt with under another **law**. If the **EPA** rejects a complaint, notice of the rejection, including the reasons for the rejection, must be given to the complainant.

After investigating a complaint the **EPA** must determine whether an **offence** has been committed and whether to issue a nuisance abatement notice or order other appropriate action.

The **EPA** must not issue a nuisance abatement notice if:

- a relevant nuisance complaint was not made;
- the **EPA** does not believe the nuisance was unlawful;
- the emission constitutes a noise **offence**; or
- if the emission was caused by an environmentally relevant activity and the activity was carried out under a development approval or environmental authority.

To determine whether an environmental nuisance is unlawful, the **EPA** must consider the general emission criteria, or if in relation to noise, the noise emission criteria.

### Ozone Depleting Substances

The **Regulation** controls the use of *ozone depleting substances*<sup>11</sup>. Restrictions are placed on the use of fixed halon and HCFC (hydrochlorofluoro carbons) systems and fire extinguishers. In certain circumstances, certificates and approvals are required.

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<sup>10</sup> *Emission* is defined as ash, dust, fumes, light, noise, odour or smoke.

<sup>11</sup> *Ozone depleting substances* are defined to include controlled articles and substances, refrigeration and air conditioning equipment, forams, fixed halon flooding systems and portable halon fire extinguishers.

## National Pollutant Inventory

The **Regulation** gives effect to the NPI NEPM. The NPI NEPM requires industries that use more than the specified volume of the substances listed in the NPI reporting lists, to annually estimate and report emissions of those substances.

The first 3 reporting periods for the NPI NEPM were:

- 1 July 1998 to 30 June 1999;
- 1 July 1999 to 30 June 2000; and
- 1 July 2000 to 30 June 2001.

For these reporting periods, industry was only required to report upon the 30 substances in Table 1 of the NPI NEPM. For each reporting period after 1 July 2001, facilities will be required to report on all 90 substances in Table 2.

The report must be given to the chief executive by 30 September each year. For example, the due date for report of the third reporting period listed above was 30 September 2001.

Environment Australia has released an industry handbook for **meat processors**. This is discussed under the Commonwealth *National Environment Protection Council Act 1994* summary.

## Used Packaging Materials

The **Regulation** gives effect to the Used Packaging NEPM. It applies to *brand owners*<sup>12</sup> that are not:

- signatories to the National Packaging Covenant (see the Commonwealth *National Environment Protection Council Act 1994* summary); or
- *brand owners* that are not signatories but either use consumer packaging in a way that is consistent with the environmental outcomes of the Covenant or have less than 1% of the national market share to the product.

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<sup>12</sup> *Brand owner* means a person that owns, or is the licensee of, a trade mark under which a product is sold.

Under the **Regulation**, such a *brand owner* must:

- prepare, maintain and implement an action plan that details how the consumer packaging in which the product is sold can be reused or recycled; and
- comply with the plan.

The *brand owner* must also retain certain information about material used as consumer packaging material.

## D. Consequences of Application

### Environmental Nuisance

A failure to comply with a nuisance abatement notice without a reasonable excuse will result in a maximum **penalty** of \$3,000 for an individual or \$6,000 for a corporation.

In addition, the **Regulation** provides for specific noise offences in relation to certain activities including building works. There are certain exemptions in relation to these offences including:

- compliance with a general environmental duty;
- lawful environmental nuisance; or
- where any of the following provides for the making of noise:
  - an environmental protection policy;
  - an environmental management program;
  - an environmental protection order;
  - a development condition of a development approval;
  - an emergency direction; or
  - a **local law**.

### Ozone Depleting Substances

The following actions are **offences** under the **Regulation**:

- testing a fixed halon system in a way that results in the release of a *controlled substance* to the **environment**;

- an owner failing to notify the chief executive in writing of the release of a *controlled substance* and the reason for the release;
- testing a fixed HCFC system in a way that results in the release of a *controlled substance* to the **environment**;
- failing to have an approval or certificate for the possession of a portable halon extinguisher;
- discharging a fixed HCFC system or portable HCFC fire extinguisher other than to extinguish a fire in an emergency; and
- discharging a fixed halon system or portable halon fire extinguisher other than to extinguish a fire in an emergency.

Each of the above **offences** carries a maximum **penalty** of \$3,750 for an individual or \$18,750 for a corporation.

### National Pollutant Inventory

The following actions are **offences** under the **Regulation**:

- failing to keep the data used in deciding if the reporting threshold for the substance is exceeded in the reporting period for the supplier's facility for three years after the reporting period ends;
- failing to keep the data used in calculating emission data given to the chief executive for three years after the emission data is required to be given; or
- failing to comply with the reporting requirement without reasonable excuse.

Each of the **offences** above carries a maximum **penalty** of \$1,500 for an individual and \$7,500 for a corporation.

### Used Packaging Material

A *brand owner* commits an **offence** in failing to:

- prepare, maintain, implement and comply with an action plan;
- retain information as specified in the **Regulation** about material used by the *brand owner* as consumer packaging material;
- provide information requested by the client executive within 28 days of the request; and
- comply with a notice by an authorised person.

Each of the **offences** above carries a maximum **penalty** of \$1,500 for an individual and \$7,500 for a corporation.

## A. Title of Regulation

*Environmental Protection (Interim Waste) Regulation 1996*

## B. Objective

The **Regulation** sets out the requirements for the storage, removal, collection and disposal of **waste** in Queensland.

## C. Application of Regulation

The **Regulation** sets out the various classifications of *industrial waste*<sup>13</sup>.

The occupier of any premises upon which there is any *industrial waste* (ie. an **abattoir**) must:

- provide the number of **waste** containers on the premises as required by the local government;
- ensure that all containers are stored in such a manner as may be required by the local government;
- cause every such container to be in clean condition and good repair; and
- when so ordered by the local government, treat **waste** for the **waste** disposal facility to the standard required by the chief executive.

A person must not enter into a **waste** disposal facility except for the purpose of disposing of or leaving **waste**.

A person must not interfere with or remove any **waste** from the facility.

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<sup>13</sup> *Industrial waste* is classified as:

- putrescible *industrial waste* - consists mainly of plant or animal residues and which undergoes degradation by bacterial action;
- dry *industrial waste* - devoid of free moisture and is neither hazardous, putrescible nor objectionable;
- liquescent *industrial waste* - liquid or semi-liquid nature or sludge containing full moisture, including grease, sludge or other **wastes** removed from any interceptor;
- hazardous *industrial waste* - contains any substance which may endanger the safety of persons or equipment at the disposal area because of toxicity or flammable, corrosive or explosive properties; and
- objectionable *industrial waste* - objectionable odour.

## D. Consequences of Application

It is an **offence** to fail to comply with the requirements for the storage of *industrial waste*. The maximum **penalty** for a corporation is \$15,000.

It is an **offence** to deposit or dispose of **waste** unless the deposit is made at a **waste** disposal facility or in an approved **waste** container. Maximum **penalty** for a corporation is \$15,000.

## A. Title of Regulation

*Environmental Protection (Waste Management) Regulation 2000*

## B. Objective

The purpose of the **Regulation** is to protect or enhance the environmental values by:

- implementing the **waste** management mechanisms established by the *Environmental Protection (Waste Management) Policy 2000* (Policy); and
- regulating **waste** management activities.

## C. Application of Regulation

### Littering & Waste Disposal

The **Regulation** provides for the disposal of litter and other **waste** and provides penalties for non-compliance. It also regulates conduct at **waste** disposal facilities.

### Waste Tracking

The **Regulation** provides the framework for a system of tracking the movement of *trackable wastes*<sup>14</sup> as listed in Schedule 1 of the **Regulation**.

*Trackable wastes* are coded. The code for animal effluent and residues is K100.

*Trackable wastes* when used in a certain manner, may be exempt from the provisions of the **Regulation**. For example, when animal effluent is transported to a place for use as stock food or to a farm for use as soil conditioner or fertilizer.

Three classes of persons are regulated:

- a **waste** generator (from whom the **waste** is transported – an **abattoir**);
- a **waste** transporter (who transports the **waste**); and
- a receiver (to whom the **waste** is transported).

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<sup>14</sup> *Trackable waste* includes animal effluent and residues ie. **abattoir** effluent.



Each of these parties must disclose prescribed information, as specified in Schedule 2 of the **Regulation**, to the Administering Authority in the prescribed way within 7 days.

Under schedule 2, an **abattoir** (as a **waste** generator) is required to disclose information to the **waste** transporter. This includes:

- the generator's name, address, local government area and contact details; or
- the generator's identification number; and
- the contact details of the person to whom the **waste** is to be transported;
- the day and time the generator gives the **waste** to the transporter for transporting;
- the load number;
- the consignment number for the load (if the receiver is outside of Queensland); and
- details about the **waste** including:
  - the type of **waste**;
  - amount (kilograms or litres);
  - its physical nature (solid, liquid, paste or gas); and
  - its **waste** code.

As a generator, an **abattoir** must provide the Administering Authority with all of the information listed above as well as:

- the transporter's name, address and contact details;
- the transporter's environmental authority number; and
- the registration number of the vehicle used to transport the **waste** (if it is a motor vehicle).

These are separate provisions for transporting and disposing interstate *trackable waste* in Queensland and transporting and disposing of Queensland **waste** interstate.

### Chemical, composting and incinerating toilets

The **Regulation** prescribes general design rules for chemical, composting and incinerating toilets.

### Sewage / Stormwater Drainage

The **Regulation** does not apply to a release of contaminant to sewerage or stormwater drainage. This is regulated by the *Sewerage and Water Supply Act 1949*.

## D. Consequences of Application

### Littering and waste disposal

It is an **offence** to unlawfully dispose of litter at a place. The maximum **penalty** is \$7,500 for a corporation.

A person must not unlawfully dispose of more than 20 litres of **waste** at a place. The maximum **penalty** if the **waste** is more than 200 litres is \$61,875 (for a corporation) and if less than 200 litres \$15,000.

### Waste tracking

It is an **offence** for a generator (eg. **abattoir**) to fail to record and provide to the transporter the prescribed information. The maximum **penalty** is \$7,500 to a corporation. It is also an **offence** for a generator to fail to provide information to the Administering Authority. This **offence** carries the same maximum **penalty**.

A generator must keep a record of *trackable waste* for at least five years. The maximum **penalty** \$7,500 for a corporation.

### Defences

#### Littering and waste disposal

It is a defence to a charge of unlawful disposal of more than 20 litres of **waste** if the person had a reasonable excuse or took all reasonable and practicable measures to prevent the disposal.

#### Waste tracking

A **waste** handler (eg. an **abattoir**) may enter into a written contract with a third party to discharge its *waste tracking* obligations under Division 3 of the **Regulation**. It is a defence for the **waste** handler to show that:

- a written agreement exists; and

- the contravention was directly caused by the agent's failure to comply with the agreement.

The agent will be regulated by the *waste tracking* obligations.

Other defences available for a *trackable waste offence* is that the act or omission:

- was carried out by an authorised person when exercising their emergency powers;
- occurred when acting under an emergency direction; or
- was reasonably necessary because of an emergency.

It is a defence to the charge of giving **waste** to an unlicensed transport if the generator reasonably believed that the transporter was licensed.

### **Infringement Notice**

Infringement notices may be issued for breaches.

**A. Title of the Policy*****Environmental Protection (Air) Policy 1997*****B. Objective**

The purpose of the Policy is to provide for **ESD** in relation to Queensland's air environment.

**C. Application of Policy**

The Policy applies to Queensland's air environment.

The Policy specifically sets out mechanisms to control various sources of contamination including:

- solid fuel burning equipment for domestic purposes;
- motor vehicle emissions;
- liquid fuel; and
- burning of **waste**.

This Policy must be considered by the **EPA** or local government when it makes decisions on applications for:

- an environmental authority;
- the amendment of a licence or level 1 approval; or
- the approval of a draft environmental management program.

It must consider a number of factors when making its decision, including:

- air quality goals;
- relevant approved **codes of practice**;
- the characteristics of the releases of contaminants to air from the relevant activity;
- the order in which the applicant started to occupy land at or near the relevant site; and
- the views of the applicant about releases of contaminants to the air environment from the relevant activity.

The Schedule details the air quality indicators and goals that are to be achieved. The indicators are the contaminants that may be present in the air whilst the goals are the maximum levels for the air quality indicators.

Part 1 of the Schedule provides the indicators and goals relevant to the aesthetic enjoyment of places and visual and local amenity; Part 2 provides for the indicators and goals relevant to biological integrity; and Part 3 provides details of other indicators and goals.

It is intended that the air quality goals will be achieved progressively through compliance with the object of this Policy.

There is a user guide that sets out information about protocols, deciding air quality goals, risk assessments, impact assessments and monitoring of release contaminants to the air environment. The guide is available for purchase or can be inspected free of charge at **EPA** offices.

### Computer Modelling

If an activity involves the release of a contaminant, the applicant may be required to carry out air pollution dispersion modelling using a computer to predict how contaminants will disperse from a particular site. In such a case, the licence conditions will include the maximum release rate demonstrated in the model that will not exceed odour standards around that site.

## D. Consequences of Application

### Complaints

A person may make a written complaint to the **EPA** or local government about a contaminant release if he/she believes that it is an *unreasonable release*<sup>15</sup>.

The **EPA** or local government must as soon as is practicable send an authorised person to investigate the complaint. If the Administering Authority is satisfied that there is an unreasonable release of contaminants, a *show cause notice*<sup>16</sup> will be given to the person responsible for the release of the contaminant. The person receiving the notice may make a written response within a reasonable time (a minimum of 14 days) stating why the release is not unreasonable.

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<sup>15</sup> An *unreasonable release* of a contaminant to the air **environment** means the release of odours, dust, smoke or other atmospheric contaminants that causes unlawful environmental harm or is unreasonable because of its characteristics, intrusiveness, other releases of contaminants at the place affected by the release, where the effects can be noticed and whether the contaminant was being released before or after the commencement of the activities affected by the release.

<sup>16</sup> The notice must contain a description of the contaminant released, when it is claimed to have been released and why the release is unreasonable.

If the Administering Authority still believes that the release is unreasonable then it may give the person an abatement notice. The notice will contain a description of the contaminant and that within a prescribed time that the release of the contaminant must be stopped or the concentration must be reduced or its characteristics changed. The notice will also state the maximum **penalty** for failure to comply with the notice. A person who receives notice may apply for a review of the decision to give notice within a reasonable time (not less than 14 days).

The maximum **penalty** for failing to comply with a notice is \$15,000 for a corporation.

**A. Title of Policy*****Environmental Protection (Noise) Policy 1997*****B. Objective**

The purpose of this Policy is provide for **ESD** in relation to Queensland's acoustic (sound) environment and safeguard the quality of this environment.

**Environmental Values**

The policy seeks to enhance or protect the following environmental values:

- the well-being of the community (including both social and economic amenities); and
- the well-being of an individual (this refers to a person's opportunity to sleep, relax and communicate without undue interference from noise).

**C. Application of Policy**

The Policy applies to the whole of Queensland's acoustic environment except those aspects of *noise*<sup>17</sup> covered by the *Workplace Health and Safety Act 1995* and the *Environmental Protection Regulation 1998 Part 2A - Environmental Nuisance*.

As a condition of a licence or approval, the Administering Authority can require the licensee to monitor source emissions and provide results to the Administering Authority within 14 days after the results are obtained.

**Dealings with Administering Authority**

In applying for:

- an environmental authority;
- an amendment of a licence; or
- an approval of a draft Environmental Management Program (EMP);

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<sup>17</sup> *Noise* is unwanted sound and includes vibration of any frequency, whether emitted through air or another medium.

where the application involves one or more *noise relevant activities*<sup>18</sup> (eg. **meat processing**), the Administering Authority must consider the Noise EPP in the decision-making process.

The Administering Authority, when making its decision, is required to consider a number of factors including:

- how the *noise relevant activity* may affect the environmental values;
- the *acoustic quality objective*<sup>19</sup>;
- the characteristics of the *noise*;
- whether the applicant occupied the land before the person complaining of the *noise*;
- whether the applicant used the land to carry out the *noise relevant activity* before the complainant carried out its activities;
- the views of those affected by the *noise*; and
- other *noises* normally occurring at or near the site.

The Administering Authority must also review the potential conditions with the applicant before making its decision. This enables the applicant the opportunity to be involved in the decision-making process.

### Draft EMPs - specific requirements

A draft EMP must state:

- what measures will minimise the adverse effects of the *noise relevant activities* and who is responsible;
- maximum, Leq<sup>20</sup> and background levels for the *noise relevant activities*;
- the dispute resolution processes which will be followed if *noise* adversely affects an individual's well-being and a progressive programme to implement best practice environmental management for the activities;

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<sup>18</sup> *Noise relevant activities* are activities that adversely affect or may adversely affect the environmental values.

<sup>19</sup> *Acoustic quality objective* is the objective of achieving an ambient level of 55dB(A) or less for most of Queensland's population living in residential areas.

<sup>20</sup> Leq for a specified time interval, means the time average A - weighted sound pressure level, within the meaning given by AS1055.1 for the interval.



- the way data will be collected, eg sampling, modelling and analytical methods; and
- a timetable and method of review of the programme.

## D. Consequences of Application

### Seeking an environmental authority

The Administering Authority may grant an environmental authority on the condition that a *noise relevant activity* such as **meat processing**, be carried out under a noise management plan.

An applicant can negotiate with the Administering Authority in respect of the terms of the plan.

Examples of possible terms of a plan include:

- measures which will minimise the adverse effects of the *noise relevant activity* and who is responsible;
- maximum, Leq and background levels for the *noise relevant activity*;
- *noise* monitoring; and/or
- dispute resolution processes when complaints arise.

## A. Title of Policy

### *Environmental Protection (Waste Management) Policy 2000*

## B. Objective

The objective of the Policy is to achieve an effective waste management system in Queensland.

## C. Application of Policy

The Policy focuses on 4 key principles:

- Waste Management Hierarchy<sup>21</sup>;
- Polluter Pays<sup>22</sup>;
- User Pays<sup>23</sup>; and
- Product Stewardship<sup>24</sup>.

## D. Consequences of Application

### **Environmental Authorities - Waste Management Programs**

A person who holds or applies for an environmental authority for an environmentally relevant activity such as **meat processing**, may be required to prepare and submit a waste management program as a condition of the environmental authority.

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<sup>21</sup> The hierarchy is:

- avoiding the production of **waste**;
- re-using **waste**;
- recycling **waste**;
- recovering energy from **waste**; and
- **waste** disposal.

<sup>22</sup> The person who generates the **waste** is deemed to responsible for the cost of its management.

<sup>23</sup> The person who uses a resources is deemed to be bear all of the costs associated with its use.

<sup>24</sup> A producer is responsible for minimising the environmental harm associated with production of a product and an importer is required to minimise environmental harm resulting from the importation, use or disposal of the product imported.

The condition may further specify particular matters which need to be included in the program (eg. the types and volumes of **waste** and spill or accident procedures) as well as requiring the program be reviewed at specified times or that reports be made to the Administering Authority.

**A. Title of Policy*****Environmental Protection (Water) Policy 1997*****B. Objective**

The purpose of this Policy is to provide for **ESD** in relation to Queensland waters.

**C. Application of Policy**

The Policy applies to all *Queensland waters*<sup>25</sup>.

The Policy defines environmental values and water qualities to be enhanced or protected.

The Policy uses site specific documents, the Australian Water Quality Guidelines, the Water Quality Sampling Manual and Australian Standards to decide the indicators, the water quality guidelines and the procedures to be followed in implementing the Policy.

**Environmental Management Decision**

The Administering Authority may make an environmental management decision about an environmental authority, environmental management program (EMP) or an environmental protection order (EPO) which may require a relevant person to take certain action.

When making an environmental management decision about an activity that may affect water, the Administering Authority must adopt a waste management evaluation procedure in the Policy.

The Administering Authority may make an environmental management decision about:

- waste water recycling;
- waste water releases on land;
- waste water to surface water;
- stormwater management;
- direct waste water release to ground waters;

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<sup>25</sup> *Queensland waters* include coastal waters out to 3 nautical miles.

- indirect waste water release to ground waters;
- use of natural biological controls in treatment of waste water; and
- acid sulphate soils.

The Administering Authority in making an environmental management decision must consider a number of factors including:

- the existing quality of waters that may be affected by the release;
- the water quality objectives for the waters whether they are ground water surface water or waters within the attenuation or initial mixing zone;
- the cumulative effect of the release concerned and any other known releases of contaminants to waters that could be affected;
- the maintenance of acceptable health risks;
- any applicable **code of practice**<sup>26</sup> or safety information;
- the technology, management and nature of processes which will be used;
- the topography and soil;
- the general effect on the environment; and/or
- whether monitoring is required.

If the Administering Authority decides the management of water releases is not likely to be adequate to prevent or minimise harm, it may require the implementation of waste management prevention measures or the installation of equipment or design control measures.

## D. Consequences of Application

It is an **offence** to:

- deposit or release a variety of substances including oil, chemicals, paints, sewerage, pesticides, litter and other common contaminants into roadside gutters, stormwater drains or waters;

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<sup>26</sup> *Codes of practice* are collections of rules or procedures about a particular topic or activity. Industries can voluntarily prepare an environmental *code of practice* though such codes must be approved by the Minister under the *Environmental Protection Act 1994*. As yet, there is no such code for **meat processors** in Queensland.

- release stormwater runoff into a roadside gutter or stormwater drain; or
- release stormwater runoff into a body of water that results in the build-up of sand, silt or mud in the gutter, drain or water; or
- deposit sand, silt or mud:
  - in a roadside gutter, stormwater drain or water; or
  - in a place where it could reasonably be expected to be washed into one of the above and result in a build up of sand, silt or mud in one of the above.

The maximum **penalty** for this **offence** is \$3,000 for an individual or \$15,000 for a corporation.

It is a defence to this **offence** to show that the release was authorised under an environmental authority, EMP, EPO or emergency direction. It is also a defence to prove that the release occurred:

- in carrying out a lawful activity; and
- through compliance with a general environmental duty, eg. through compliance with a relevant **code of practice**.

## Existing Legislation Queensland Secondary

### A. Title of Act

***Health Act 1937***

### B. Objective

To provide for the prevention, notification and treatment of disease or disability.

### C. Application of Act

The **Act** regulates *nuisance*<sup>27</sup>.

### D. Consequences of Application

A notice may be served requiring the abatement of *nuisance* and the execution of necessary works at an **abattoir** if a local government is satisfied that a *nuisance* exists. The notice is served on the person creating the *nuisance* or, where he or she cannot be found, on the owner or occupier of the land on which the *nuisance* exists.

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<sup>27</sup> The definition of *nuisance* in the Act includes:

- any premises in such a state as to be a nuisance or injurious or prejudicial to health;
- any swamp, pool, ditch, gutter, watercourse, sanitary convenience, or other accumulation of water on any land or street or any receptacle holding water, in such a state as to be a nuisance or injurious or prejudicial to health or in such a state as to be a breeding-ground for mosquitoes, not being a reservoir or other storage of water used in connection with manufacturing purposes;
- an animal so kept as to be a nuisance or injurious or prejudicial to health;
- any factory, workshop, or workplace not kept in a clean state, or not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust, or other impurities generated in the course of the work carried on in the workplace that are a nuisance or injurious or prejudicial to health, or so overcrowded while work is carried on as to be dangerous or injurious or prejudicial to the health of employees; and
- the infestation of any place or premises by rats, mice or other vermin or any form of insect life declared by regulation to be injurious or prejudicial to health.

The broad definition of *nuisance* makes the Act of potential application to the non-farm sector of the meat industry if its premises are not operated in a hygienic way and **waste** is not properly disposed of.

Non-compliance with a local government notice will result in a complaint by the local government to a Justice who may make an order requiring compliance with the notice, abatement of the *nuisance* or the execution of certain works.

A complaint may also be made by any aggrieved person, inhabitant or owner of land within the local government area.

A failure by a the owner/operator of an **abattoir** to comply with the order of a Justice will result in a maximum daily **penalty** of \$37.50 unless the owner/operator is able to satisfy the Justice that they used all due diligence to carry out the order. If the order is wilfully disobeyed, the person is liable to a maximum daily **penalty** of \$75.

The **Act** also imposes a maximum **penalty** of \$1,500 on an individual and \$7,500 for a corporation that establishes a noxious or offensive trade, business or manufacture within the area without the consent of the local authority.

A complaint may also be made by a local government where it is satisfied that an **abattoir** is a *nuisance* or injurious to health. The owner/operator is liable to a maximum **penalty** of \$1,500 for an individual and \$7,500 for a corporation for the first **offence**, and to a **penalty** double the amount of the proceeding **penalty** for each subsequent **offence** up to a maximum of \$6,000 for an individual and \$30,000 for a corporation.

A Justice may suspend his final determination if the offender undertakes to abate the *nuisance* within a reasonable time.

In addition, a **penalty** will not be imposed in respect of any accumulation or deposit necessary for the effectual carrying on of any trade if the accumulation or deposit has not been kept longer than is necessary for the purposes of the trade and the best available means have been taken to prevent injury to public health.



**A. Title of Act*****Integrated Planning Act 1997*****B. Objective**

To seek to achieve **ESD** by:

- co-ordinating and integrating planning at the local, regional and State levels;
- managing the development process; and
- managing the effects of development on the **environment**.

**C. Application of Act**

The *Integrated Planning Act 1997* (IPA) forms the foundation of Queensland's planning and development assessment legislation.

The main elements of this framework include:

- one system for all development related assessments by local and State governments – Integrated Development Assessment System (IDAS). This is being progressively introduced.
- local government planning schemes as the main instrument for planning and development assessment.

An application will be required to be submitted to the assessment manager (which is usually the local government) when:

- a proposal involves *development*<sup>28</sup>, and
- the *development* is *assessable*<sup>29</sup>.

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<sup>28</sup> *Development* is defined to include any of the following:

- carrying out building work;
- carrying out plumbing or drainage work;
- carrying out operational work;
- reconfiguring a lot; and
- making a material change of use of premises.

The assessment manager is responsible for assessing and deciding applications.

### Other types of development

Other types of *development* are:

- (a) Exempt development - (listed in Part 3 of Schedule 8) does not require development approval and does not require compliance with any codes or standards; and
- (b) Self-assessable development:
  - does not require development approval;
  - the developer is responsible for ensuring that the *development* complies with any applicable standards specified in:
    - the planning scheme;
    - the Standard Building Regulation; or
    - other relevant legislation.

### Assessable development

*Assessable development* can be assessed in two ways:

- (a) Code assessment:
  - The application is assessed for compliance with applicable standards (eg. Building Code of Australia).
  - Public notification is not required.
- (b) Impact assessment:
  - Involves broader assessment of the potential effects of the proposal.
  - The application is assessed against:
    - the planning scheme;
    - an applicable State Planning Policy; and

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<sup>29</sup> A *development* will be classed as *assessable* by either the Act or the relevant local government planning scheme.

- any other laws or standards that can be reasonably applied to the *development*.
- Public notification is required.
- The application is subject to third party **appeal** rights.

## **D. Authorisations required**

### **Deciding an application**

An application may be:

- approved;
- approved subject to conditions; or
- refused.

If an application is refused, the decision notice must include reasons for the refusal.

Conditions must be complied with and may apply to various stages of the *development* including:

- project planning;
- construction; and
- on-going life of the *development*.

## Interaction with Environmental Authorities

In many cases, an application for an environmental authority pursuant to the *Environmental Protection Act 1994*, will be *assessable development* (*material change of use of premises*<sup>30</sup>) and be processed under IDAS.

### E. Consequences of application

#### Offences

It is an **offence** under this **Act** to:

- commence *assessable development* without a development permit;
- contravene a development permit, including a condition;
- contravene a code identified as applying to the use of the premises; or
- use the premises for an unlawful use.

These offences carry a maximum **penalty** of \$124,875 for an individual and \$624,375 for a corporation.

It is also an **offence** under the **Act** to fail to comply with applicable codes when carrying out:

- *assessable development*; and
- self-assessable development.

These offences carry a maximum **penalty** of \$12,375 for an individual and \$61,875 for a corporation.

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<sup>30</sup> A *material change of use of premises* is defined as:

- the start of an environmentally relevant activity (ERA) (ie. **meat processing**);
- the re-establishment of an ERA;
- a material change in the scale or intensity of a use; or
- the increase of 10% or more in the release of contaminant into the **environment** where the holder of an EA proposes to:
  - construct or alter premises; or
  - install or alter plant and equipment.

## Defences

It is a defence if a written notice is given as soon as possible to local government that development or use is commenced because of an emergency endangering:

- a person's life or health; or
- the structural safety of a building.

## Executive officer liability

An *executive officer*<sup>31</sup> of a corporation has a positive responsibility to ensure that the corporation complies with the **Act**.

An *executive officer* of a corporation is personally liable for any **offences** committed by the corporation.

However it is a defence for an *executive officer* to prove that:

- the officer exercised reasonable diligence to ensure the corporation complied with the **Act**; or
- the officer was not in a position to influence the corporation in relation to the **offence**.

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<sup>31</sup> *Executive officer* of a corporation means a person who:

- is concerned with; or
- takes part in

the corporation's management – whether or not the person is a director or the person's position is given the name of *executive officer*.

**A. Title of Act*****Sewerage and Water Supply Act 1949*****B. Objective**

To provide the Standard Sewerage Law for local governments in relation to the discharge of *trade waste*<sup>32</sup> into a sewerage and water supply system.

**C. Application of Act**

The *Standard Sewerage Law* and *Standard Water Supply Law* apply to all local government areas and is to be administered by the local government.

The *Standard Sewerage Law* provides for sewerage, sanitary conveniences and stormwater drainage and prohibits the discharge of prohibited substances and *trade waste*.

An **abattoir** may be required to obtain a permit from the local government to discharge *trade wastes* into a sewer.

The owner of any premises seeking a permit to discharge *trade wastes* into a sewer must include in its application particulars of:

- the location of the premises and nature of their occupancy;
- the nature and quantity of each *trade waste*;
- rates and periods of discharge of each *trade waste*;
- the proposed method of treatment of each *trade waste* before entry into the sewer;
- the measurement and sampling of the discharge prior to entry to the sewer; and
- such other information relevant to the application as the local government may deem necessary.

A council engineer can carry out such tests and investigations as he or she may require to determine the quantity, quality and treatment of the *trade*

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<sup>32</sup> *Trade wastes* means water-borne **waste** from business, trade or manufacturing premises other than **waste** that is a prohibited substance, human **waste** and stormwater. As the definition of *trade waste* is so wide, the operations carried out by the operator of an **abattoir** may fall within the definition.

wastes to be discharged to the sewer. The local government may then grant or refuse a permit on such conditions as it thinks fit having regard to the recommendations and determinations of the council engineer.

The council engineer or *trade wastes* inspector may inspect the treatment process and sample the *trade wastes* being discharged.

It is important to note that the *Water Act 2000* introduced amendments to this **Act** which have not yet commenced. When the relevant provisions of the *Water Act 2000* commence, the *Sewerage and Water Supply Act 1949* will no longer regulate the discharge of *trade waste* into a sewer. The provisions pertaining to the discharge of *trade waste* into a stormwater drain will remain.

#### **D. Consequences of Application**

The maximum **penalty** for discharging *trade waste* into a sewer or stormwater drain without a permit or in breach of a condition subject to which a permit was issued is \$75,000 for an individual and \$375,000 for a corporation.

**A. Title of Act**

***Soil Conservation Act 1986***

**B. Objective**

The objectives of this **Act** are to conserve soil resources and to facilitate the implementation of *soil conservation*<sup>33</sup> measures by landholders for the mitigation of *soil erosion*<sup>34</sup>.

**C. Application of Act**

The **Act** has potential application to the non-farm sector of the meat industry as the flow of water run-off from **abattoirs** may cause the removal of soil.

The **Act** gives an owner of land the right to apply to the chief executive for approval of a Property Plan for soil conservation.

Persons affected by a Property Plan may object and **appeal** to the Land Court against the chief executive's decision to approve the Plan.

Although applications for an approved Property Plan are voluntary, the chief executive may issue a Run off Co-ordination Notice requiring compliance with the Plan if he or she believes run-off water discharge is not in accordance with an approved Plan. The chief executive may apply to the Supreme Court for an order or an **injunction** directing that person to comply with or, as the case may be, to refrain from contravening the Notice.

The **Act** also provides for the establishment of Project Areas. A Project Area is constituted after the approval by the Governor in Council of an approved Project Plan prepared by the chief executive. A Project Plan will be prepared in respect of areas with significant *soil erosion*.

If land is within a designated Project Area, then the owner or occupier of that land can be issued a Soil Conservation Order requiring that he or she undertake any soil conservation measures specified in the Order.

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<sup>33</sup> *Soil conservation* is defined as the prevention or mitigation of soil erosion.

<sup>34</sup> *Soil erosion* is the natural or accelerated removal or the deposition of soil which may be detrimental to agricultural, pastoral, or forestry activities or engineering works of a public utility.



## D. Consequences of Application

If a person fails to comply with a Soil Conservation Order or Run-off Co-ordination Notice the chief executive is able to undertake any acts necessary to comply with the Order and recover his/her expenses from the person or can apply to the Supreme Court for an order or an **injunction** directing that person to comply with or, as the case may be, to refrain from contravening the Order.

It is an **offence** to fail to comply with a Run-off Co-ordination Notice or a Soil Conservation Order. The maximum **penalty** for this **offence** is \$1,500 for an individual and \$7,500 for a corporation.

**A. Title of Act*****Water Resources Act 1989***

The Act will ultimately be replaced by the *Water Act 2000* once it commences.

**B. Objective**

The objective of this **Act** is to regulate rights in water, the construction, control and management of works in respect of water conservation, irrigation, water supply, drainage control, improvement of the flow in or changes to watercourses and the safety and surveillance of referable dams.

**C. Authorisations required**

If an **abattoir** is situated on land that abuts a watercourse or dam, a licence must be obtained to pump the water to the premises. Where the land does not abut a watercourse it is necessary to obtain the written approval of any intermediate land owners on whose property works will have to be carried out to transport the water.

Licence applications are made to the Commissioner of Water Resources. The application is advertised in the applicant's local newspaper to allow land holders within prescribed distances the opportunity to object to the proposal.

If the Commissioner is of the opinion that the works the subject of an application are likely to affect the rights and interests of others, he or she will require the applicant to provide to him information with respect to those works. If there is an objection to the application, the Commissioner will cause an inquiry to be made into the effect of the application on the availability and sufficiency of the water supply to neighbouring land holders.

The Commissioner may grant a licence subject to such conditions that he or she thinks fit. During its currency, a licence may be suspended, cancelled or modified by the Commissioner.

**D. Consequences of Application**

It is an **offence** to construct works to use water without a licence. The maximum **penalty** for this **offence** is \$15,000 for an individual and \$75,000 for a corporation unless the **offence** involves the use of a referable dam. In this situation, the maximum **penalty** will be \$30,000 for an individual and \$150,000 for a corporation.

**A. Title of Act*****Water Act 2000***

The Act has only commenced in part. When the remaining provisions of the Act commence, the *Water Resources Act 1989* will be repealed entirely. The *Water (Postponement) Regulation 2001* has postponed the automatic commencement date so that the Act will not automatically commence before 13 September 2002. The provisions of the Act relating to water planning have commenced.

**B. Objective**

The main purpose of the **Act** is to provide for the sustainable management of water in Queensland whilst protecting the State's natural ecosystems. The **Act** provides a system for the planning, use and allocation of water in Queensland and draws upon the principle of **ESD**.

**C. Application of Act****Water Planning**

The **Act** vests all rights to the use, flow and control of all water in Queensland in the State.

The statutory framework for water planning can be summarised as follows:

- The Department of Natural Resources and Mines (DNRM) will firstly prepare a water resource plan (WRP) for an area; and

The WRP will be implemented through:

- preparing Resource Operations Plans (ROPs) which establish tradable water allocations and issue Resource Operations Licences (ROLs) to infrastructure operators;
- the granting of ROLs;
- the conversion of existing water licences and interim water allocations to water allocations; and
- the granting of new water allocations.

The *Water Act 2000* also introduces a number of provisions regulating the supply of water in Queensland which have not yet commenced. These include:

- provisions relating to the granting of water licences for taking and interfering with the flow of water;
- the granting of permits for the taking of water only;
- provisions for the protection of watercourses limiting activities that involve the destruction of vegetation, excavation or placing fill in the watercourse;
- provisions about referable dams; and
- the deeming of quarry material as property of the State.

The **Act** does not limit the taking of overland flow water unless there is a moratorium notice or WRP limiting the taking. However, even where the WRP or moratorium notice restricts the taking of overland flow water, it may still be used for the watering of stock but only where the stock is of a number that would normally be depastured as the land. This exception is unlikely to apply to cattle feedlotting.

## D. Consequences of Application

Failure to comply with the provisions of the **Act** will result in serious penalties. Many of the **offence** provisions have not yet commenced.

Of the provisions that have commenced, a maximum **penalty** of \$124,875 for an individual and \$624,375 for a corporation will apply to the following **offences**:

- taking water from a watercourse in contravention of an emergency notice prohibiting the taking of such water;
- the taking of water from a watercourse if the taking is prohibited by a **regulation** under the **Act**;
- the taking or supply of water unless authorised under the **Act**;
- discharging *trade waste* (see *Sewerage and Water Supply Act 1949* summary) to a service provider's infrastructure;
- contravening a moratorium notice; and
- contravening conditions of a water allocation, interim water allocation, licence or permit.

**A. Title of Act*****State Development and Public Works Organisation Act 1971*****B. Objective**

To provide for State planning and development through a co-ordinated system of public works organisation and environmental co-ordination.

**C. Application of Act****Significant projects and environmental impact statements (EIS)**

The Coordinator-General has the responsibility of co-ordinating State Government departments and local bodies to ensure that proper account is taken of environmental effects of any development.

An EIS is required for any project declared by the Coordinator-General to be a *significant project*.

The factors that must be taken into account in determining whether a project should be declared to be a significant project include:

- detailed information about the project, from the proponent;
- relevant planning schemes or policy frameworks;
- potential effect on relevant infrastructure;
- employment opportunities;
- complexity of local, State and Commonwealth requirements for the project;
- level of investment required for the proponent to carry out the project;
- strategic significance of the project.

The EIS is prepared by the proponent and required to address the terms of reference set by the Coordinator-General.

The EIS is made available for public inspection.

The Coordinator-General then reviews the material relevant to the project, including the EIS and submissions, and prepares an evaluation report.

This evaluation report will be:

- provided to the proponent; and
- made publicly available.

#### **Relationship with *Integrated Planning Act 1997***

If the project involves development that requires a development approval under the *Integrated Planning Act 1997* (IPA), then the assessment manager must be provided with a copy of the evaluation report. The Integrated Development Assessment System processes under IPA will be abridged.

Any conditions in the Coordinator General's report must be imposed as conditions in any development approvals issued for the significant project.

## Codes of Practice and Guidelines

Environmental **Codes of Practice** (Codes) and Guidelines are released by the **EPA** in order to advise industry on the likely environmental impacts of their actions and to suggest acceptable methods of controlling such impacts. Codes and Guidelines are merely advisory, not regulatory. Consequently no penalties attach to the breach of Codes and Guidelines alone.

In Queensland, industries can voluntarily prepare an environmental **Code of Practice** though such Codes must be approved by the Minister under the *Environmental Protection Act 1994* (Qld). As yet, there are no environmental **Codes of Practice** for **meat processors** in Queensland.

However, the **EPA** has developed a number of guidelines to assist in the application of **environmental laws**. A number of these guidelines can assist **meat processors** in complying with relevant environmental legislation.

## Title

### *Due Diligence Guidelines*

The **EPA** released a set of Due Diligence Guidelines in 1994 to assist **executive officers** by explaining the concept of due diligence.

There are seven principles of due diligence:

1. Development of pollution prevention system.
2. Establishment of a pollution prevention system.
3. Operation of a pollution prevention system.
4. People with the ultimate responsibility should receive reports.
5. Those with the ultimate responsibility should know the environmental standards.
6. Those with the ultimate responsibility should know the **environmental laws**.
7. Those with the ultimate responsibility should deal personally with system failures.

### **Executive officer**

Anyone who has a management role in a corporation running an **abattoir** (**executive officer**) could be held personally liable for any **offence** committed by the corporation under the *Environmental Protection Act 1994* (EP Act).

The EP Act provides two defences to criminal **liability** for **executive officers**:

- that the **executive officer** was not in a position to influence the conduct that resulted in the **offence** being committed; or
- that the **executive officer** took all reasonable steps to ensure that no breach would arise (due diligence defence).

The due diligence defence typically requires proof that the **executive officer** exercised due diligence. The Guidelines indicate that the availability of the defence will depend on, amongst other things:

- whether the **executive officer** has ensured that all relevant officers have been instructed that a pollution prevention system is required to ensure compliance with environmental legislation;



- whether a suitable pollution prevention system has been established;
- whether the system has been appropriately implemented and is regularly assessed for its effectiveness;
- whether the **executive officer** or other persons with ultimate responsibility receive reports on compliance and cases of non-compliance;
- whether those with ultimate responsibility know the laws and standards applicable to their enterprise; and
- whether those with ultimate responsibility deal personally with system failures.

## Title

### ***Environmental Management Guidelines***

The **EPA** released guidelines for preparing environmental management programs (EMPs) in September 1995. The Guidelines provide information on EMPs, describe what they are, when they cannot be used, and how to prepare them.

An EMP is a plan of action to improve an enterprise's environmental management performance by reducing environmental harm and achieving full compliance with the *Environmental Protection Act 1994* (EP Act) over time. EMPs are prepared when an enterprise is currently failing to comply with the requirements of the EP Act or when its managers believe that it will be unable to comply with the EP Act in the future. EMPs are approved by the relevant Administering Authority (**EPA** or the local government). Once approved, an EMP is legally binding on the enterprise and the Administering Authority.


EMPs can be prepared to cover three events:

- an Administering Authority may require that an EMP be prepared and complied with as a condition of an environmental licence or approval;
- an enterprise may seek additional time to comply with a new environmental standard without fear of prosecution; or
- an enterprise may wish to voluntarily disclose a failure to comply with the **Act** and develop a plan to achieve future compliance.

EMPs can be simple documents, but must:

- clearly state objectives;
- provide information on how these objectives will be achieved;
- set out a timetable for reaching the objectives;
- provide for the development of performance indicators with reporting intervals of not more than six months; and
- establish a system of monitoring and reporting on compliance with the EMP.

When the Administering Authority evaluates the draft EMP, major considerations will be how best practice can be incorporated and how risk can be minimised.



Draft EMPs have no set format. A fee is charged for considering a draft EMP based on the costs incurred by the Administering Authority in assessing the proposal. The Guidelines set out an example of a draft EMP.

## Title

### ***Preparing an Integrated Environmental Management System (IEMS) submission to support an integrated authority application***

#### **What is an integrated authority?**

An integrated authority may be granted by the **EPA** where a person makes an application for an environmental authority to carry out multiple environmentally relevant activities (ERAs) on the same site, or the same ERA in multiple places or multiple ERAs at different places.

The **EPA** recommends an integrated authority for multiple ERAs on one site. For multiple sites, the **EPA** must consider that the integrated authority will have tangible benefits.

An application for an integrated authority must be accompanied by a submission for an IEMS (IEMS submission). The IEMS outlines the processes that an applicant will utilise to manage the environmental impacts of the ERAs.

#### **Deciding which ERAs to include in the IEMS submission**

The **EPA** has an operational policy titled, *Circumstances for Issuing an Integrated Authority* which is used to decide applications.

In deciding which ERAs to group together, an applicant should consider the internal and administrative convenience of the relevant authority.

A mixture of Level 1 and Level 2 ERAs can be accepted on a single application for an integrated authority. The **EPA** cannot accept applications for sites where all ERAs carried out are devolved to local government. The **EPA** has a discretion to determine how many ERAs can be contained in one integrated authority application.

#### **Content of an IEMS submission**

An IEMS submission must address the following matters:

- the monitoring of release of contaminants into the **environment** and an environmental assessment of the releases;
- staff training and awareness of environmental issues;
- conduct of environmental and energy audits;
- **waste** prevention, treatment and disposal;
- a program for continuous improvement; and

- reporting arrangements on the effectiveness of the environmental management of the activities.

### **Developing and implementing an IEMS submission**

This guideline is consistent with AS/NZS ISO 14004 and 14001. The **Act** does not require an IEMS submission to be part of a certified environmental management system though it is recommended.

### **Granting of integrated authorities**

In deciding to grant the application, the Administering Authority can issue either an integrated authority or two or more environmental authorities.

## Title

### ***Waste Management Guidelines: Managing Waste Tracking in Queensland***

The Guideline was released by the **EPA** in January 2001 and is designed to provide information to assist **waste** generators (eg. **abattoirs**), transporters and receivers in complying with the legislative requirements under the *Environmental Protection (Waste Management) Regulation 2000* (Waste Management Regulation).

### **What is waste tracking?**

Animal effluent and residues including **abattoir** effluent is a *trackable waste*.

The **EPA** has established a Waste Tracking Database System that records and compares the information of **waste** generators and **waste** receivers. The **EPA** attempts to identify discrepancies between the volume and type of **waste** that is generated and received.

### **Waste Tracking Exemptions**

The waste tracking provisions do not apply to **waste** being transported for stock food or **waste** being transported to a farm for use as soil conditioner or fertiliser. The **EPA** can also issue exemptions where the **waste** does not show environmentally significant characteristics.

### **Responsibilities of the EPA**

The **EPA** is responsible for investigating any discrepancies between the information of **waste** generators and receivers. The **EPA** must further decide whether any action should be taken under the Waste Management Regulation. The investigations could involve an audit of the records kept by relevant **waste** handlers.

The **EPA** will also use the information to plan for and facilitate the provision of **waste** minimization programs, recycling opportunities and disposal or treatment facilities.

### **How is the information to be provided?**

The **EPA** has approved a Waste Transport Certificate which is available from **EPA** offices.

## Draft Legislation, Codes of Practice and Guidelines

### Title

#### *Draft Enforcement Guidelines*

The **EPA** released the draft Enforcement Guidelines in July 2001. It is expected that the Guidelines will be finalised in late 2001.

The draft guidelines emphasise that enforcement is only one of the measures the **EPA** can use to implement environmental legislation and state that enforcement “will be used with restraint”. The draft guidelines identify the following alternative enforcement measures:

- encouraging voluntary compliance;
- strategic compliance audits and site impact programs;
- working in conjunction with other agencies;
- verbal warnings and warning letters;
- infringement notices;
- administrative/court orders to cease an activity and/or to take action to remedy a breach;
- cancellation or suspension of a licence, lease or other permit; or
- prosecution.

The draft guidelines indicate that prosecution will occur where alternative enforcement measures have not been successful. In some cases the **EPA** may try to negotiate a swift and satisfactory environmental outcome and will only prosecute where negotiations do not appear to lead to such an outcome.

In other cases, prosecution will be the preferred option, for example:

- where a person obstructs an authorised person;
- where a person provides false or misleading information;
- wilfully, grossly, negligently or recklessly committing an **offence**; and
- causing severe and irreversible damage to the **environment**.

The level of environmental impact will be a critical factor in determining whether the **EPA** prosecute. Additionally, enforcement will be more likely where conduct involves an attempt to deceive the **EPA**.

### **Infringement Notices**

Infringement notices can be issued by the **EPA** in circumstances where breaches of **law** are not serious enough for court action. The draft guidelines detail the circumstances in which infringement notices are appropriate and where they should not be issued.

Cancelling or suspending a licence is acknowledged as the strongest **penalty** the **EPA** can invoke. The draft guidelines state that the **EPA** will only cancel or suspend a licence where the breach has had serious environmental consequences or where continual minor breaches have occurred despite warnings by the **EPA**.

### **Disclosure and co-operation**

The draft guidelines state that voluntary disclosure and co-operation will be considered by the **EPA**:

- in deciding whether to prosecute;
- if prosecution does occur, in decided what charges to lay; and
- what mitigating circumstances can be raised in sentencing.

### **Minimising Legal Action**

The draft guidelines list the following steps that companies can follow to minimise the risk of prosecution:

- establishing contingency plans;
- practising *due diligence*;
- complying with legislation;
- notifying the **EPA** immediately of any environmental harm; and
- upon notifying the **EPA** of harm, giving formal notice to the **EPA** of steps that will be taken to minimise the harm.

In deciding whether to take enforcement **action**, the **EPA** should take into account:

- the speed with which the **EPA** was notified of the breach(es);
- the severity of the breach(es);



- the prior conduct of the company in providing the **EPA** with relevant information; and
- other public interest factors.

## Title

### ***Draft Guidelines for Completing an Application for an Environmental Authority***

The **EPA** released draft Guidelines in 1995 on how to complete application forms for environmental authorities under the *Environmental Protection Act 1994*.

The Guidelines are for small operators requiring merely an approval or a single licence and for managers of larger operations with one or more activities needing to be licensed.

The Guidelines explain essentially how to fill out the application form and should be consulted when completing an application form.

Further *Draft Guidelines for Completing an Application for an Environmental Authority Part 2* were introduced in 1998.

## Relevant Contacts and Information Sources

### Relevant Contacts:

#### Freehills

Environmental Law Services

Contact: Janette Hewson (Senior Associate)

Telephone: (07) 3258 6657

#### Freehills

Environmental Law Services

Contact: Jen Shegog (Solicitor)

Telephone: (07) 3258 6627

#### *The Environment Protection Agency (EPA)*

The **EPA** Advisory Service

1800 501 087

Email

AS@env.qld.gov.au

Central Office

160 Ann St

Brisbane QLD 4000

(07) 3227 7111

### Other Specific Enquiries:

Contaminated Land (07) 3225 1827

Licensing (07) 3224 5641

Environmental planning (07) 3227 6784

Environmental Policy & Economics (07) 3247 5838

Sustainable Industries (07) 3225 1999

**Department of Primary Industries (DPI)**

Call Centre (8.00am to 6.00pm Monday to Friday)

Phone 13 25 23  
(07) 3404 6999  
Fax (07) 3404 6900  
Email via internet <http://www.dpi.qld.gov.au/home/229.html>

**Information Sources:****Queensland Government Departments**

Queensland Government Executive Directory	<a href="http://www.qgd.qld.gov.au/contents.html">http://www.qgd.qld.gov.au/contents.html</a>
Links to Queensland Government Departments	<a href="http://www.qld.gov.au/html/pathways.htm#departments">http://www.qld.gov.au/html/pathways.htm#departments</a>
Environmental Protection Agency	<a href="http://www.env.qld.gov.au/">http://www.env.qld.gov.au/</a>
Department of Primary Industries	<a href="http://www.dpi.qld.gov.au/home/default.html">http://www.dpi.qld.gov.au/home/default.html</a>
Department of Natural Resources and Mines	<a href="http://www.dnr.qld.gov.au/">http://www.dnr.qld.gov.au/</a>
Department of Local Government and Planning	<a href="http://www.dcilgps.qld.gov.au/index_lgp.html">http://www.dcilgps.qld.gov.au/index_lgp.html</a>
Department of State Development	<a href="http://www.thesmartsite.com.au/index.html">http://www.thesmartsite.com.au/index.html</a>
Department of Public Works	<a href="http://www.publicworks.qld.gov.au/">http://www.publicworks.qld.gov.au/</a>

**Other Queensland Websites**

Office of the Queensland Parliamentary Council Website – contains all Queensland Legislation	<a href="http://www.legislation.qld.gov.au/Legislation.htm">http://www.legislation.qld.gov.au/Legislation.htm</a>
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Queensland Courts <http://www.courts.qld.gov.au/>  
Homepage – contains District Court, Supreme Court and Court of Appeal judgements from 2000 onwards

*Integrated Planning Act 1997* <http://www.ipa.qld.gov.au/>  
Website

Please note that copies of the following documents can be accessed from the EPA website at <http://www.env.qld.gov.au/>:

- Draft Enforcement Guidelines;
- Due Diligence Guidelines;
- Environment Management Program Guidelines;
- Draft Guidelines for Completing an Environmental Authority;
- Integrated Planning Act Guidelines – Guideline to the Relationship between the *Environment Protection Act 1994* and the *Integrated Planning Act 1997*;
- Waste Management Guidelines; and
- Integrated Authority Guidelines.

## **New South Wales**

## Legislative Summary New South Wales

### A. Primary Legislation

#### ***Environmentally Hazardous Chemicals Act 1985***

Under this **Act**, the **EPA** may make orders governing the use of chemicals and chemical wastes. Operators of **abattoirs** may be required to hold a licence to use certain *chemicals* or to dispose of certain **wastes**.

If a site has been contaminated as a result of the use or disposal of chemicals or chemical wastes, an owner or occupier of an **abattoir** could be required to remediate the premises.

#### ***Protection of the Environment Operations Act 1997***

This **Act** makes it an **offence** to operate scheduled activities without an environment protection licence. An **abattoir** is a scheduled activity.

Licence applications are made to the **EPA**. One integrated licence is required for activities that result in air pollution, water pollution, noise pollution and waste management.

### B. Secondary Legislation

#### ***Environmental Planning and Assessment Act 1979***

This **Act** provides for the making of State Environmental Planning Policies (SEPPs). Certain SEPPs are relevant to the meat and livestock industry including *SEPP 33 – Hazardous and Offensive Development*, which requires development consent for hazardous or offensive development.

The **Act** also provides for the consideration of the environmental impact associated with approving a development application and makes the completion of an **Environmental impact statement** mandatory for certain designated developments. Designated developments include **abattoirs**.

#### ***Local Government Act 1993***

This **Act** requires that the approval of the relevant local council be obtained for certain activities including the disposal of *trade waste* (which includes **abattoir** effluent) into a council sewer and the installation, construction or alteration of waste treatment devices. The **Act** also provides local councils with the power to order the cessation of activities which threaten public

health or public safety, and to make other orders necessary to preserve healthy conditions.

### ***Ozone Protection Act 1989***

The object of the **Act** is to provide for a system of controls on substances which when released into and dispersed in the atmosphere and act as atmospheric pollutants that contribute to depletion of ozone in the stratospheric ozone layer. The **Act** covers the regulation and prohibition of the manufacture, sale, distribution, use, emission, re-cycling, storage and disposal of stratospheric ozone depleting substances and articles which contain those substances.

## **C. Codes of Practice and Guidelines**

### ***Authorised Officer's Manual: Abattoirs***

The Manual describes the environmental problems associated with **abattoirs** and recommends management strategies to minimise water, air and noise pollution and maintain community amenity. The Manual aims to raise environmental issues at the planning stage of industrial activity.

### ***Draft Policy: Assessment and Management of Odour from Stationary Sources 2001***

This draft policy provides mechanisms whereby issues associated with odour emanating from stationary sources can be controlled and managed. The policy aims to provide a future planning and regulatory regime for potential odour generating activities, like **abattoirs**.

### ***Environment Protection Manual – Dead Stock Disposal***

The Manual provides information regarding appropriate methods to dispose of dead stock in an environmentally friendly manner. The environmental concerns which exist in relation to dead stock disposal include the risk of polluting watercourses, producing odours, spreading disease and interfering with public amenity.

### ***EPA Prosecution Guidelines 1993***

The Guidelines provide an insight into the **EPA** prosecution policy and are a useful guide in determining whether action is likely to be taken by the **EPA** when a breach of environmental legislation occurs.



## Existing Legislation New South Wales Primary

### A. Title of Act

*Environmentally Hazardous Chemicals Act 1985*

### B. Objective

To assess and control *chemicals*<sup>35</sup> and *chemical wastes*<sup>36</sup> in order to minimise adverse effects to the **environment**.

### C. Application of Act

The **Act** regulates *chemicals*, *chemical wastes* and *prescribed activities*<sup>37</sup> that involve *chemicals* and *chemical wastes*. Enquiries with respect to whether or not specific substances constitute *chemicals* or *chemical wastes* should be directed to the **EPA**.

An **abattoir** operator may be required by the **Act** to:

- prevent or remedy contamination of premises; and
- allow an **EPA** officer to enter the premises.

### D. Authorisations required

An **abattoir** operator may be required by the **Act** to:

- apply for a licence;
- observe a chemical control order (CCO);

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<sup>35</sup> *Chemical* is defined broadly to include, subject to the exceptions set out by the **Act**, any chemical element, compound or complex.

<sup>36</sup> Under the powers granted by the **Act** the **EPA** has declared a broad range of substances as *chemical wastes*.

<sup>37</sup> A *prescribed activity* is the act of manufacturing, processing, keeping, distributing, conveying, using, selling or disposing of a chemical or chemical **waste** or any related act.

A person who proposes to carry out any *prescribed activity* must apply for a licence to carry out that activity if required to do so by any relevant CCO.

A licence may be issued subject to conditions. Security for environmental remediation costs may be required as a condition of granting the licence.

### Chemical Control Order

The **EPA** may make a CCO following an assessment of *chemicals*, *chemical wastes* or *prescribed activities*. Once a chemical is the subject of a CCO the **Act** categorises the chemical as an *environmentally hazardous chemical*.

A CCO may prohibit an activity or require an activity to be licensed. Any person may **appeal** a decision made in relation to a CCO.

A person who proposes to deal with *chemicals* or *chemical wastes* should check whether or not a CCO has been made with respect to the particular *chemicals* or *chemical wastes* or the activity to be undertaken.

## E. Consequences of Application

Offence	Civil penalty
A person who, in contravention of a CCO, carries on a <i>prescribed activity</i> in relation to a <i>chemical</i> or a declared <i>chemical waste</i> is guilty of an <b>offence</b> against this <b>Act</b> .	Any person guilty of an <b>offence</b> against this <b>Act</b> shall be liable:  (a) where the <b>offence</b> was committed by a corporation---to a <b>penalty</b> not exceeding \$137,000; or  (b) where the <b>offence</b> was committed by any other person---to a <b>penalty</b> not exceeding \$66,000.

Offence	Civil penalty
<p>Where any information about any <i>chemical waste</i> comes to the knowledge of a person who is or was an applicant under section 13 for assessment of a <i>prescribed activity</i> in relation to the <b>waste</b>, being information that contradicts or modifies any information furnished by the person in or in connection with the person's application for assessment, the person must forthwith supply the <b>EPA</b> with particulars of the new information.</p> <p>A person who fails to supply information as required above is guilty of an <b>offence</b> against this <b>Act</b>.</p>	<p>Any person guilty of an <b>offence</b> against this <b>Act</b> shall be liable:</p> <p>(a) where the <b>offence</b> was committed by a corporation---to a <b>penalty</b> not exceeding \$137,500; or</p> <p>(b) where the <b>offence</b> was committed by any other person---to a <b>penalty</b> not exceeding \$66,000.</p>
<p>A person to whom a licence has been issued and who contravenes a condition in force in respect of the licence is guilty of an <b>offence</b> against this <b>Act</b>.</p>	<p>Any person guilty of an <b>offence</b> against this <b>Act</b> shall be liable:</p> <p>(a) where the <b>offence</b> was committed by a corporation---to a <b>penalty</b> not exceeding \$137,000; or</p> <p>(b) where the <b>offence</b> was committed by any other person---to a <b>penalty</b> not exceeding \$66,000.</p>

Any person may commence proceedings in the Land and Environment Court to remedy or restrain a breach of the **Act**, irrespective of whether or not any right of that person has been infringed.

There is a general right of **appeal** to the Land and Environmental Court against decisions related to CCOs, with respect to licence applications and any remediation directions given.

### Executive officer liability

Where offences are committed by corporations, each director, or person concerned in the management of the corporation, will be deemed to have contravened the **Act** unless:

- the contravention took place without the knowledge of the person;

- the person was not in a position to influence the conduct of the corporation; or
- the person used all due diligence in the circumstances.

### Remedial action for contamination

The **EPA** has the power to require the owner/occupier of an **abattoir** to take remedial **action** if, because of *chemicals* or *chemical wastes*, premises have become:

- unsafe or unfit for habitation or occupation by persons or animals;
- degraded in their capacity to support plant life; or
- otherwise environmentally degraded.

Remedial action can include ascertaining the nature and extent of the contamination, preparing a long-term remediation plan, removing contamination from the premises, erecting fences or signs, and vacating premises.

The **EPA** can remediate premises contaminated through a breach of the **Act** and then recover the costs from the property owner or occupier.

### Entry Onto Premises

Authorised officers of the **EPA** are permitted to enter premises when an authorised officer has reasonable grounds to suspect that a prescribed activity is taking place on those premises. No search warrant is required unless the premises are a private dwelling. The officer can then, subject to the **Act**:

- take samples of chemicals;
- examine equipment, plant and vehicles and detain vehicles;
- conduct tests on the premises including opening, seizing and removing containers;
- take photographs; and
- require that a substance be kept in the same position or be moved.

## A. Title of Act

### ***Protection of the Environment Operations Act 1997***

## B. Objective

The 3 main objects of this **Act** are to:

- protect, restore and enhance the quality of the environment<sup>38</sup> in New South Wales having regard to the need to maintain **ESD**;
- ensure increased opportunities for public involvement and access to information; and
- reduce risks to human health and prevent the degradation of the *environment*.

The **Act** incorporates an integrated approach to environmental management regulating all environmental effects of an activity, including effects to air, water, land, flora and fauna.

## C. Application of Act

The **Act** regulates any *activity* including an industrial, agricultural or commercial activity or an activity of any other nature whatsoever (including the keeping of a substance or an animal). An **abattoir** would be an *activity*.

## D. Authorisations required

Environmental protection licences (EPL) are required to carry out any *scheduled activity*.<sup>39</sup>

A single integrated EPL is required for air pollution, water pollution, noise pollution and waste management. Once a licence has been issued for one

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<sup>38</sup> *Environment* is defined as components of the earth including:

- land, air and water, and
- any layer of the atmosphere, and
- any organic or inorganic matter and any living organism, and
- human-made or modified structures and areas.

<sup>39</sup> *Scheduled activities* are listed in Schedule 1 of the Act and includes livestock processing industries comprising commercial operations that slaughter animals with an intended processing capacity of more than 3,000 kilograms live weight per day.

form of pollution, it regulates all other pollution resulting from the *activity*. A licence remains in force until it is either suspended, revoked or surrendered. Reviews of the licence and compliance with associated conditions are conducted by the **EPA**.

Certain *activities* may be exempted from licence requirements in an emergency situation.

## **E. Consequences of Application**

### **Environment Offences**

The **Act** provides a tiered **offence** structure to respond to the differing levels of environmental harm and impact on environmental amenity that a breach of the **Act** may cause. Offences under the **Act** are:

- Tier 1 Offences - the wilful or negligent disposal of **waste** in a manner that harms or is likely to harm the **environment**;
- Tier 2 Offences - all other environmental offences; and
- Tier 3 Offences - all Tier 2 environmental offences that can be dealt with by way of a **penalty** notice and fine.

Offence	Civil penalty	Criminal penalty
<p>A person who:</p> <ul style="list-style-type: none"> <li>• does not comply with a prevention notice given to the person; or</li> <li>• without reasonable excuse, does not comply with a prohibition notice given to the person</li> </ul> <p>is guilty of an <b>offence</b>.</p>	<p>In the case of a corporation--- \$250,000 and, in the case of a continuing <b>offence</b>, a further <b>penalty</b> of \$120,000 for each day the <b>offence</b> continues, or</p> <p>in the case of an individual--- \$120,000 and, in the case of a continuing <b>offence</b>, a further <b>penalty</b> of \$60,000 for each day the <b>offence</b> continues.</p>	

Offence	Civil penalty	Criminal penalty
<p>If a person wilfully or negligently:</p> <ul style="list-style-type: none"> <li>• disposes of <b>waste</b> in a manner that harms or is likely to harm the <b>environment</b>; or</li> <li>• causes any substance to leak, spill or otherwise escape (whether or not from a container) in a manner that harms or is likely to harm the <b>environment</b>; or</li> <li>• causes any <i>controlled substance</i> (within the meaning of the <i>Ozone Protection Act 1989</i>) to be emitted into the atmosphere in contravention of the regulations under that <b>Act</b> and in a manner that harms or is likely to harm the <b>environment</b>;</li> </ul> <p>the person, and if the person is not the owner of the <b>waste</b>, the owner, are each guilty of an <b>offence</b>.</p>		<p>A person who is guilty of this <b>offence</b> is liable, on conviction:</p> <p>in the case of a corporation---to a <b>penalty</b> not exceeding \$1,000,000, or</p> <p>in the case of an individual---to a <b>penalty</b> not exceeding \$250,000 or 7 years imprisonment, or both.</p>



Offence	Civil penalty	Criminal penalty
<p>A person must not pollute any waters.</p> <p>A person must not cause any waters to be polluted.</p> <p>A person must not permit any waters to be polluted.</p> <p>A person who contravenes this section is guilty of an <b>offence</b>.</p>		<p>A person who is guilty of this <b>offence</b> is liable, on conviction:</p> <p>(a) in the case of a corporation---to a <b>penalty</b> not exceeding \$250,000 and, in the case of a continuing <b>offence</b>, to a further <b>penalty</b> not exceeding \$120,000 for each day the <b>offence</b> continues, or</p> <p>(b) in the case of an individual---to a <b>penalty</b> not exceeding \$120,000 and, in the case of a continuing <b>offence</b>, to a further <b>penalty</b> not exceeding \$60,000 for each day the <b>offence</b> continues.</p>

Offence	Civil penalty	Criminal penalty
<p>The occupier of any premises who:</p> <ul style="list-style-type: none"> <li>• operates any plant in or on those premises in such a manner as to cause air pollution from those premises is guilty of an <b>offence</b> if the air pollution so caused, or any part of the air pollution so caused, is caused by the occupier's failure: <ul style="list-style-type: none"> <li>• to maintain the plant in an efficient condition, or</li> <li>• to operate the plant in a proper and efficient manner; or</li> </ul> </li> <li>• carries out maintenance work on any plant in or on those premises in such a manner as to cause air pollution from those premises is guilty of an <b>offence</b> if the air pollution so caused, or any part of the air pollution so caused, is caused by the occupier's failure to carry out that work in a proper and efficient manner;</li> <li>• deals with materials in or on those premises in such a manner as to cause air pollution from those premises is guilty of an <b>offence</b> if the air pollution so caused, or any part of the air pollution so caused, is caused by the occupier's failure to deal with those materials in a proper and efficient manner.</li> </ul>		<p>A person who is guilty of this <b>offence</b> is liable, on conviction:</p> <p>(a) in the case of a corporation---to a <b>penalty</b> not exceeding \$250,000 and, in the case of a continuing <b>offence</b>, to a further <b>penalty</b> not exceeding \$120,000 for each day the <b>offence</b> continues, or</p> <p>(b) in the case of an individual---to a <b>penalty</b> not exceeding \$120,000 and, in the case of a continuing <b>offence</b>, to a further <b>penalty</b> not exceeding \$60,000 for each day the <b>offence</b> continues.</p>

Offence	Civil penalty	Criminal penalty
<p>If a person transports <b>waste</b> to a place that cannot lawfully be used as a waste facility for that <b>waste</b>:</p> <p>(a) the person, and</p> <p>(b) if the person is not the owner of the <b>waste</b>, the owner,</p> <p>are each guilty of an <b>offence</b>.</p>	<p>in the case of a corporation--- \$250,000, or</p> <p>in the case of an individual--- \$120,000.</p>	
<p>A person who is the owner or occupier of any land that cannot lawfully be used as a waste facility and who permits the land to be used as a waste facility is guilty of an <b>offence</b>.</p>	<p>in the case of a corporation--- \$250,000 and, in the case of a continuing <b>offence</b>, a further <b>penalty</b> of \$120,000 for each day the <b>offence</b> continues, or</p> <p>in the case of an individual--- \$120,000 and, in the case of a continuing <b>offence</b>, a further <b>penalty</b> of \$60,000 for each day the <b>offence</b> continues</p>	

Offence	Civil penalty	Criminal penalty
<p>A person carrying on the <i>activity</i> or occupier, must, as soon as practicable after the person becomes aware of a pollution incident, notify the appropriate regulatory authority of the incident and all relevant information about it.</p>		<p>in the case of a corporation--- \$250,000 and, in the case of a continuing <b>offence</b>, a further <b>penalty</b> of \$120,000 for each day the <b>offence</b> continues, or</p> <p>in the case of an individual--- \$120,000 and, in the case of a continuing <b>offence</b>, a further <b>penalty</b> of \$60,000 for each day the <b>offence</b> continues.</p>

### Executive officer liability

Directors and managers of a corporation that commits an **offence** may also be liable under the **Act**. The **Act** provides that if a corporation contravenes, whether by act or omission, the **Act**, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision, unless the person satisfies the court that:

- the corporation contravened the provision without the knowledge actual, imputed or constructive of the person, or
- the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or
- the person, if in such a position, used all due diligence to prevent the contravention by the corporation.

Proceedings may be brought against a person under the **Act** regardless of whether or not proceedings have been brought against the corporation.

Further, any person who:

- aids, abets, counsels or procures another person to commit, or
- attempts to commit, or
- conspires to commit,

an **offence** under the **Act** is also guilty of an **offence** and is liable, on conviction, to the same **penalty** as if they personally had committed the **offence**.

### Defence

The **Act** provides a statutory defence with respect to environmental offences if the person or corporation responsible exercised due diligence, by taking all reasonable precautions to prevent the commission of the **offence**.

### Environment Protection Notices

The **EPA** and local councils are empowered to issue notices under the **Act** . The notices available to the regulatory authorities include:

- Clean-up notices which require the occupier of premises, or the person reasonably suspected of causing a pollution incident, to prevent, minimise, remove, disperse, destroy or mitigate pollution. These notices respond to pollution incidents.
- Prevention notices which address more systemic pollution problems that are likely to cause a pollution incident. The regulatory authority will require actions to repair or replace equipment, cease using the plant, or modify the way it is currently used.
- Prohibition notices which direct the occupier of the premises to cease carrying on an activity that is causing, or is likely to cause, harm to the **environment** or an activity that may cause injury or inconvenience to the public.

## Existing Legislation New South Wales Secondary

### A. Title of Act

#### ***Environmental Planning and Assessment Act 1979***

### B. Objective

The objectives of this **Act** are to:

- encourage the proper management, development, provision and conservation of natural and man-made land and resources;
- promote the sharing of responsibility for **environmental planning** between different levels of government in the State; and
- provide increased opportunity for public involvement and participation in **environmental planning** and assessment.

### C. Application of Act

#### **Environmental Planning Instruments (EPIs)**

The **Act** provides for the making of EPIs which include State Environmental Planning policies (SEPPs), regional environmental plans (REPs) and local environmental plans (LEPs). EPIs operate together to form the basis upon which a *consent authority*<sup>40</sup> may make a development decision (including development decisions concerning **abattoirs**).

SEPPs contain matters which are, in the opinion of the Director, “of significance for **environmental planning** for the State”. REPs develop planning policies on a regional scale and LEPs cover local government areas and provide information regarding the zoning and development status of a site.

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<sup>40</sup> *Consent authority* means in relation to a development application or an application for a complying development certificate:

- the local council having the function to determine the application, or
- (in some circumstances) a Minister or public authority (eg: the Department of Urban Affairs and Planning).

SEPP 33 – *Hazardous and Offensive Development* which requires development consent for potentially *hazardous or offensive development industry*<sup>41</sup> proposed to be carried out in the *Western Division*<sup>42</sup>.

### Designated Development

The **Act** lists certain development as being *designated development*, triggering more onerous development approval requirements for those developments listed. **Abattoirs** are *designated development*.

Applications for consent for *designated development* must be accompanied by an **environmental impact statement** (EIS). An EIS should include a full description of the development or activity and the likely impact of the development or activity on the **environment**.

Notice of applications in respect of *designated developments* must be served on adjoining landowners and occupiers and where practicable to such other persons as appear, to the determining authority, to own or occupy land where the use and enjoyment of it may be detrimentally affected if the *designated development* is carried out. The application must be published in a newspaper circulated in the locality. Any person may inspect the application and make submissions.

The *consent authority*, in making its decision, is required to have regard to the considerations set out in section 92 of the **Act** including the:

- relevant planning instrument;
- environmental impact;
- social and economic effects; and

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<sup>41</sup> *Potentially hazardous industry* is development for the purposes of any industry which, if the development were to operate without employing any measures to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk:

- to human health, life or property; or
- to the biophysical **environment**, and
- includes a hazardous industry and a hazardous storage establishment.

*Potentially offensive industry* is development for the purposes of an industry which, if the development were to operate without employing any measures to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (including noise) in a manner which would have a significant adverse impact in the locality or on existing or future development on other land, and includes an offensive industry and an offensive storage establishment.

<sup>42</sup> The *Western Division* of NSW is defined in the *Western Lands Act 1901* (NSW) section 3(1). However, it can generally be defined as land west of a line from the Queensland border through Walgett to Balranald. The eastern boundary consists of Barwon River, Marra Creek and a line south to Euabalong and the Lachlan River.

- public interest.

Conditions may be imposed on a grant of consent to take account of these considerations.

At various stages of the approval process the Minister for Urban Affairs and Planning is given the power to intervene and conduct an inquiry into the proposal and thus becomes the determining authority. Objectors to the application are required to be notified of the decision and of their rights of **appeal** to the Land and Environment Court.

If a conditional consent is granted the conditions must be adhered to when the development proceeds.

### **Other Development**

Applications that do not relate to a *designated development* must still demonstrate that the applicant “has given appropriate consideration to the impact that the development to which that application relates will have on the **environment**”. The application must outline the steps that the applicant proposes to take to mitigate any likely adverse impact on the **environment**. The applicant may be required to prepare an EIS if the determining authority believes that the activity is likely to significantly affect the **environment**.

## **D. Consequences of Application**

If an applicant fails to consider the impact that a development will have on the **environment**, it may threaten the validity of a consent. A challenge to the validity of a consent may also be based on a failure to comply with procedural requirements for the determination of a development application.

Breaches of the **Act**, including the failure to prepare an adequate EIS for a development proposal, may result in the planning decision or development consent being challenged by “any person” in the Land and Environment Court to remedy or restrain the breach of the **Act**.



## Offences

Offence	Civil penalty	Criminal penalty
<p>Where any matter or thing is by or under this <b>Act</b>, other than by or under the regulations, directed or forbidden to be done, or where the Minister, the Director-General, a council or any other person is authorised by or under this <b>Act</b>, other than by or under the regulations, to direct any matter or thing to be done, or to forbid any matter or thing to be done, and that matter or thing if so directed to be done remains undone, or if so forbidden to be done is done, a person offending against that direction or prohibition shall be guilty of an <b>offence</b> against this <b>Act</b>.</p> <p>Where any matter or thing is by or under the regulations directed or forbidden to be done, or where the Minister, the Director-General, a council or any other person is authorised by the regulations to direct any matter or thing to be done, or to forbid any matter or thing to be done, and that matter or thing if so directed to be done remains undone, or if so forbidden to be done is done, a person offending against that direction or prohibition shall be guilty of an <b>offence</b> against the regulations.</p>	<p>A person guilty of an <b>offence</b> against this <b>Act</b> shall, for every such <b>offence</b>, be liable to the <b>penalty</b> expressly imposed and if no <b>penalty</b> is so imposed to a <b>penalty</b> not exceeding \$1,100,000 and to a further daily <b>penalty</b> not exceeding \$110,000.</p>	

**A. Title of Act*****Local Government Act 1993*****B. Objectives**

The main objects of this **Act** are to:

- provide the legal framework for an effective, efficient, environmentally responsible and open system of local government in New South Wales;
- regulate the relationships between the people and bodies comprising the system of local government in NSW;
- encourage and assist the effective participation of local communities in the affairs of local government;
- give councils certain powers; and
- require councils, councillors and council employees to have regard to the principles of **ESD** in carrying out their responsibilities.

**C. Application of Act**

Councils have various regulatory functions under the **Act**. Certain activities can only be carried out if the Council gives its approval.

**D. Authorisations required**

Approval is required for the activities set out in the Table to section 68 of the **Act**. Of potential relevance to **abattoirs**, approvals are required for the following activities if carried out including:

- install a temporary structure on land;
- carry out *water supply work*<sup>43</sup>;
- draw water from a council water supply or a standpipe or sell water so drawn;

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<sup>43</sup> A *water supply work* means the construction, alteration, extension, disconnection, removal, maintenance, repair, renewal or clearing of any pipes or fittings of any water service communicating or intended to communicate, directly or indirectly, with any water main of a council, but does not include changing a washer.

- connect a private drain or sewer with a public drain or sewer under the control of a council or with a drain or sewer which connects with such a public drain or sewer;
- for fee or reward, transport **waste** (which includes **abattoir** effluent) over or under a public place;
- place **waste** in a public place;
- place a **waste** storage container in a public place;
- dispose of **waste** into a sewer of the council;
- install, construct or alter a waste treatment device or a drain connected to any such device or facility.

Relevant to **abattoirs**, approvals are required for the following activities if carried out including:

- the disposal of *trade wastes* (which includes **abattoir** effluent) into a Council sewer;
- the installation, construction or alteration of a waste treatment device.

## **E. Consequences of Application**

Where work carried out has caused or is likely to cause environmental damage as a result of drainage, drainage works, or the obstruction of a natural watercourse, the owner or occupier of the land may be ordered to:

- refrain from doing things that may result in further environmental damage; or
- repair the environmental damage.

A council may:

- order the cessation of an activity which constitutes, or is likely to constitute, a threat to public health or public safety, where that activity is not regulated or controlled under any other **Act** by a public authority; or
- make such orders as are necessary to preserve health conditions, including doing such things to put premises, vehicles or articles used for the manufacture, preparation, storage, sale, transportation or handling in relation to food, into a clean and sanitary condition.

Reasons must be given for an order given under this **Act**.

### Offences

Offence	Civil penalty	Criminal penalty
A person who carries out a specified activity without having obtained a prior approval of the council is guilty of an <b>offence</b> .	\$5,500 (in the case of an individual) or \$11,000 (in the case of a corporation).	
A person who has obtained the approval of the council to the carrying out of an activity and who carries out that activity otherwise than in accordance with the terms of that approval is guilty of an <b>offence</b> .	\$5,500 (in the case of an individual) or \$11,000 (in the case of a corporation).	

**A. Title of Act*****Ozone Protection Act 1989*****B. Objective**

The object of the **Act** is to provide for a system of controls on substances which, when released into and dispersed in the atmosphere, act as atmospheric pollutants that contribute to depletion of ozone in the stratospheric ozone layer.

**C. Application of Act**

The **Act** covers the regulation and prohibition of the manufacture, sale, distribution, use, emission, re-cycling, storage and disposal of stratospheric ozone-depleting substances and articles which contain those substances. The **Act** will apply to an **abattoir** that, for example, uses a *controlled substance*<sup>44</sup>.

The *Ozone Protection Act 1989* is in addition to, and does not derogate from, the *Protection of the Environment Operations Act 1997*.

**D. Authorisations required**

A person must not sell or distribute a *controlled substance* to another person without being an authorised seller.

<sup>44</sup> *Controlled substance* means :

- any substance specified in Schedule 1 (Ozone depleting substances) of the **Act**; or
- any substance prescribed by the regulations as an ozone depleting substance on the recommendation of the Minister under section 5.

The following *controlled substances* are listed in Schedule 1 of the **Act**:

<b>Controlled substance</b>	<b>Common name</b>
Trichlorofluoromethane	CFC-11
Dichlorodifluoromethane	CFC-12
Trichlorotrifluoroethane	CFC-113
Dichlorotetrafluoroethane	CFC-114
(Mono)chloropentafluoroethane	CFC-115
Bromochlorodifluoromethane	Halon-1211
Bromotrifluoromethane	Halon-1301
Dibromotetrafluoroethane	Halon-2402

These substances correspond with those in the Montreal Protocol and the *Ozone Protection Act 1989* (Commonwealth).

A person must not obtain possession of a *controlled substance* unless the person is an authorised purchaser and the purchase is made from an authorised seller.

## E. Consequences of Application

The maximum **penalty** for selling or distributing or possessing a *controlled substance* without authorisation is \$22,000

### Record keeping

An authorised supplier and an authorised purchaser must make and retain records of any sale, purchase or distribution of a *controlled substance*. The following records must be kept:

- the name, address, authorisation number of the person who sold, purchased or distributed the *controlled substance*;
- the common name and quantity of the *controlled substance* sold, purchased, distributed or that leaves the control of the authorised supplier or purchaser;
- the name and address of each person to whom possession of any *controlled substance* passes.

An authorised purchaser must record the common name and quantity of each *controlled substance* held in stock as at 30 June in each year and must, at the request of an authorised officer, make any records available for inspection.

Records must be in writing and retained for a minimum period of 2 years.

The maximum **penalty** for a breach of this provision is \$11,000.

### Other restricted activities

A person must also have an authorisation or be supervised by a person with authorisation before engaging in the following *restricted activities*:

- the manufacture, installation, servicing or decommissioning of:
- any refrigeration equipment;
- any air conditioning equipment;
- any aerosol;
- any fire protection system;

- any portable fire extinguisher;
- any other controlled article that uses a *controlled substance* in its operation (other than a mere container); and
- the reprocessing or upgrading of any *controlled substance*.

The maximum **penalty** for a breach of this provision is \$22,000.

### **Labelling of refrigeration and air conditioning equipment**

A person who services any refrigeration or air conditioning equipment by charging it with a *controlled substance* or replacing an existing *controlled substance* must attach a label in a prominent position, recording the following:

- the name of organisation carrying out the service;
- the authorisation number of the purchaser of the *controlled substance*;
- the date of the service;
- the type of *controlled substance*; and
- the type of lubricant used.

The maximum **penalty** for a breach of this provision is \$11,000.

Any refrigeration or air conditioning equipment for sale must record the type of *controlled substance* used in its operation in a prominent place in a manner that will endure for the likely service life of the equipment.

The maximum **penalty** for a breach of this provision is \$11,000.

### **Safe keeping and disposal of controlled substances**

A person who has possession of a *controlled substance* must keep it in an airtight container at all times and must not cause or permit it to be released to the atmosphere.

The maximum **penalty** for a breach of this provision is \$22,000.

A person must not dispose of a *controlled substance* otherwise than:

- delivering it to an authorised supplier; or
- delivering to an authorised purchaser, but only if the person is an authorised supplier; or

- destroying in a manner approved by the **EPA**.

The maximum **penalty** for a breach of this provision is \$22,000.

### Use of HCFCs and halons for fire protection

A person must not discharge a portable *HCFC*<sup>45</sup> fire extinguisher except for the purpose of extinguishing a fire.

The maximum **penalty** for a breach of this provision is \$11,000.

A person must not test a fixed *HCFC* fire protection system involving the release of the *HCFC* other than with written approval of the **EPA**. A person must not discharge a fixed halon system except for the purpose of extinguishing a fire in an emergency. Within 30 days after any halon is discharged from a fixed halon system, the occupier of the premises non which the system is installed must given notice of the discharge to the **EPA**.

The maximum **penalty** for a breach of this provision is \$22,000.

A fixed halon system must not be installed or allowed to remain in a building by the owner unless there is written approval by the **EPA**. The **EPA** will not give approval unless it is satisfied that there is no acceptable alternative means of fire protection available.

The maximum **penalty** for a breach of this provision is \$22,000.

### Offences

Offence	Civil penalty
A person must not sell or distribute a CFC, HCFC or halon to another person unless: (a) the first person is an authorised supplier for the CFC, HCFC or halon, and sells or distributes it in accordance with any conditions to which his or her authorisation is subject, and (b) the second person is an authorised purchaser for the CFC, HCFC or halon.	Maximum <b>penalty</b> : \$22,000 in the case of a corporation or \$11,000 in any other case.
An authorised supplier of a CFC, HCFC or halon must ensure that any CFC, HCFC or halon that is in his or her possession or under his or her control is handled in a manner that prevents, or at least minimises, its release to the atmosphere.	Maximum <b>penalty</b> : \$11,500 in the case of a corporation or \$5,500 in any other case.

<sup>45</sup> *HCFC* means hydrochlorofluorcarbon.



Offence	Civil penalty
An authorised supplier of a CFC, HCFC or halon must make and retain records as required by the regulations.	Maximum <b>penalty</b> : \$11,500 in the case of a corporation or \$5,500 in any other case.
An authorised purchaser of a CFC, HCFC or halon must make and retain records as required by this clause.	Maximum <b>penalty</b> : \$11,500 in the case of a corporation or \$5,500 in any other case.
An authorised purchaser must, at the request of an authorised officer, make available for inspection by the authorised officer any records required under this clause.	Maximum <b>penalty</b> : \$11,500 in the case of a corporation or \$5,500 in any other case.
Before 1 November in each year, an authorised supplier of a CFC, HCFC or halon must forward to the Authority a return showing: (a) the total quantity of each CFC, HCFC or halon (identified by its common name) sold by the supplier during the previous reporting year, and (b) the total quantity of each CFC, HCFC or halon (identified by its common name) acquired by the supplier as a result of accepting delivery of reclaimed CFCs, HCFCs and halons during the previous reporting year, and (c) the total quantity of each CFC, HCFC or halon (identified by its common name) held in stock by the supplier at the end of the previous reporting year.	Maximum <b>penalty</b> : \$11,500 in the case of a corporation or \$5,500 in any other case.
Within one month after an authorised supplier is served with a written request from the <b>EPA</b> to do so, the supplier must forward to the <b>EPA</b> copies of any other records made and retained by the supplier under the regulations.	Maximum <b>penalty</b> : \$11,500 in the case of a corporation or \$5,500 in any other case.
A person must not obtain possession of a CFC, HCFC or halon from another person unless: (a) the first person is an authorised purchaser for the CFC, HCFC or halon, and obtains possession of it in accordance with any conditions to which his or her authorisation is subject, and (b) the second person is an authorised supplier for the CFC, HCFC or halon.	Maximum <b>penalty</b> : \$22,000 in the case of a corporation or \$11,000 in any other case.

Offence	Civil penalty
<p>A person must not engage in a <i>restricted activity</i> unless:</p> <p>(a) the person holds an authorisation for that activity, or is acting under the direct supervision of a person who holds such an authorisation, and</p> <p>(b) the person does so in accordance with any conditions to which his or her authorisation or that of his or her supervisor is subject.</p>	<p>Maximum <b>penalty</b>: \$22,000 in the case of a corporation or \$11,000 in any other case.</p>
<p>A person who manufactures, sells or distributes any refrigeration equipment that uses a CFC or HCFC in its operation is guilty of an <b>offence</b> unless the equipment bears a label that:</p> <p>(a) clearly identifies the CFC or HCFC used, and</p> <p>(b) is displayed in such a position on the equipment that it will be easily found by a person servicing the equipment, and</p> <p>(c) is of such a size that the information on the label is easy to read, and</p> <p>(d) will endure for the likely service life of the equipment.</p>	<p>Maximum <b>penalty</b>: \$11,500 in the case of a corporation or \$5,500 in any other case.</p>
<p>A person who services any refrigeration equipment by charging it with a CFC or HCFC, or by replacing its existing CFC or HCFC with some other refrigerant, must attach a label (in a prominent position on or near the equipment) that records the following information in a legible manner:</p> <p>(a) the name of the organisation carrying out the service,</p> <p>(b) the authorisation number (if any) of the purchaser of the CFC or HCFC or other refrigerant used to charge the equipment,</p> <p>(c) the date of the service,</p> <p>(d) the type of refrigerant used in the service,</p> <p>(e) the type of lubricant used in the service.</p>	<p>Maximum <b>penalty</b>: \$11,500 in the case of a corporation or \$5,500 in any other case.</p>

Offence	Civil penalty
<p>A person must not test a fixed HCFC system, in a manner that results in, or is likely to result in, the release to the atmosphere of any HCFC, otherwise than with the written approval of the <b>EPA</b> and in accordance with any conditions to which that approval is subject.</p> <p>A person must not discharge a fixed HCFC system except for the purpose of extinguishing a fire in an emergency.</p>	<p>Maximum <b>penalty</b>: \$22,000 in the case of a corporation or \$11,000 in any other case.</p>
<p>A person:</p> <p>(a) must not install a fixed halon system in any premises, or</p> <p>(b) being the owner of premises, must not allow a fixed halon system to remain in the premises, otherwise than with the written approval of the <b>EPA</b> and in accordance with any conditions to which that approval is subject.</p>	<p>Maximum <b>penalty</b>: \$22,000 in the case of a corporation or \$11,000 in any other case.</p>
<p>A person must not test a fixed halon system in a manner that results in, or is likely to result in, the release of a halon to the atmosphere.</p> <p><b>A</b> person must not discharge a fixed halon system except for the purpose of extinguishing a fire in an emergency.</p>	<p>Maximum <b>penalty</b>: \$22,000 in the case of a corporation or \$11,000 in any other case.</p>
<p>Within 30 days after any halon is discharged from a fixed halon system, the occupier of premises on which the system is installed must give notice of the discharge to the <b>EPA</b> in accordance with this clause.</p>	<p>Maximum <b>penalty</b>: \$5,500 in the case of a corporation or \$2,750 in any other case.</p>
<p>A person who has possession of a CFC or HCFC:</p> <p>(a) must keep it in an airtight container at all times, and</p> <p>(b) must not cause or permit it to be released to the atmosphere.</p>	<p>Maximum <b>penalty</b>: \$22,000 in the case of a corporation or \$11,000 in any other case.</p>

Offence	Civil penalty
<p>A person must not dispose of a CFC or HCFC otherwise than:</p> <p>(a) by delivering it to an authorised supplier, or</p> <p>(b) by delivering it to an authorised purchaser, but only if the person is an authorised supplier, or</p> <p>(c) by destroying it in a manner approved by the <b>EPA</b>.</p>	<p>Maximum <b>penalty</b>: \$22,000 in the case of a corporation or \$11,000 in any other case.</p>
<p>A person who has possession of a miscellaneous <i>controlled substance</i>:</p> <p>(a) must keep it in an airtight container at all times, and</p> <p>(b) must not cause or permit it to be released to the atmosphere.</p>	<p>Maximum <b>penalty</b>: \$22,000 in the case of a corporation or \$11,000 in any other case.</p>
<p>A person must not dispose of a miscellaneous <i>controlled substance</i> otherwise than in a manner approved by the <b>EPA</b>.</p>	<p>Maximum <b>penalty</b>: \$22,000 in the case of a corporation or \$11,000 in any other case.</p>

### Liability of employer

If an employee contravenes any provision of the **Act** the employer is to be taken to have contravened the same provision (whether or not the employee contravened the provision without the employer's authority or contrary to the employer's orders or instructions).

It is a defence in proceedings against an employer for such a contravention if it is established:

- that the employer had no knowledge of the contravention; and
- that the employer could not, by the exercise of due diligence, have prevented the contravention.

### Executive officer liability

If a corporation contravenes any provision of the **Act** each person who is a director of the corporation or who is concerned in the management of the corporation is to be taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

## Codes of Practice and Guidelines

### Title

#### *Authorised Officer's Manual: Abattoirs*

The Manual describes the environmental problems associated with **abattoirs** and recommends management strategies to minimise water, air and noise pollution and to maintain community amenity. The Manual is a reference document for authorised officers in the **EPA** and Local Government to provide practical and consistent guidance to officers.

Environmental problems associated with **abattoirs** are listed as including:

- the need for mass disposal areas;
- effluent salinity;
- the production of wastewater;
- stormwater contamination;
- the production of solid **wastes**;
- air pollution from odours, dust, fuel burning emissions and greenhouse gases;
- transmission of disease; and
- noise.

The Manual aims to raise relevant environmental issues at the planning stage of proposed industrial activity. Planning issues considered by the Manual include **waste** minimisation, site selection, the use of buffer zones, improving the visual amenity of **abattoirs**, and mechanisms to prevent contamination.

The Manual recommends that all operators of **abattoirs** establish an environmental management plan for the premises. The occupier is also required to develop management strategies for proposed and existing premises which should aim to:

- minimise the quantity of **wastes** generated;
- prevent pollution arising from the disposal of **wastes**;
- prevent nuisance pollution such as odours dust and smoke;

- minimise environmental health risks; and
- improve the efficiency of processes through energy savings.

Occupiers of **abattoirs** can contact local **EPA** branches which can assist with the development of management systems and ensure compliance with guidelines and regulations.

## Title

### ***EPA Prosecution Guidelines 1993***

The Guidelines provide an insight into the **EPA** prosecution policy and are a useful guide in determining whether action is likely to be taken by the **EPA** when a breach of environmental legislation under the jurisdiction of the **EPA** occurs.

### **The Decision to Prosecute**

The Guidelines provide that the public interest is the main consideration in determining whether to prosecute. The Guidelines state that the decision to prosecute is made by the **EPA** Board of Directors and takes into account the seriousness of the **offence**, harm to the **environment**, availability of alternative means of action and whether the alleged **offence** has generated public concern.

The Guidelines discuss the impact of voluntary disclosure, cooperation, preventative measures and compliance programs on the decision to prosecute.

### **Factors to be taken into account when selecting the appropriate defendant**

The Guidelines state that not all those people or companies technically liable will necessarily be prosecuted. The Guidelines set out the following considerations when selecting the appropriate **defendant**:

- who is or was primarily responsible for the **offence**;
- what is or was the role of the proposed **defendant**; and
- the likely efficacy of any court orders should a conviction be secured.

The Guidelines provide that an employee, agent, or officer of a corporation can be personally liable depending upon the degree of culpability. In relation to the **liability** of directors and managers, the crucial factor in determining **liability** is the actual control or influence of the director or manager over the criminal conduct of the corporation.

### **Factors to be taken into account in determining the appropriate offence**

The Guidelines state that it is the **EPA**'s responsibility to select which charge to bring against the **defendant** considering the ability to prosecute that charge successfully and which charges are consistent with the seriousness of the alleged criminal conduct. The **EPA** will lay either a Tier 1, Tier 2 or Tier 3 charge depending on the harm caused to the **environment**. The **EPA**,

in anticipation of the appropriate charge decision, may engage in charge bargaining. For example, this may involve an arrangement whereby a **defendant** agrees to plead guilty to a few of the possible charges in return for the prosecution offering no evidence on certain other offences.

If offences are minor, **penalty** notices will be issued and court proceedings are not initiated.

**Factors to be considered in determining the appropriate mode of trial**

Prosecutions will either take place in the Land Environment Court or the Local Court depending upon the seriousness of the **offence**.



## Title

### *Environment Protection Manual – Dead Stock Disposal*

This Manual provides information regarding how to dispose of dead stock in an environmentally friendly manner. The environmental concerns which exist in relation to dead stock disposal include the risk of polluting watercourses, producing odours, spreading disease and interfering with public amenity.

It is noted that ideally an **abattoir** should be contacted by a person proposing to slaughter livestock on their own property to determine whether it would be financially viable for them to slaughter the animals. If slaughter is to occur on-site then it is advised that the animals are buried or burnt when there are concerns that the animals have been exposed to exotic diseases.

It is preferable to choose a site where:

- the site is located at least 100m away from houses and watercourses;
- the pit base is at least 1m above the level of the watertable;
- heavy soil of low permeability and good stability is present; and
- there is good access to the site for earthmoving machinery and stock transport if required.

Sites sloping towards watercourses and areas that are likely to drain to watercourses or groundwater should be avoided.

The pit should be constructed to ensure that there will be at least 2m of soil cover over the top of the carcasses. Certain provisions regarding the size of the pit are also provided in the Manual. Appropriate diversion banks should be built to stop water entering the pit and contamination diffusing from the site.

## Draft Legislation, Codes of Practice and Guidelines

### Title

#### ***Draft Policy: Assessment and Management of Odour from Stationary Sources 2001***

This draft policy provides mechanisms whereby issues associated with odour emanating from stationary sources (eg. **abattoirs**) can be controlled and managed. The policy aims to provide an effective future planning and regulatory regime for potential odour generating activities. The policy is applicable to all industry activities listed in Schedule 1 of the *Protection of the Environment Operations Act 1997* which includes livestock intensive industries and **livestock processing** industries.

Technical odour criteria are detailed by the policy to limit environmental impacts. It is recognised that the criteria will not be integrated into EPL conditions due to the complexity of measuring compliance with the criteria. A three-level odour assessment system has been developed for point and diffuse odour sources:

- a simple screening to identify the potentially affected zone and site suitability for a proposed facility or expansion of an existing facility;
- a simple dispersion modelling procedure that would be undertaken by the proponent or operator; and
- a refined dispersion modelling procedure that would be undertaken by the proponent or operator.

Avoidance and mitigation strategies are developed by the policy and include land use planning and appropriate site selection as well as controlling odour at the source.

Performance will be monitored under the policy. Regulation and enforcement options available to the **EPA** and local government are also discussed.

## Relevant Contacts and Information Sources

### **Freehills**

Environmental Law Services

Contact: John Taberner (Partner)

Telephone: (02) 9225 5427

### **New South Wales Government**

<http://www.nsw.gov.au/>

### **Environmental Protection Authority**

Pollution Line: (02) 9995 5555 (within Sydney)

131 555 (local call cost)

(24 hours for pollution incident reports: 8:30am to

5:00pm

Monday – Friday for general enquiries)

Fax: (02) 9995 5911

<http://www.epa.nsw.gov.au>

### **Department of Local Government**

Telephone: (02) 9793 0793

Fax: (02) 9793 0799

TTY: (02) 9707 2508

<http://www.dlg.nsw.gov.au>

The *Local Government Directory* can be found at:

[http://www.dlg.nsw.gov.au/dlg/dlghome/dlg\\_LocalGovDirectory.asp?index=1#12](http://www.dlg.nsw.gov.au/dlg/dlghome/dlg_LocalGovDirectory.asp?index=1#12)

### **Department of Urban Affairs and Planning**

Telephone: (02) 9391 2000

Fax: (02) 9391 2111

Email: [information@duap.nsw.gov.au](mailto:information@duap.nsw.gov.au)

<http://www.duap.nsw.gov.au>

### **New South Wales Agriculture**

Telephone: (02) 6391 3100

Fax: (02) 6391 3336

<http://www.agric.nsw.gov.au>

### **NSW Meat Industry Authority**

Telephone: (02) 9412 3311

Fax: (02) 9411 4597

<http://www.meat.nsw.gov.au/>

**Livestock Market Reports** (within Australia) 1902 910 711

### **Safefood NSW**

Telephone: (02) 9295 5777  
Fax: (02) 9261 2434  
Email: info@safefood.nsw.gov.au  
<http://www.safefood.nsw.gov.au/>

**NSW Government Departments:**

NSW Government	<a href="http://www.nsw.gov.au">http://www.nsw.gov.au</a>
NSW Government Directory	<a href="http://www.directory.nsw.gov.au">http://www.directory.nsw.gov.au</a>
Environment Protection Agency	<a href="http://www.epa.nsw.gov.au">http://www.epa.nsw.gov.au</a>
Department of Agriculture	<a href="http://www.agric.nsw.gov.au">http://www.agric.nsw.gov.au</a>
Department of Natural Resources Department of Land and Water Conservation	<a href="http://www.dlwc.nsw.gov.au">http://www.dlwc.nsw.gov.au</a>
Department of Local Government	<a href="http://www.dlg.nsw.gov.au">http://www.dlg.nsw.gov.au</a>
Department of Public Works and Services	<a href="http://www.dpws.nsw.gov.au">http://www.dpws.nsw.gov.au</a>
Department of State and Regional Development	<a href="http://www.business.nsw.gov.au">http://www.business.nsw.gov.au</a>
Department of Health	<a href="http://www.health.nsw.gov.au">http://www.health.nsw.gov.au</a>

**Other NSW Websites:**

NSW Legislation	<a href="http://www.austlii.edu.au">http://www.austlii.edu.au</a>
NSW Parliament	<a href="http://www.parliament.nsw.gov.au">http://www.parliament.nsw.gov.au</a>
Attorney General's Department - contains links to NSW legislation, courts, government agencies and <b>law</b> reform.	<a href="http://www.lawlink.nsw.gov.au">http://www.lawlink.nsw.gov.au</a>
NSW Ombudsman	<a href="http://www.nswombudsman.nsw.gov.au">http://www.nswombudsman.nsw.gov.au</a>

# Victoria

## Legislative Summary Victoria

### A. Primary Legislation

#### *Environment Protection Act 1970*

This **Act** controls the pollution of the **environment**. **Abattoirs** are required to have licences and works approvals to discharge **waste** to water and to land.

Occupiers of premises are required to comply with the standards and requirements set out in State Environment Protection Policies and the Industrial Waste Management Policies. Certain provisions of these policies will be relevant to meat processors.

Where a process or activity carried on or proposed to be carried on at any premises, has caused or is likely to cause pollution, the **EPA** may serve a notice on the occupier, requiring the occupier to cease or not to commence the relevant process or to modify the process.

Where any part of the **environment** is polluted the **EPA** may conduct a clean-up and recover the costs from the person responsible.

It is an **offence** to intentionally, recklessly or negligently pollute the **environment**, or to cause or permit a serious environmental hazard.

### B. Secondary Legislation

#### *Health Act 1958*

This **Act** prohibits nuisances.

#### *Local Government Act 1989*

Under this **Act** the functions of local councils include environment control, protection and conservation. Councils are given the power to do all things necessary or convenient to be done in connection with performing those functions.

**Melbourne and Metropolitan Board of Works Act 1958**

This **Act** controls the quality and quantity of water supplied by the Melbourne Water Corporation (Melbourne Water), within the Melbourne Metropolitan area<sup>46</sup>.

The **Act** makes it an **offence** to foul any watercourse or waterworks belonging to or controlled by Melbourne Water.

The **Act** also prohibits any foul water, liquid, refuse, decomposed substance or other unwholesome matter being wilfully thrown into any stormwater drains or sewers.

In order to discharge **waste** directly or indirectly into a sewer or drain, a **meat processor** must enter a trade waste agreement with Melbourne Water.

**Planning and Environment Act 1987**

The **Act** establishes a system of planning schemes that set out objectives, policies and controls for the use, development and protection of land. The **Act** also establishes the process to be followed to obtain a planning permit and scheme amendment.

**Water Act 1989**

This **Act** applies to waterways other than those within Metropolitan Melbourne<sup>47</sup>.

The **Act** makes it an **offence** to discharge trade waste into sewers other than in accordance with a trade waste agreement.

A licence is required if an **abattoir** wishes to take water from a waterway, from ground water or from any works of a rural water authority.

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<sup>46</sup> Waterways outside *Metropolitan Melbourne* are regulated by the *Water Act 1989*.

<sup>47</sup> Waterways within *Metropolitan Melbourne* are regulated by the *Melbourne and Metropolitan Board of Works Act 1958*.

## Existing Legislation Victoria Primary

### A. Title of Act

#### *Environment Protection Act 1970*

### B. Objective

To protect the **environment** through the prevention and control of pollution of *waters*,<sup>48</sup> the atmosphere and land, by prohibiting certain works and the discharge of *waste*<sup>49</sup>, except in accordance with a works approval or licence.

### C. Application of Act

The **Act** controls pollution in three ways:

- It prohibits any person from polluting waters, the atmosphere or land, so as to detrimentally change its condition. The **Act** provides for the development of State Environment Protection Policies and Industrial Waste Management Policies, which specify acceptable standards and conditions for discharge of *waste*.
- It prohibits the occupier of *scheduled premises*<sup>50</sup> from installing, constructing or modifying any equipment to discharge *waste* to the atmosphere, land or waters, or to do anything likely to cause the

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<sup>48</sup> *Waters* includes any reservoir, tank, billabong, anabranch, canal, spring, swamp, natural or artificial channel, lake, lagoon, waterway, dam, tidal water, coastal water or ground water.

<sup>49</sup> *Waste* is broadly defined to include any solid, liquid or gaseous matter which is discharged in such volume, constituency or manner so as to alter the **environment**, and any discarded, surplus or abandoned matter.

<sup>50</sup> *Scheduled premises* are identified in the *Environment Protection (Scheduled Premises and Exemptions) Regulations 1996*. The following premises are identified as being *scheduled premises* requiring licences or works approvals:

- **abattoirs** and **knackeries** with a processing capacity of more than 200 tonnes annually, will require a licence to discharge **waste** to water, the atmosphere and to land (no exemption applies); and
- rendering works.



discharge of *waste* or alter or increase any *waste* discharged except in accordance with a works approval or licence (unless such work is for general maintenance). Provision is also made in the **Act** to prevent noise pollution.

- It provides administrative measures to be taken in relation to pollution abatement and clean-up of contamination.

Protection extends to the bed and subsoil beneath the waters, the air space above the waters and an open, piped or underground drain.

*Waste* may not be discharged to the dry bed of a waterway or deposited so that it gains access or is likely to gain access to any waters or the dry bed of any waterway, where the discharge would be likely to cause pollution had the waterway contained water.

The *Environment Protection Act 1970* and the *Environment Protection (Prescribed Waste) Regulation 1998*, establish a certificate system whereby certificates have to be completed and records kept by *waste* producers, such as **abattoirs**.

A **meat processor** may also have to lodge an annual return to the **EPA**, describing the particulars of the *prescribed waste*<sup>51</sup> transported within the year.

### **State Environment Protection Policy (SEPP) and Industrial Waste Management Policy (IWMP)**

SEPPs<sup>52</sup> and IWMPs provide a framework for **environmental planning** and decision making.

**Meat processors** are required to comply with applicable standards and requirements set out in SEPPs and IWMPs. All planning schemes and permits, **EPA** licences and works approvals must be consistent with SEPPs.

Currently, there are SEPPs in force relating to the air environment, land and noise and various waterways (including groundwater) and water catchments.

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<sup>51</sup> *Prescribed Wastes* are **wastes** which, if not properly handled, have the potential to cause significant environmental harm.

<sup>52</sup> SEPPs are statutory instruments which set out:

- *beneficial uses* of the **environment** that the community wishes to protect; and
- environmental objectives and standards that must be complied with by all private individuals and all private and government organisations.

There is also an IWMP regarding **waste** minimisation. Certain provisions in these policies will be relevant to sectors of the meat industry.

SEPPs that are applicable to **abattoirs** are set out below.

### **Ambient Air Quality SEPP and Air Quality Management SEPP**

The Ambient Air Quality and Air Quality Management SEPPs collectively provide a framework for the protection of *beneficial uses*<sup>53</sup> of the State's air environment.

The Ambient Air Quality SEPP contains the pollutants, standards, goals and monitoring and reporting protocol of the National Environment Protection Measure (NEPM) for Ambient Air Quality.

The Air Quality Management SEPP establishes the management framework and attainment program for the protection of the air environment by addressing ambient (or regional) air quality and managing particular sources and local air quality impacts.

The existing SEPP requires the control of odorous substances that “create or are likely to create objectionable conditions for the public”.

Odour management requirements in the existing SEPP include:

- at least good control practice for all emission sources;
- additional technological, operational and management requirements for particular industries or activities; and
- appropriate land use planning to include buffer distances to limit the impact of odours.

The Air Quality Management SEPP is currently under review. With respect to odour management the draft SEPP addresses the following matters:

- the selection and use of design criteria for odour;

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<sup>53</sup> The protected *beneficial uses* include:

- life, health and well being of humans and other life;
- visibility;
- useful life and aesthetic appearance of buildings, structures, property and materials; and
- aesthetic enjoyment and local amenity.

- methods for odour modelling and odour measurement;
- the role of separation distances (buffer distances) and land use planning; and
- additional control requirements for particular groups of industries.

### Groundwater SEPP

The Groundwater SEPP sets out the framework for the protection of groundwater in all places throughout Victoria from contamination. It sets out:

- the beneficial uses of groundwater which are to be protected under the SEPP;
- water quality objectives; and
- an attainment and monitoring program.

The SEPP allows the **EPA** to require a hydrogeological assessment to be undertaken by an applicant for a works approval or licence, to determine any risk to groundwater quality and beneficial uses of the groundwater as a result of the proposed discharge or activity. It also allows the **EPA** to require the polluter or the occupier of a premises to undertake the rehabilitation of groundwater or aquifers where the SEPP objectives are not met.

### Control of Noise from Commerce, Industry and Trade SEPP

The Control of Noise from Commerce, Industry and Trade SEPP applies to all commercial, industrial or trade premises within the *Melbourne Metropolitan area*<sup>54</sup>. The SEPP aims to protect people from unreasonable interference from industrial noise in *noise sensitive areas*<sup>55</sup> where people sleep or carry out other domestic activities.

The SEPP prescribes maximum acceptable noise levels.

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<sup>54</sup> *Melbourne Metropolitan area* is defined as the following former (since amalgamated) municipalities:

The Cities of Altona, Berwick, Box Hill, Brighton, Broadmeadows, Brunswick, Camberwell, Caulfield, Chelsea, Coburg, Collingwood, Croydon, Dandenong, Doncaster and Templestowe, Essendon, Fitzroy, Footscray, Frankston, Hawthorn, Heidelberg, Keilor, Kew, Knox, Malvern, Melbourne, Moorabbin, Mordialloc, Northcote, Nunawading, Oakleigh, Port Melbourne, Prahran, Preston, Richmond, Ringwood, Sandringham, South Melbourne, Springvale, St Kilda, Sunshine, Waverley, and Williamstown, and of the Shires of Bulla, Cranbourne (part only), Diamond Valley, Eltham, Melton, Werribee and Whittlesea.

<sup>55</sup> *Noise sensitive areas* include residential buildings, hospitals, hotels and motels.

In addition to SEPPs, the **EPA** has issued a wide range of practice notes and circulars. Of relevance to noise impacts associated with **abattoirs** is the *Interim Guidelines for Control of Noise from Industry in Country Victoria* dated 18 April 1989. This *Interim Guideline* sets the required daytime, evening and night-time noise limits for **abattoirs** in rural areas.

Whilst the methodologies for measuring noise in the SEPP are used to measure noise in rural areas under the *Interim Guideline*, the SEPP only applies to *Metropolitan Melbourne*.

The noise limits set out in the *Interim Guidelines* are lower than the noise limits for *Metropolitan Melbourne* set out in the SEPP because of the lower ambient noise levels in rural areas. The *Interim Guidelines* have no statutory force in their own right, but the guidelines are relevant to assessing the merits of licence and works approval applications.

### **Waters of Victoria SEPP**

The Waters of Victoria SEPP establishes a comprehensive framework for the protection of Victoria's surface water environment. The beneficial uses that are protected by the SEPP include:

- maintenance of natural aquatic ecosystems and associated wildlife;
- water based recreation;
- agricultural water supply;
- potable water supply;
- industrial water supply;
- production of molluscs; and
- fishing.

The SEPP sets out the levels of water quality required to protect the beneficial uses and seeks to control point source and diffuse source pollution through the use of control technology and regulating the means of discharge of **wastes**.

The Waters of Victoria SEPP is currently under review.

In addition to the Waters of Victoria SEPP there are a number of catchment specific SEPPs<sup>56</sup> that may be relevant to **abattoirs** depending on their location.

### Prescribed Industrial Waste IWMP

The Prescribed Industrial Waste IWMP is aimed at:

- protecting human health, amenity and the **environment** from hazards posed by *prescribed industrial waste*<sup>57</sup>;
- minimising the generation of *prescribed industrial waste*; and
- eliminating the disposal of *prescribed industrial waste* to landfill.

The intent of the SEPP is for generators of *prescribed industrial waste* including **abattoirs**, to have the responsibility to avoid the generation of the **waste**, and maximise the reuse and recycling of that **waste** for productive purposes. **Abattoirs** are responsible for their **waste** throughout its life cycle. **Abattoirs** are also obliged to provide information on all aspects of the life cycle of the **waste** to the community, government and industry.

**Abattoirs** must ensure their **waste** is managed in accordance with the *waste management hierarchy*<sup>58</sup> and in a manner that achieves the best environmental outcome.

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<sup>56</sup> There are catchment specific SEPPs for the following areas:

- Western Port Bay and Catchment;
- Western District Lakes;
- Lake Colac and Catchment;
- Lake Burrumbeet and Catchment;
- Far East Gippsland;
- Wimmera River and Catchment; and
- Dandenong Valley.

<sup>57</sup> *Prescribed Industrial Waste* is defined in the *Environment Protection (Prescribed Waste) Regulations 1998* to include animal effluent and residues including **abattoir** effluent.

*Industrial waste* is defined as any **waste** arising from commercial, industrial or trade activities, or any **waste** containing substances or materials which are potentially harmful to human beings or equipment.

<sup>58</sup> The *waste management hierarchy* is, in order of priority:

- avoidance;
- reuse;

**Abattoirs** are required to submit an Environment Improvement Plan to the **EPA** when making an application for a works approval or licence and are encouraged to voluntarily develop an Environment Improvement Plan.

## D. Authorisations required

*Scheduled premises* (including abattoirs and rendering operations) must not:

- discharge **waste** to the **environment** without a licence; or
- be constructed or varied (subject to minor exceptions) without a works approval.

### Applications for licences

A works approval is required to construct a *scheduled premises* and a licence is required to discharge **waste**.

An application for a works approval or licence must be made in a form approved by the **EPA**.

The **EPA** may require any plans, specifications or other information within 21 days of receiving the initial application. The **EPA** then publishes and distributes the application to *concerned parties*<sup>59</sup>.

The **EPA** shall take into account replies, reports, comments and information received following the publication of the application. The **EPA** must refuse to grant a works approval or a licence where:

- the Department of Health objects on the ground that public health is likely to be endangered if it is issued; or
- if the proposed works are prohibited by a planning scheme.

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- recycling;
  - recovery of energy;
  - repository storage;
  - treatment; and
  - containment.

<sup>59</sup> *Concerned parties* includes any protection agency the **EPA** considers may be directly affected by the application, the Secretary to the Department of Health, any local council administering a planning scheme applying to the land for which the application is made and any person or body interested in the application who requests a copy of the application.

Further, in considering applications for works approvals, permits and licences, the **EPA** may refuse to issue a permit or licence if it would be contrary to applicable policy (eg. SEPPs), be likely to cause or contribute to pollution, or cause an environmental hazard. An application may be rejected on the ground that the applicant has been found guilty of an indictable **offence** or an environmental **offence** and is considered an unfit and improper person to hold a permit or licence.

The **EPA** may grant the licence subject to a condition that suitable pollution control equipment be installed on the premises. The licence may be subject to conditions more onerous than required to meet standards prescribed in the **Act** or any SEPP.

The licence may be amended, revoked or suspended where there has been a contravention of any of the licence conditions, where the current business address of the licence holder is unknown or where the annual licence fee has not been paid.

### Accredited Licensees

The **Act** provides scope for licensees to obtain accreditation. Applicants must satisfy the **EPA** that:

- they have a suitable environmental management system;
- they have undertaken an environmental audit program; and
- an environmental improvement plan exists or is being developed.

An accredited licensee has greater operational freedom, particularly through the following measures:

- Works approvals exemptions will be given except for major works with significant potential for environmental impact.
- Operators will have a high degree of freedom on locational aspects within each site. For example, discharge limits will not necessarily be tied to a specific discharge point, and where possible will be expressed for a site as a whole.

Accredited licensees must submit a performance report to the **EPA** within 60 days after the end of each financial year containing any information required by the **EPA**.

The **EPA** will review the accreditation every five years.

## E. Consequences of Application

### Offences and penalties

Offence	Civil penalty	Criminal penalty
It is an <b>offence</b> to contravene a condition in a works approval.	Issue of a pollution abatement notice and/or a clean up notice.	\$240,000 fine.
It is an <b>offence</b> to contravene a condition of a licence.	Issue of a pollution abatement notice and/or a clean up notice.	\$240,000 fine plus \$120,000 fine per day for each day the <b>offence</b> continues after notice of contravention or conviction.
It is an <b>offence</b> to discharge <b>waste</b> or cause pollution without a licence.	Issue of a pollution abatement notice and/or a clean up notice.	\$240,000 fine plus \$120,000 per day for each day the <b>offence</b> continues after notice of contravention or conviction.
It is an <b>offence</b> to store, handle or dispose of <i>industrial waste</i> in contravention of any requirements of an IWMP or so as to cause an environmental hazard.	Issue of a pollution abatement notice and/or a clean up notice.	\$240,000 fine plus \$120,000 fine per day for each day the <b>offence</b> continues after notice of contravention or conviction.



Offence	Civil penalty	Criminal penalty
It is an <b>offence</b> to contravene the general prohibition against polluting waters, air or land. The failure to comply with a SEPP will ordinarily constitute an <b>offence</b> of pollution.	Issue of a pollution abatement notice and/or a clean up notice.	\$240,000 fine plus \$120,000 fine per day for each day the <b>offence</b> continues after notice of contravention or conviction.
It is an <b>offence</b> to intentionally contravene the general prohibition against polluting waters, air or land.	Issue of a pollution abatement notice and/or a clean up notice.	\$500,000 fine plus \$250,000 fine per day for each day the <b>offence</b> continues after notice of contravention or conviction.
It is an <b>offence</b> of aggravated pollution to intentionally, recklessly or negligently pollute the <b>environment</b> or intentionally, recklessly or negligently cause or permits an environmental hazard which results in:  (a) serious damage to the <b>environment</b> ; or  (b) a serious threat to public health; or  (c) a substantial risk of serious damage to the <b>environment</b> ; or  (d) a substantial risk of a serious threat to public health.	Issue of a pollution abatement notice and/or a clean up notice.	\$1,000,000 fine (corporation)  7 years imprisonment and/or \$250,000 fine (individual)

Offence	Civil penalty	Criminal penalty
It is an <b>offence</b> to contravene a pollution abatement notice.		\$240,000 fine plus \$120,000 fine per day for each day the <b>offence</b> continues after notice of contravention or conviction.
It is an <b>offence</b> to contravene a clean up notice without reasonable cause.		\$240,000 fine
It is an <b>offence</b> to intentionally or negligently provides incorrect or misleading information or to conceal information from the <b>EPA</b> or an authorised officer.		\$240,000 fine and in some cases (ie in a performance report or audit) also 2 years imprisonment

### Executive officer liability

Where a company contravenes any provision of the **Act** or any licence, notice or permit under the **Act**, each person who is a director or who is concerned in the company's management, is also guilty of the **offence** and is liable to its **penalty**.

It is a defence if that person can prove that:

- the **offence** occurred without his or her knowledge;
- he or she was not in a position to influence the company's conduct in relation to the contravention; or
- that, being in such a position, he or she used all due diligence to prevent the contravention.

### Pollution abatement

Where a process or activity carried on or proposed to be carried on at any premises, has caused or is likely to cause pollution, unreasonable noise, or

an environmental hazard, the **EPA** may serve a pollution abatement notice or a minor works pollution abatement notice on the occupier. Such notices may require the occupier to:

- cease or not commence the relevant process or activity;
- modify the process or activity;
- conduct a monitoring program; or
- take any measures specified in the notice.

### Clean-up notices

Where any part of the **environment** is polluted or an environmental hazard occurs, a *protection agency*<sup>60</sup> under the **Act** may and must, if directed by the **EPA**, conduct a clean-up and recover the clean-up costs from any person who caused or permitted the pollution or hazard. Failure to comply with a clean-up notice is an **offence** punishable by a \$240,000 fine.

A clean-up notice directs a person on whom it is served, to take the clean-up measures specified in the notice. Clean-up notices can be served either upon the occupier of any premises upon or from which pollution has occurred or been permitted to occur, or a range of specified polluting parties. There is no right of **appeal** against clean-up notices. The notice may include any condition, requirement, restriction, performance, standard or level that the **EPA** considers appropriate.

An occupier of premises can be required to manage or remediate soil or groundwater contamination in accordance with the requirements of the clean-up notice, irrespective of whether that occupier actually caused the contamination. However, an innocent occupier does have the power to apply to a court for an order that the actual polluter compensate the occupier for costs incurred by the occupier in connection with a clean-up notice. In practice, the **EPA** usually only issues a clean-up notice when it considers the presence of pollution or contamination represents a significant risk to human health or the **environment**.

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<sup>60</sup> *Protection agency* is defined as any person or body, whether corporate or unincorporate, having powers or duties under any other Act with respect to the **environment** or any segment of the **environment** in any part or parts of Victoria.

## Existing Legislation Victoria Secondary

### A. Title of Act

*Health Act 1958*

### B. Objective

To prohibit *nuisances*<sup>61</sup>.

### C. Application of Act

It is an **offence** for an owner or occupier of land to cause a *nuisance* or knowingly allow or suffer a *nuisance* to exist or emanate from the land (eg. from an **abattoir**).

### D. Consequences of Application

The **penalty** for causing a *nuisance* is \$10,000.

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<sup>61</sup> *Nuisance* is defined as including any refuse, noise emission, any state, condition or activity or any other matter or thing which is, or may be, dangerous to health or noxious, annoying or injurious to personal comfort.

**A. Title of Act**

***Local Government Act 1989***

**B. Objective**

To give Municipal Councils powers to enable them to adequately meet community needs, including powers in relation to **environment** protection.

**C. Application of Act**

Councils' functions include environment control, protection and conservation, and they are given the power to do all things necessary or convenient to be done in connection with fulfilling this function. A council may make **local laws** with regard to any of the Council's functions or powers, as long as the **local law** is not inconsistent with any **Act** or **Regulation**. Similarly, if a planning scheme is in force, the Council must not make a **local law** which duplicates or is inconsistent with the planning scheme.

**Local laws** may impact on the operation of **abattoirs**.

**D. Consequences of Application**

Local councils may impose a **penalty** up to a limit of \$2,000 for contravention of **local laws**.

**Executive officer liability**

If a company is guilty of an **offence** against the **Act** or any **Regulation** or **local law**, any person who is concerned in or who takes part in the company's management, is also guilty of the **offence** and liable to the **penalty**.

It is a defence if that person proves that the **offence** was committed by the company without such person's consent or knowledge, and that such person exercised due diligence to prevent the **offence**.

## A. Title of Act

### *Melbourne and Metropolitan Board of Works Act 1958*

## B. Objective

To control the quality and quantity of water supplied by the Melbourne Water Corporation (Melbourne Water) by prohibiting the pollution of public waterways and water supplies managed by Melbourne Water.

## C. Application of Act

The **Act** controls water pollution by making it an **offence** to foul, by any act, any watercourse or waterworks belonging to or controlled by Melbourne Water. In particular, it is an **offence** to:

- cause any filthy water belonging to or controlled by a person, to run or be brought into any stream, watercourse, reservoir, aqueduct or other waterworks belonging to or under the control and management of Melbourne Water;
- wilfully throw or allow to be thrown, any foul water, liquid, refuse, decomposed substance, or other unwholesome matter into any stormwater drains or sewers; or
- wilfully throw or allow to be thrown or to flow or fall, any refuse, filth, dirt, grease, decomposed substance or noxious or unwholesome matters into public waterways within the metropolis.

The waters protected by this **Act** are waters owned, managed or controlled by the Melbourne Water or, public waterways within the *Melbourne metropolis*<sup>62</sup>.

## D. Authorisations required

The **Act** has no licensing system. However, under *By-Law 332 - Trade Waste*, to discharge any **waste** directly or indirectly into a sewer or a drain, a **meat processor** must be acting in accordance with the terms and conditions

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<sup>62</sup> *Melbourne metropolis* is defined as the area within a 20.9125 kilometre radius from the Melbourne General Post Office.

of a *trade waste*<sup>63</sup> agreement entered into with Melbourne Water (through a retail water supplier).

An application to enter a *trade waste* agreement is made to the relevant retail water supplier (ie. City West Water, South East Water or Yarra Valley Water). In determining whether or not an agreement will be entered, the retail water supplier will ordinarily have regard to the volume and nature of the **waste** discharged.

Where a condition of a *trade waste* agreement has been breached, the occupier must remedy the breach in accordance with a notice issued by Melbourne Water. If the breach has not been remedied by the specified date, the *trade waste* agreement is automatically terminated.

## E. Consequences of Application

Where filthy water is allowed to flow into any watercourse or waterworks belonging to or under the control and management of Melbourne Water, or where any other act fouls the water of Melbourne Water, a **penalty** of up to \$1,000 applies, with a further **penalty** of \$100 for each day that the **offence** continues. This **penalty** also applies where any foul water, refuse or any other noxious matter has been thrown into a stormwater drain.

The **penalty** for polluting public rivers is \$1,000 for a first **offence**, and up to \$5,000 for every subsequent **offence**. A further **penalty** of \$100 applies for each day during which the **offence** continues.

Any **offence** against the *Trade Waste By-Law* may incur a **penalty** of up to \$20,000, with a further **penalty** of up to \$8,000 for each day the **offence** continues after conviction or after service of notice of an **offence**.

### Executive officer liability

Where a person is guilty of an **offence** under the **Act**, any other person who generates, supplies, transports, disposes of or otherwise handles the **waste** in respect of which the **offence** was committed, while the contravention continues, also commits an **offence** against the **Act** and is liable to the same penalties.

Where a corporation is guilty of an **offence**, any person who is concerned with or who takes part in its management, is also liable for the **offence**. It is a defence if such a person can prove that the **offence** was committed by the

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<sup>63</sup> *Trade waste* is defined to include any **waste** matter from any trade premises.

corporation without that person's consent or connivance, and that due diligence was exercised to prevent its commission.



**A. Title of Act*****Planning and Environment Act 1987*****B. Objective**

To establish a framework for planning the use, development and protection of land, to protect natural and man made resources, maintain ecological processes and to facilitate development through a system of planning schemes and planning permits.

**C. Application of Act**

The development and use of land in Victoria is regulated by the *Planning and Environment Act 1987*. Planning authorities (generally municipal councils) are responsible for preparing, implementing and enforcing planning schemes for their municipal areas. Planning schemes set out detailed planning controls for the development and use of land.

In preparing a planning scheme, a planning authority must take into account any significant effects which it considers the scheme might have on the **environment** or which it considers the **environment** might have on any use or development envisaged in the scheme.

**Planning Schemes**

Planning schemes consist of:

- A State Planning Policy Framework which sets out State government planning policy and is relevant to the assessment of planning permit applications.
- A local planning policy format and municipal strategic statements which vary from scheme to scheme.
- 25 state standard zones, which are shown on planning scheme maps. The zones control land use, subdivision and building and works.
- 22 overlays, which apply in addition to relevant zone controls.
- Particular provisions, which provide additional, standardised requirements in respect to certain matters.

- General provisions dealing with administrative matters such as existing use rights and definitions.

## D. Authorisations required

Depending on the zoning requirement in a planning scheme, a permit may be required for a specific use or development of the land or building and works associated with the development. Permit applications are made to the relevant authority, usually the municipal council.

Permit applications generally must be made public, and objections may be made by any person who may be affected by the grant of the permit. Before determining an application, the responsible authority must consider several factors, including any objections received and any significant effects which the use or development may have on the **environment** or which the **environment** may have on the use or development. Permits may be granted subject to conditions.

The Victorian Civil and Administrative Tribunal may cancel or amend any permit in certain circumstances.

## E. Consequences of Application

A planning scheme may absolutely prohibit certain industries or trades, such as an **meat processing**, or may allow such development with a permit.

Any person who uses or develops land in contravention of a planning scheme, or who fails to comply with a planning scheme or permit, is guilty of an **offence**. The **penalty** may be up to \$120,000. In the case of a continuing **offence**, a daily **penalty** of \$6,000 applies for each day during which the contravention or failure continues after conviction.

### Executive officer liability

Where a company is charged with an **offence** against the **Act**, any person who is concerned in or who takes part in its management may be charged with the same **offence**. Where the company is convicted of an **offence**, that person may also be convicted of the **offence** and be liable to the **penalty** unless he or she can prove that the act or omission constituting the **offence** took place without his or her knowledge or consent.

**A. Title of Act**

***Water Act 1989***

**B. Objective**

To protect and enhance the environmental qualities of waterways.

**C. Application of Act**

This **Act** does not apply to *metropolitan Melbourne*, which is governed by the *Melbourne and Metropolitan Board of Works Act 1958*.

*Trade waste*<sup>64</sup> may only be discharged into sewers in accordance with a *trade waste* agreement. In any other case, this is an **offence**. However, this provision does not apply in circumstances where the discharge would be an **offence** against the *Environment Protection Act 1970*.

A water authority may require an occupier to discontinue any activity or, to remove anything that the authority believes is likely to affect the purity of the water authority's water supply system. The exercise of this power is at the discretion of the appropriate water authority.

Any person supplied with water, must not deliberately cause or negligently allow, the water to be wasted, misused or excessively consumed after receiving a warning notice from a water authority. Further, if water is supplied by agreement with the authority for a specific purpose, the water supply must not be used for any other purpose.

**D. Authorisations required****Trade waste agreements**

To discharge *trade waste* into a sewerage system, occupiers must enter a *trade waste* agreement with the relevant water authority. Every water authority may prescribe, in a by-law, the terms and conditions to be included in a *trade waste* agreement.

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<sup>64</sup> *Trade waste* is generally defined as any water-borne **waste** that is suitable for discharge into a water authority's sewerage system.

*Trade waste* agreements may be entered according to the conditions prescribed by the relevant water authority in its by-law. In determining whether or not to enter a *trade waste* agreement, the water authority may consider several factors, including the nature of the **waste** discharged, the estimated volume of discharge and the times at which the discharge would usually take place.

### Licences

A licence is required where a **meat processor** wishes to take water from:

- a waterway;
- groundwater;
- any works of a water authority; or
- any person holding a licence.

Applications for licences to take and use water must be made to the Minister and may be granted subject to such conditions as the Minister thinks fit.

In determining whether a licence will be granted, the Minister must consider several factors, including:

- the existing and projected availability and quality of water in the relevant area;
- any adverse effect that the allocation is likely to have;
- the purposes for which the water is to be used; and
- **environment** protection issues.

A licence may be revoked with 3 months' notice from the Minister if the licensee fails to comply with any licence condition.

### E. Consequences of Application

Where any person causes or permits *trade waste* to be discharged into the sewerage system other than under a *trade waste* agreement, that person may be liable to a **penalty** of \$20,000 and a daily **penalty** of \$8,000 for each day the **offence** continues after service of a notice of contravention or conviction for the **offence**.

If a water authority serves a notice requiring that an activity be discontinued, the notice must be complied with within the time specified. A **penalty** of \$2,000 applies. In addition, the water authority may remove or disconnect any service to the property in relation to which the contravention occurred, and recover its reasonable costs from the person on whom the notice was served.

The **penalty** for contravening a warning notice regarding the **waste** and misuse of the water supply is \$2,000, or imprisonment for 3 months. For a subsequent **offence**, a **penalty** of \$4,000 or imprisonment for 6 months may be imposed. For a continuing **offence** an additional **penalty** of \$500 applies for each day on which the **offence** continues after service of the notice of contravention or after conviction for the **offence**.

### **Executive officer liability**

Where a company is guilty of an **offence** against the **Act** or any **regulation** or by-law made under the **Act**, any officer of the company<sup>65</sup> who was directly or indirectly knowingly concerned in or party to the **offence** is also guilty of the **offence** and liable to the **penalty**.

The due diligence defence is not provided under this **Act**.

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<sup>65</sup> An *officer of the company* is any person concerned in or who takes part in the company's management.

## Codes of Practice and Guidelines

### Title

#### *Environment Protection Authority Enforcement Policy*

The Victorian **EPA** released its Enforcement Policy in 1993. The Policy summarises the enforcement measures available to the **EPA** under the *Environment Protection Act 1970*, and sets out the principles which will guide the **EPA** in its utilisation of those measures. The Policy has no legislative force.

The Policy states that the following enforcement measures are available to the **EPA** under the **Act**:

- warnings;
- directions by authorised officers;
- notices;
- infringement notices;
- prosecutions;
- licence or permit suspension or revocation; and
- **injunctions**.

The **EPA** will decide which of these enforcement measures to implement as a matter of judgement based on the following factors:

- the seriousness of the **offence** with regard to the harm or potential harm to the **environment**;
- the culpability of the offender, whether a corporation or an employee, including mitigating or aggravating circumstances;
- the previous history of the offender and whether enforcement measures are necessary to ensure compliance with the **Act**;
- the prevalence of the **offence**, the public concern generated and the need for deterrence;
- the cost of enforcement, and whether enforcement proceedings may be counterproductive;

- the **precedent** which may be set by any failure to take enforcement **action**;
- the length of time since the **offence**, and the likely outcome of enforcement proceedings;
- the cooperation given to the **EPA**, and whether enforcement measures have been taken against others arising out of the same incident;
- whether obstruction, assault or intimidation of an authorised officer has taken place; and
- whether there has been a failure to comply with any lawful direction or notice given by an authorised officer.

The Policy states that the two most important factors to be taken into account by the **EPA** are:

- the nature of the **offence**; and
- the effectiveness of the enforcement measure in achieving the desired result.

The Policy then lists the circumstances in which each of the enforcement measures will be utilised.

The Policy is currently being reviewed by the **EPA**. A revised Enforcement Policy is expected to be issued before the end of 2001.

## Draft Legislation, Codes of Practice and Guidelines

### Title

#### ***Draft Prevention and Management of Contamination of Land SEPP***

In 1998 a draft *Prevention and Management of Contamination of Land SEPP* was released for public comment. It is anticipated that this draft SEPP will come into force during 2001. It is understood that the finalisation of the draft SEPP has been delayed by the need to incorporate the requirements of the Contaminated Land National Environment Protection Measure, and to resolve the integration of the SEPP with the land-use planning system under the *Planning and Environment Act 1987*.



## Relevant Contacts and Information Sources

### Relevant Contacts:

#### Freehills

Environmental Law Services

Contact: Tim Power (Partner)

Telephone: (03) 9288 1484

#### Victorian Environmental Protection Authority

Contact: Carspen Osmer (Manager Operations Programs)

Telephone: (03) 9695 2722

#### Victorian Meat Authority

Contact: Andrew Simson (Manager Industry Standards)

Telephone: (03) 9685 7333

#### Department of Natural Resources and Environment

Contact: Geoff Kroker (Meat Industry Coordinator)

Telephone: (03) 5430 4418

### Information Sources:

Copies of all **Acts** of Parliament and **Regulations** are available from:

Information Victoria Bookshop

356 Collins Street

Melbourne Vic 3000

Telephone: 1300 366 356 or (03) 9603 9900

**Acts** of Parliament and **Regulations** are available online at:

[www.dms.dpc.vic.gov.au](http://www.dms.dpc.vic.gov.au)

Copies of the **EPA** Enforcement Policy SEPPs and IWMPs are available from:

#### Victorian Environment Protection Authority

Information Centre

Herald and Weekly Times Tower

40 City Road

Southbank Vic 3006

Telephone: (03) 9695 2722

#### EPA:

<http://www.epa.vic.gov.au>

Department of Natural Resources and the Environment: <http://www.nre.vic.gov.au>

Department of Infrastructure: <http://www.doi.vic.gov.au/>

Links to Victorian Government  
Departments: <http://www.vic.gov.au/atoz.cfm>

Melbourne Water: <http://www.melbwater.com.au/>

# **South Australia**

## Legislative Summary South Australia

### A. Primary Legislation

#### ***Environment Protection Act 1993***

The **Act** requires that **abattoirs** be licensed.

The **Act** sets out the various environmental management mechanisms and policies required to be complied with. Severe penalties may be imposed if **abattoirs** are established without a works approval or are conducted without a licence or in contravention of the **Act's** environmental management mechanisms and policies.

### B. Secondary Legislation

#### ***Development Act 1993***

This **Act** provides that all developments (including the development of **abattoirs**) must obtain the consent of the relevant planning authority.

#### ***Public and Environmental Health Act 1987***

This **Act** governs **abattoirs** in respect to:

- activities which result in the emission of offensive materials or odours or risks to health;
- the discharge of **waste** into a public place or into premises not owned by a person; and
- the pollution of the water supply or the undertaking of activities which may pollute the water supply.

#### ***Sewerage Act 1929***

This **Act** prohibits the discharge into sewers or drains, of solid, liquid or gaseous material which has been prescribed by **Regulation** as a material that may not be discharged without prior written consent of the water authority. An **abattoir** will need to obtain consent prior to discharge of any of its **waste** into sewers or drains.

#### ***Water Resources Act 1997***

This **Act** regulates the use and maintenance of the State's water resources.

The Minister may prescribe a watercourse, lake or well. A water licence may be needed to take water from a prescribed watercourse, lake or well.

## Existing Legislation South Australia Primary

### A. Title of Act

#### *Environment Protection Act 1993*

### B. Objective of Act

The **Act** sets out the following objectives:

- to promote **ESD**;
- to prevent, reduce, minimise and eliminate harm to the **environment**;
- to apply a precautionary approach to assessment of risk of environmental harm;
- to require persons engaged in polluting activities to progressively make environmental improvements;
- to allocate the costs of **environment** protection and restoration equitably;
- to provide for monitoring and reporting on environmental quality on a regular basis to ensure compliance with statutory requirements; and
- to promote industry and community education and involvement in the enhancement of the **environment**.

### C. Application of Act

#### **Environmental Planning Initiatives**

The **Act** allows businesses to:

- propose their own environment improvement programs;
- enter into environment performance agreements with the **EPA**; and
- submit voluntary environmental audits to the **EPA**.

These provisions are intended to recognise and reward environmental initiatives and good practice by industry, and to provide a greater degree of certainty for environmentally sound activities.

### **Environment Performance Agreements**

Environmental performance agreements may be voluntarily entered into by companies wishing to undertake programs of environmental protection, restoration or enhancement with the goal of securing the objects of the **Act**. An agreement may contain terms requiring the **EPA** to provide financial assistance to those companies, or provide them with a remission of rates or taxes.

Environmental performance agreements may be registered against the title to the land with the consent of the registered owner or person who has a caveat over the land. If an environmental performance agreement is registered it will bind all subsequent owners and occupiers of the land, as if the owner or occupier were a party to the agreement.

### **Voluntary environmental audits**

Under the voluntary environmental audit provisions of the **Act**, companies may, by prior agreement with the **EPA**, carry out audits of their production processes and management practices and submit the audit reports to the **EPA**. Audit reports submitted in accordance with the **Act** will not be admissible in evidence against the companies in question, and may not be used against them for any purpose connected with the enforcement of the **Act**.

### **Environment Protection Policies (EPPs)**

The **Act** establishes a framework for the creation of EPPs, which may be made for any purpose directed towards securing the objects of the **Act**.

EPPs relevant to **abattoirs** include:

#### ***Environment Protection (Air Quality) Policy 1994***

An occupier of premises (including **abattoirs**) must not cause air pollution beyond the maximum pollution levels or through a failure to take reasonable and practical measures, to control equipment or material.

The **EPA**, by written notice given to the occupier of premises who has caused air pollution, may fix a suitable testing point for those premises for ascertaining the level of air pollution. The occupier must ensure that the testing point is in a suitable condition and that reasonable access is provided to that point.

The **EPA** may require an occupier of premises to carry out tests, maintain clear and accurate written records of each test conducted showing the nature and result of the test and to maintain records of quantity of fuel or raw material used. Records must be kept available for inspection by the authority at all times.

### General environmental duty

The **Act** contains a general environmental duty that requires anyone undertaking an activity that pollutes, or could pollute the **environment**, to take “all reasonable and practical measures necessary to prevent or minimise any resulting environmental harm”. In considering what is reasonable and practical, the **Act** directs that environmental, financial and technical considerations must be taken into account.

### Ozone Protection

A person must not manufacture, store, sell, use, service, dispose of or allow the escape of:

- a *prescribed substance*<sup>66</sup>; or
- any product containing a *prescribed substance* unless the product was manufactured or imported before 1 June 1990. This exception does not apply to refrigerators containing 3kg or more of a *prescribed substance*.

## D. Authorisations required

*Activities of environmental significance*<sup>67</sup> must be licensed under the **Act**.

A works approval from **EPA** must be obtained prior to constructing or altering buildings and plant or equipment used in connection with **abattoirs** that have been licensed.

A licence or works approval may contain conditions, including conditions requiring the holder of the licence to:

- lodge a bond or sum of money with the **EPA**;
- prepare a risk management plan;

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<sup>66</sup> *Prescribed substances* include CFCs, halons, HCFCs, HBFCs and methal bromides specified in Schedule 1 of the *Ozone Protection Act 1989* (Commonwealth).

<sup>67</sup> *Activities of environmental significance* include **abattoirs** and **slaughtering houses** conducting slaughtering works for commercial purposes for the production of meat or meat products for human or animal consumption at a rate of production exceeding 100 tonnes per year of beef, sheep or meat products.



- develop and comply with an environment improvement plan; or
- carry out monitoring and comply with the requirements of an environment audit, for example, to evaluate and report to the **EPA** on management practices, production processes and technical systems, and to progressively improve such practices, processes and systems.

A company is able to apply for a single licence covering a range of activities at a premises, or covering activities carried on by the company at different locations.

### Environment Improvement Programs

Environment Improvement Programs (EIP), which may be submitted to the **EPA** in association with applications for a licence or works approval, will enable companies to propose practical time frames within which they will make environmental improvements and achieve compliance with obligations under the **Act**.

An EIP may exempt the proponent from compliance with the general environmental duty and specific provisions of EPPs. The development of an EIP may be a condition of any licence or works approval.

### *Environment Protection (Industrial Noise) Policy 1994*

The EPP provides that an occupier of non-domestic premises (which would include **abattoirs**) must not cause or permit *excessive noise*<sup>68</sup> to be emitted from the premises.

A failure to comply with the noise limits may result in the issue of an environment protection order.

## E. Consequences of Application

The **Act** establishes a tiered structure of environmental offences with **penalties** ranging up to \$250,000 for an individual and \$1,000,000 for a corporation.

A person who intentionally or recklessly contravenes a mandatory provision of an EPP is guilty of an **offence** punishable by a fine of \$120,000 or up to

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<sup>68</sup> Noise is *excessive* if the noise level at the measurement place for a period during which noise is emitted from the premises:

- exceeds by more than five dB the background noise level at the measurement place; and
- exceeds the maximum noise level for that time of day and the area in which premises is situated.

two years imprisonment. A fine of \$250,000 is applicable for offending corporations.

The **Act** also creates an **offence** of contravening an EPP. An individual may be punished by a \$60,000 fine. A corporation may be punished by a \$120,000 fine.

A person who undertakes a *prescribed activity of environmental significance* (which will include most **abattoirs**) other than in accordance with a licence or works approval is liable to a **penalty** of \$60,000 or \$120,000 for a corporation. The same **penalty** applies for breaching a condition of a licence or works approval.

### Executive officer liability

Where a company commits an **offence** under the **Act**, *officers*<sup>69</sup> of the company are guilty of the **offence** and liable for the individual **penalty** for that **offence**. However, a company *officer* will not be liable for an imprisonment term unless he or she knowingly promoted or acquiesced in the commission of the **offence**.

### Defences

The **Act** contains a number of defences to civil or criminal proceedings brought under the **Act**. In particular, a general defence exists where it is established that the **defendant** (whether a corporation or natural person) took all reasonable and practical measures to ensure compliance with the general environmental duty or a mandatory provision of an EPP. However, this defence does not apply to civil proceedings or a clean-up order issued under the **Act**.

### Environmental Orders

The **EPA** has two major administrative tools to ensure compliance with the **Act**.

An environment protection order (EPO) can be issued to secure compliance with the general environmental duty, with mandatory provisions of an EPP, with conditions of environmental authorisation, or with any other requirement of the **Act**. EPOs may specify that:

- a person discontinue, or not commence a specified activity;
- restrict persons from carrying on a specified activity, except in accordance with specified conditions; or

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<sup>69</sup> An *officer* can include a director, chief executive officer, receiver or manager, or employee with management responsibilities.

- require that a person take specified action within a specified period.

It is an **offence** to fail to comply with an EPO. A person who contravenes an EPO is liable to that **penalty** imposed by the EPO or in other cases \$4,000.

The other administrative means is the clean-up order, which the **EPA** can issue to a person who has caused environmental harm by contravention of the **Act**. The order may include requirements for action to be taken to prevent or mitigate further harm and for monitoring and reporting to the **EPA**.

It is an **offence** to fail to comply with a clean-up order.

**Offences and penalties**

Offence	Civil penalty	Criminal penalty
A person who intentionally or recklessly contravenes a mandatory provision of an EPP is guilty of an <b>offence</b> .	Issue of an <b>environment</b> protection order and/or a clean up order	For a category A <b>offence</b> (as specified in the EPP): \$250,000 fine (corporation) 2 years imprisonment and/ or \$120,000 fine (individual) For a category B or C <b>offence</b> (as specified in the EPP): \$30,000 fine

Offence	Civil penalty	Criminal penalty
A person who contravenes a mandatory provision of an EPP is guilty of an <b>offence</b> .	Issue of an <b>environment</b> protection order and/or a clean up order	For a category A <b>offence</b> : \$120,000 fine (corporation) \$60,000 fine (individual)  For a category B <b>offence</b> : \$4,000 fine  For a category C <b>offence</b> : \$500 fine
A person must not carry out works for:  (a) the construction or alteration of a building or structure for use for a <i>prescribed activity of environmental significance</i> ; or  (b) the installation or alteration of any plant or equipment for use for a <i>prescribed activity of environmental significance</i> :  except as authorised by an environmental authorisation.	Issue of an <b>environment</b> protection order and/or a clean up order	\$120,000 fine (corporation) \$60,000 fine (individual)
A person must not undertake a <i>prescribed activity of environmental significance</i> except as authorised by an environmental authorisation.	Issue of an <b>environment</b> protection order and/or a clean up order	\$120,000 fine (corporation) \$60,000 fine (individual)

Offence	Civil penalty	Criminal penalty
The holder of an environmental authorisation must not contravene a condition of the authorisation.	The authority may suspend or cancel the authorisation.  Issue of an <b>environment</b> protection order and/or a clean up order	\$120,000 fine (corporation)  \$60,000 fine (individual)
A person who causes serious environmental harm by polluting the <b>environment</b> intentionally or recklessly and with the knowledge that serious environmental harm will or might result is guilty of an <b>offence</b> .	Issue of an <b>environment</b> protection order and/or a clean up order	\$1,000,000 fine (corporation)  4 years imprisonment and/or \$250 000 fine (individual)
A person who pollutes the <b>environment</b> causing serious environmental harm is guilty of an <b>offence</b> .	Issue of an <b>environment</b> protection order and/or a clean up order	\$250,000 fine (corporation)  \$120,000 fine (individual)
A person who causes material environmental harm by polluting the <b>environment</b> intentionally or recklessly and with the knowledge that material environmental harm will or might result is guilty of an <b>offence</b> .	Issue of an EPO and/or a clean up order	\$250,000 fine (corporation)  2 years imprisonment and/or \$120,000 fine (individual)
A person who pollutes the <b>environment</b> causing material environmental harm is guilty of an <b>offence</b> .	Issue of an EPO and/or a clean up order	\$120,000 fine (corporation).  \$60,000 fine (individual)
A person who causes an environmental nuisance by polluting the <b>environment</b> intentionally or recklessly and with the knowledge that an environmental nuisance will or might result is guilty of an <b>offence</b> .	Issue of an EPO and/or a clean up order	\$30,000 fine

Offence	Civil penalty	Criminal penalty
It is an <b>offence</b> to fail to notify the Authority of an incident which causes or threatens to cause serious or material environmental harm from pollution.		\$120,000 fine (corporation). \$60,000 fine (individual)
A person to whom an EPO is issued must comply with the order.		The <b>penalty</b> under the provision for which compliance was sought, or a \$4,000 fine
A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information furnished, or record kept, under this <b>Act</b> .		\$8,000 fine

Note: if a person causes environmental damage under this **Act**, the Authority may make an order specifying action required to make good the damage and to prevent further environmental harm. If the Authority has incurred costs or expenses in taking action to prevent or mitigate environmental harm caused by a contravention of this **Act** an order for the payment of reasonable costs may be made.

## Existing Legislation South Australia Secondary

### A. Title of Act

*Development Act 1993*

### B. Objectives

To provide for proper, orderly and efficient planning and development in the State.

### C. Application of Act

The **Act** provides that *development*<sup>70</sup> (including **abattoirs**) may not be undertaken unless the *development* has the consent of the *relevant planning authority*<sup>71</sup>.

The **Regulations** may also declare certain activities to not be a *development*.

A *development* will only be approved if it complies with the relevant geographic Development Plan, which is formulated by local councils or the Minister for Planning. A Development Plan must take into account the management and conservation of the natural and built **environment** and **ESD** principles.

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<sup>70</sup> *Development* is defined as including:

- building work;
- a change in the use of land;
- the division of an allotment;
- the alteration of a heritage listed site where the work could materially affect the heritage value of the place;
- any activity that damages a significant tree; or
- an act or activity in relation to land declared by Regulation to constitute development.

<sup>71</sup> The *relevant planning authority* means the Development Assessment Commission or the local council.

## D. Authorisations required

The **Act** provides that no *development* may be undertaken unless it is approved. To obtain approval, the *development* must be assessed against a number of matters, including:

- the provisions of the relevant Development Plan;
- the Building Rules; and
- the relevant guide for applicants *Abattoir, Slaughterhouse and Poultry Processing*.

Applications for proposed **abattoirs** and **slaughterhouses** will be referred to the **EPA**.

Where the **EPA** considers that the proposal will result in environmental harm it may direct or advise the local council or the Development Assessment Commission to refuse the application. Alternatively the **EPA** may direct or advise the planning authority to include conditions on any approval.

After its assessment of the proposal the **EPA** will forward its advice to the planning authority which is responsible for making the final decision on whether to grant the development approval or refuse the application.

## E. Consequences of Application

A person who undertakes *development* without consent or contrary to a permit is liable to a maximum **penalty** of \$30,000 plus \$500 for each day the **offence** continues.

Note: if a person causes environmental damage under this **Act**, the Authority may make an order specifying action required to make good the damage and to prevent further environmental harm. If the Authority has incurred costs or expenses in taking action to prevent or mitigate environmental harm caused by a contravention of this **Act** an order for the payment of reasonable costs may be made.



**A. Title of Act*****Public and Environmental Health Act 1987*****B. Objective**

This **Act** regulates various aspects of public and environmental health.

**C. Application of Act**

The **Act** is relevant to the operation of **abattoirs** in respect to:

- *offensive activities*<sup>72</sup> ;
- the discharge of **wastes** into a public place or into premises not owned by a person; and
- the pollution of the *water supply*<sup>73</sup> or the undertaking of activities which may pollute the water supply.

The *Public and Environmental Health Regulations 1991* also provide that the owner of any premises (including **abattoirs**) must take reasonable steps to ensure that any refuse on the premises that is capable of causing an unsanitary condition, is kept in a receptacle that:

- is adequate to hold the refuse;
- prevents access by flies, pests, vermin or other animals;
- is impervious to water; and
- prevents the emission of offensive odours.

**D. Consequences of Application**

A person responsible for an *offensive activity* will be required by the South Australian Health Commission or Local Council to stop the activity or comply

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<sup>72</sup> An activity will be *offensive* where it gives rise to a risk to health or results in the emission of offensive material or odours.

<sup>73</sup> *Water supply* is defined to include any natural or artificial accumulation or source of water.

with certain requirements. Failure to comply without reasonable excuse is an **offence** and a **penalty** of up to \$8,000 may be imposed.

A person discharging **waste** will also be required to take specific action to prevent the discharge or potential discharge of **waste** or to remove **waste** which has already been discharged. Failure to comply without reasonable excuse is also an **offence** and a **penalty** of up to \$30,000 may be imposed.

A person polluting a water supply is guilty of an **offence** and a **penalty** of up to \$60,000 may be imposed. A person responsible for an activity which may cause the water supply to become polluted will also be required to take specified **action** to prevent the pollution or to cease the activity. Failure to comply without reasonable excuse is an **offence** and a **penalty** of up to \$60,000 may be imposed.

The **penalty** for an occupier who fails to comply with the requirement under the Regulations that refuse be kept in a receptacle is \$2,500.

Where a person is convicted of an **offence** under the **Act** and the act or omission constituting the **offence** continues, then the person will be guilty of a separate and further **offence** for each day that the act or omission continues and liable to a fine of up to \$200 per day.

#### **Executive officer liability**

Each director of a corporation which commits an **offence** will be guilty of that **offence** and liable to the same **penalty** unless the director proves that the **offence** could not have been prevented by the exercise of reasonable diligence.

**A. Title of Act****Sewerage Act 1929****B. Objective**

To consolidate the **law** governing the sewerage and cleansing of the metropolitan area and other places.

**C. Application of Act**

The **Act** prohibits the discharge into sewers of any **waste** material which has been prescribed by **Regulation**.

The *Sewerage Regulations 1996* require that the prior written consent of the water authority be obtained to discharge into any drain or sewer any:

- blood, urine or any other bodily fluid of an animal; or
- *trade waste*<sup>74</sup>;
- solid or gaseous material;
- material from a septic tank, or any other facility for the on site treatment or storage of *wastewater*;
- rainwater or sea water;

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<sup>74</sup> *Trade waste* is defined as material (other than wastewater) that is discharged or otherwise introduced into sewers in the course of carrying out an industrial or manufacturing process or carrying on a business of any kind.

*Wastewater* means:

- water used to flush human **waste** into sewers;
- water used for personal washing;
- water used for washing clothes or dishes;
- water used in a swimming pool;
- and includes material of the kind and quantity usually dissolved or suspended in or mixed with, water of any of those kinds.

- any liquid that is likely to damage or have a detrimental effect on the sewer or be a danger to any other persons engaged in maintaining the sewer or drain.

#### **D. Authorisations required**

The operator of an **abattoir** will be required to obtain the consent of the water authority prior to the discharge of any of its **waste** into sewers or drains.

The water authority may require the applicant to provide any information it considers necessary to consider the application.

The water authority may grant the authorisation subject to any conditions as it thinks fit.

#### **E. Consequences of Application**

It is an **offence** (carrying a **penalty** of \$5,000) to discharge prohibited materials into a sewer or drain. It is a defence if, at the time of discharge, the water authority had authorised the discharge of the material by a notice published in the Gazette.

The **Act** deems every person who causes the commission of an **offence**, or by whose order or direction such **offence** was committed, to be guilty of that **offence** and liable to the same **penalty** as if that person had actually committed the **offence**.

Any person who contravenes any of the **Regulations** by, for example, discharging **waste** in breach of a authority condition, is liable to a maximum **penalty** of \$2,000.

**A. Title of Act**

***Water Resources Act 1997***

**B. Objective**

The objective of this **Act** is to establish a system for the use and management of South Australia's *water resources*<sup>75</sup> that:

- sustains the wellbeing of the State while ensuring the State meets the needs of future generations and protect ecosystems dependant on *water resources*; and
- reduces to a minimum the detrimental effects of the use and management of *water resources*.

**C. Application of Act**

The Governor, on the Minister's recommendation, may prescribe a watercourse, lake or well. The consequence is that water may not be taken from the watercourse, lake or well for any purposes without a water licence.

Further, water may not be taken from a watercourse, lake or well or surface water not in a prescribed area, if the **action** will contravene a water plan (eg the State Water Plan, a catchment management plan or a local water management plan).

**D. Authorisations required**

A water licence is required by an owner/operator of an **abattoir** to take an allocated volume of water from a prescribed watercourse, lake or well other than:

- for domestic purposes and to water stock kept on land adjacent to the watercourse, lake or well;
- as authorised by the Minister for a specific purpose; or
- in accordance with a licence.

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<sup>75</sup> *Water resources* are defined as rivers, lakes, surface waters, underground waters and effluent.

A water licence is required by an owner/operator of an **abattoir** to take water from a proclaimed watercourse, lake or well.

The Minister may refuse to grant a licence:

- if the requested water allocation is inconsistent with the water allocation plan;
- if the water is so contaminated that it may cause a health risk to humans or animals; or
- if the applicant has had a licence previously cancelled or has committed an **offence** against the **Act**.

A licence is issued subject to limitations on the amount of water that may be taken and is subject to conditions prescribed in the licence by the Minister and in the Regulations. Charges may be imposed on the taking of water.

The holder of a licence may transfer the licence or any part of the water allocation to another licence holder.

## **E. Consequences of Application**

A person who takes water from a prescribed watercourse, lake or well without a water licence or in contravention of a water plan is subject to a maximum **penalty** of \$5,000 or \$10,000 in the case of a corporation.

Where a corporation is guilty of an **offence** under the **Act** each member of the governing body and the manager of the corporation are guilty of an **offence** and liable to the same **penalty** as prescribed for an individual.

It is a defence if it can be proved that the **offence** was not committed intentionally and did not result from a failure on the part of the alleged offender to take reasonable precautions to avoid the commission of the **offence**.

## Codes of Practice and Guidelines

### Title

#### *EPA Enforcement Policy*

### Purpose and Effect

The **EPA** have an internal enforcement policy which they apply when determining what action they will take against persons or corporations who breach the *Environment Protection Act 1993* or any licence or works approval.

A copy of this Policy may be provided with the permission of the **EPA** Chief Executive.<sup>76</sup>

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<sup>76</sup> Contact details for the **EPA** are provided at page 171.

## Draft Legislation, Codes of Practice and Guidelines

### Title

#### *Draft Environment Protection (Water Quality) Policy*

The draft EPP if introduced will apply to all inland surface and groundwaters and marine waters, and will prescribe discharge limits for point and diffuse sources of pollution. Obligations relating to particular activities will also be imposed if the draft EPP is adopted.



## Relevant Contacts and Information Sources

### Relevant Contacts:

#### Freehills

Environmental Law Services

Contact: Tim Power (Partner)

Telephone: (03) 9288 1484

#### Department of Primary Industry and Resources

Contact: Trevor Clark (Senior Cattle Consultant)

Telephone: (08) 8842 6226

Facsimile: (08) 8842 3775

#### Department for Environment and Heritage

Air Pollution Section

Contact: Chris Harris (Meteorologist)

Telephone: (08) 8204 9000

#### Meat Hygiene Unit

Contact: Geoff Raven (Chief Hygiene Officer)

Telephone: (08) 8207 7871

**Environment Protection Authority** Telephone: (08) 8204 2004

Freecall: 1 800 623 445

Facsimile: (08) 8204 9393

### Information Sources:

Copies of all **Acts** of Parliament and **Regulations** are available from:

#### Information SA

Ground floor, SA Water House

77 Grenfell Street

Adelaide SA 5000

Telephone: (61 8) 8204 1900

Freecall: 1 800 182 234

**Acts** of Parliament and **Regulations** and policy documents can be viewed online at:

<http://www.environment.sa.gov.au/epa/legislation.html>

<http://www.parliament.sa.gov.au:8080/legsearch.htm>

Department of Environment and <http://www.environment.sa.gov.au/>  
Heritage:

EPA: <http://www.environment.sa.gov.au/epa/epa.html>

Planning SA:

<http://www.planning.sa.gov.au/>

South Australia Government  
Agencies:

[http://www.sa.gov.au/government/index\\_govt\\_sites/](http://www.sa.gov.au/government/index_govt_sites/)

SA Water:

<http://www.sawater.com.au/>

Primary Industries and  
Resources SA:

<http://www.pir.sa.gov.au/>

## **Western Australia**

## Legislative Summary Western Australia

### A. Primary Legislation

#### ***Environmental Protection Act 1986***

This **Act** is the principal legislation for the prevention, control and abatement of environmental pollution and for the conservation, preservation, protection, enhancement and management of the **environment**.

Any proposal which appears likely to have a significant effect on the **environment** or which is part of a prescribed class, must be referred to the **EPA**. In practice this is likely to include any proposal relating to the development of an **abattoir**.

The **EPA** has the power to regulate and control site selection, dust, noise, odour, **waste**, water, soil erosion and solid **waste** disposal in respect of **abattoirs**. In order to control pollution the **EPA** can grant works approvals and licences which place duties on the occupier of *prescribed premises* to regulate the discharge of **waste**, emission of noise, odour or electro-magnetic radiation.

Various **Regulations** operate under the **Act** which regulate air and noise emissions, the construction and operation of **abattoirs** with a capacity of between 100 to 1,000 tonnes of slaughtered animals per year and the storage and transport of controlled wastes anywhere within the State.

### B. Secondary Legislation

#### ***Agricultural Produce (Chemical Residues) Act 1983***

This **Act** regulates certain chemical residues in agricultural produce, including meat products, and to control the use, disposal and handling of agricultural produce in which excessive chemical residues are present.

#### ***Agriculture and Related Resources Protection Act 1976***

This **Act** and the associated **Regulations** provide for the management, control, spread and keeping of certain animals in order to provide for the protection of agriculture and related resources. They are not generally not applicable and will only apply to declared animals.

**Health Act 1911**

This **Act** seeks to protect public health by, relevantly, regulating sewage, drainage and **waste** disposal.

**Litter Act 1979**

This **Act** regulates the disposal of litter in public places.

**Metropolitan Water Supply, Sewerage and Drainage Act 1909**

This **Act** controls the water supply, sewerage and drainage within the Metropolitan Water, Sewerage, and Drainage Area.

**Rights in Water and Irrigation Act 1914**

This **Act** governs rights in relation to water resources within WA and makes provision for the conservation and use of such waters, including water extracted from artesian and non-artesian wells.

**Soil and Land Conservation Act 1945**

This **Act** regulates the conservation of soil and land resources within WA by seeking to mitigate the effects of erosion, salinity and flooding.

**Waterways Conservation Act 1976**

This **Act** makes provision for the conservation and management of waters and the associated land and **environment**.

**C. Codes of Practice and Guidelines****Environmental Code of Practice for Abattoirs**

This Code addresses the environmental problems associated with **abattoirs** and sets out the environmental principles and operating procedures to minimise those problems.

**Environmental Code of Practice for Rendering Plants**

This Code outlines the general principles of environmental management for **rendering plants** and sets out the various control practices to minimise environmental impact.

## Existing Legislation Western Australia Primary

### A. Title of Act

*Environmental Protection Act 1986*

### B. Objective

This **Act** is the principal legislation for the prevention, control and abatement of environmental pollution and for the conservation, preservation, protection, enhancement and management of the **environment**. In particular the **Act** seeks to:

- provide a mechanism for the preparation and approval of environmental protection policies, with avenues for community involvement in their development;
- provide for an **environmental impact assessment** process;
- provide machinery for the Government and decision making authorities, where a development proposal is approved subject to environmental considerations, to agree on those conditions and to have them complied with; and
- consolidate pollution control responsibilities in one **Act**.

Environmental management and pollution regulating tasks are delegated to appropriate management agencies subject to approved environmental protection policies and standards.

### C. Application of Act

The **Act** is potentially wide in its application. Broad definitions of discharge, environment, pollution and **waste**, give it the potential to regulate any escape, discharge or emission of virtually any matter or noise which affects a living thing or that living thing's physical, biological or social surroundings.

Pollution is regulated by:

- controls on new development proposals - through **Environmental impact assessment**; and

- controls on actual pollution.

Each is discussed below.

### **Environmental Impact Assessments**

Any proposal that appears likely, if implemented, to have a significant effect on the **environment** or a proposal of a prescribed class:

- must be referred to the **EPA** by a public authority as soon as it comes to the notice of that authority;
- may be referred to the **EPA** by the proponent or by any other person; and
- if the Minister considers that there is public concern about a proposal he/she may refer it directly to the **EPA**.

Once a proposal is referred to the **EPA**, the **EPA** will decide if it is to be assessed (and at what level). If the **EPA** decides not to assess the proposal, it may nevertheless give advice and recommendations to any relevant authority on the environmental aspects of the proposal.

The **EPA** has considerable discretion regarding the nature of the assessment. It may:

- require any person to provide it with information;
- require the proponent to undertake an environmental review and report on it to the **EPA**; or
- conduct a public inquiry with the approval of the Minister. Furthermore, the **EPA** has the power, subject to Ministerial discretion, to determine the form, content, timing and procedure of any environmental review.

The **EPA** may require that any information or report provided to it, be made available for public review. Within six weeks of completing the assessment, the **EPA** must prepare a report of its assessment of the proposal. If the **EPA** is of the view that the proposal should be approved, it will suggest proposed conditions to the Minister. The Minister will decide if the proposal can proceed and, if so, will approve conditions relating to the construction and operation of the proposal.

The **EPA** decision may be **appealed**.

## Control of pollution

The **Act** establishes a pollution control system by:

- creating **offence** provisions which prohibit pollution or actions which cause or allow pollution without some form of official authority under **law**;
- prescribing standards which may relate to general prohibitions or to approvals and licences;
- requiring works approvals and licences for the discharge of **waste** or the emission of noise, odour or electromagnetic radiation from *prescribed premises* (which includes **abattoirs** and stockyards associated with **abattoirs**) into the **environment**;
- providing powers to issue and administer orders and directives; and
- providing a system of enforcement with powers of inspection and prosecution.

The pollution control system is administered by the Department of **Environment** and Water Catchment Protection (DEWCP). Applied to **abattoirs** and **meatworks**, the **Act** gives the DEWCP the power to regulate site selection, dust, noise, odour, **waste** water, soil erosion and solid **waste** disposal. DEWCP reports of proposals issued under the **Act** reveal that these factors are prominent DEWCP considerations.

The works approval or licence will continue in force for a specific period.

The **Act** also contains provisions providing for pollution abatement notices, clean-up notices, stop orders, directions, administrative review, enforcement and third party compensation.

## Regulations

Some of the relevant **Regulations** under the **Act** include:

### ***Environmental Protection (Abattoirs) Regulations 2001***

The **Regulations** prescribe the conditions for the construction and operation of **abattoirs** with a production or design capacity of between 100 to 1,000 tonnes of slaughtered animals per year.

Dust creation and **waste** management are the principal areas of concern.



The Regulations place obligations on persons who construct and/or operate **abattoirs** to ensure:

- no visible dust escapes from the premises;
- waste water is sent to a treatment facility which is properly contained and managed so as to ensure that an unreasonable odour does not escape from the **abattoir**;
- solids, oils and uncontaminated stormwater do not enter the waste water treatment plant;
- **wastes** from bleeding areas are collected and disposed separately;
- paunch of slaughtered animals is stored in water tight and vermin proof containers;
- manure storage areas are impervious and surrounded by bunds;
- deceased, but not slaughtered animals are taken to a rendering facility, a **waste** disposal facility or otherwise disposed of in an approved manner within 24 hours of their death; and
- solid **wastes** are disposed of at a rendering, compost manufacturing or disposal facility.

Premises with a production or design capacity of over 1,000 tonnes of slaughtered animal per year will remain subject to the existing EP Act requirements that apply to the licensing of *prescribed premises*.

Fines of up to \$5,000 may be applied for contravention of the **Regulations**.

### ***Clean Air Regulations 1967***

These **Regulations** are designed to regulate the emission of sulphur dioxide and dark smoke from chimneys.

The **Regulations** provide that chimneys used in relation to fuel burning equipment emitting 1.5 kg or more of sulphur dioxide in one hour must be of a particular height.

Fuel burning equipment or incinerators likely to emit solid particles in smoke may not be erected unless full details of any control equipment for preventing or minimising the emission of solid particles in smoke are submitted to the Minister for the Environment.

Fines of up to \$2,000 are provided under the **Regulations**.

### ***Clean Air (Determination of Air Impurities in Gases Discharged into the Atmosphere) Regulations 1983***

These **Regulations** specify the permissible levels of concentration for gases discharged into the atmosphere.

The **Regulations** provide that any boiler, incinerator or other trade, industry, process, industrial plant or fuel burning equipment emitting solid particles, must have a standard of concentration at the point of emission determined in accordance with the specifications of the **Regulations**.

The procedure for determining the standard of concentration of solid particles in each cubic metre of residual gas and the point at which it is to be measured is prescribed by the Regulations.

Penalties under the EP Act are available if the standards are not met.

### ***Environmental Protection (Controlled Waste) Regulations 2000***

These regulations control the storage and transport of *controlled wastes*<sup>77</sup> anywhere within the State, in order to enable better tracking of *controlled wastes* within WA.

Relevant *controlled wastes* include animal effluent or residues.

The **Regulations** require that licences or permits be obtained:

- by carriers who collect or transport *controlled waste*;
- by operators employed or engaged by a carrier to collect or transport *controlled waste*;
- for vehicles or vessels used by carriers to transport *controlled waste*; and
- by occupiers of premises who wish to have a *controlled waste* removed from premises. This will be particularly relevant to **abattoirs**.

The DEWCP has indicated that the **Regulations** will not be applied to the transport of *controlled wastes* wholly within a company's premises. Generally such transport is to be regulated through *prescribed premises* licences issued under Part V of the *Environmental Protection Act 1986*. However, the **Regulations** may be applied to the on-site storage of *controlled wastes*.

The **Regulations** do not apply to a variety of **wastes** which have been exempted.<sup>78</sup>

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<sup>77</sup> A *controlled waste* is one that has been declared under the **Regulations** and is being moved in a notifiable quantity.

The CEO may exempt a person from compliance with the **Regulations**.

Fines of up to \$5,000 for contravention are provided under the **Regulations**.

### ***Environmental Protection (Liquid Waste) Regulations 1996***

The **Regulations** seek to monitor and control the production and storage of liquid **waste** within the boundaries of the *Metropolitan Region Town Planning Scheme*<sup>79</sup>.

Licences must be obtained by occupiers of premises within the metropolitan area who have liquid **waste** on their premises. This includes premises upon which collection tanks are situated. Licences must also be obtained by drivers and carriers of the liquid **waste**.

If the occupier of the premises is a participant in an approved waste management programme with respect to the **waste** produced on its premises, it may apply to the Chief Executive Officer for a written exemption from compliance with a specified condition of a licence for those premises or any of the provisions of the **Regulations**.

Fines of up to \$5,000 for contravention are provided for under the **Regulations**.

### ***Environmental Protection (Noise) Regulations 1997***

The **Regulations** provide for the management of noise emissions from operations located near premises used for specified public and private purposes.

The **Regulations** provide that noise emitted from company sites must not, when received at other premises, cause or significantly contribute to a level

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<sup>78</sup> These include, among other things:

- circumstances where there is an emergency which requires urgent action to protect human life, the **environment** and/or property;
- *controlled wastes* which are to be used in analysis for **waste** categorisation or research purposes and are approved by an agency in the jurisdiction or destination;
- the movement of *controlled wastes* by pipeline;
- substances prescribed as dangerous goods under the *Dangerous Goods (Transport) Act 1998* and transported in accordance with that **Act**;
- **waste** discharges licensed under the *Waterways Conservation Act* or the *Metropolitan Water Supply, Sewerage and Drainage By-Laws*.

<sup>79</sup> The *Metropolitan Region Town Planning Scheme* comprises the local government districts bound by the coastline and the local government district boundaries of the City of Wanneroo, the City of Swan, the Shire of Mundaring, the Shire of Kalamunda, the City of Armadale, the Shire of Serpentine-Jarrahdale and the City of Rockingham (*Metropolitan Water Supply, Sewerage and Drainage Act 1909*).

of noise which exceeds the *assigned level* for the particular type of premises and must be free of tonality, impulsiveness and modulation. The Regulations specify exactly what levels of noise are allowed to be emitted from various premises depending on their use and surrounding **environment**.

Where the company is of the opinion that it cannot reasonably or practicably comply with a standard prescribed under the **Regulations**, or that a proposal of the company will not be reasonably or practicably capable of complying with that standard, it may apply to the Minister for the Environment for approval to allow the emission of noise in that case to exceed or vary from the standard.

Penalties of up to \$5,000 for the emission of unreasonable noise are provided.

### **C. Authorisations required**

Both works approvals and licences place duties on the occupier of *prescribed premises* to regulate the discharge of **waste**, or the emission of noise, odour or electromagnetic radiation from those *prescribed premises*.

Works approvals aim to provide the DEWCP with some control over the planning and design of any development of a trade or industrial operation which could cause or increase pollution. The occupier of any non-prescribed premises who wishes to carry out works which will make them into *prescribed premises* must therefore have a works approval. Licences seek to regulate operational management practices and actual discharges of **waste** or emissions of noise, odour or electromagnetic radiation.

Applications for works approvals and licences are made to the Chief Executive Officer of the DEWCP (CEO) who must refer the application for comment to any public authority or person which has a direct interest in the subject matter of that application.

The following are *prescribed premises*, which require a works approval or licence:

- **abattoirs** catering for 1,000 tonnes or more per year – category 15;
- **rendering operations**, being premises on which substances from animal material are processed or extracted – category 16; and
- livestock saleyards or holding pens where animals are held pending sale, shipment or slaughter.

In granting a works approval or licence the CEO may take into account any relevant **EPA** Policy and make the works approval or licence subject to a number of conditions controlling the pollution emitted from the premises.

## D. Consequences of application

### Offences and penalties

Offence	Special Intentional or Criminal Negligence penalty	General Penalty
It is an <b>offence</b> to fail to implement a proposal submitted to the Minister under the <b>environmental impact assessment</b> provisions of the <b>Act</b> , in accordance with the conditions and procedures imposed by the Minister.		A <b>penalty</b> not exceeding \$250,000 (corporation) \$125,000 (individual) plus a daily <b>penalty</b> of \$50,000 (corporation) \$25,000 (individual) for continuing offences.
It is an <b>offence</b> to fail, without reasonable excuse, to give the CEO such reports and information in respect of the implementation of a proposal which the CEO may require.		A fine not exceeding \$50,000 (corporation and individual).

Offence	Special Intentional or Criminal Negligence penalty	General Penalty
<p>If a person or company fails to comply with a Ministerial condition or procedure or does not fully comply with its monitoring obligations, and the Minister issues an order requiring it to:</p> <p>(a) stop the implementation of its proposal for a period not exceeding 24 hours; and</p> <p>(b) take certain steps for the purpose of complying with a condition or procedure of an implementation proposal, or for preventing, controlling or abating any pollution caused by the non-compliance with the condition or procedure,</p> <p>then it is an <b>offence</b> to fail to comply with such order.</p>		<p>A <b>penalty</b> not exceeding \$325,000 (corporation) \$162,500 (individual), and for continuing offences, a daily <b>penalty</b> not exceeding \$65,000 (corporation) and \$32,500 (individual).</p>
<p>It is an <b>offence</b> to cause or allow to be caused pollution.</p>	<p>For pollution caused by intention or criminal <b>negligence</b> a <b>penalty</b> not exceeding \$1,000,000 (corporation) \$500,000 (individual) and for continuing offences a daily <b>penalty</b> not exceeding \$200,000 (corporation) and \$100,000 (individual).</p>	<p>Otherwise a <b>penalty</b> not exceeding \$500,000 (corporation) \$250,000 (individual) and for continuing offences a daily <b>penalty</b> not exceeding \$100,000 (corporation) and \$50,000 (individual).</p>

Offence	Special Intentional or Criminal Negligence penalty	General Penalty
It is an <b>offence</b> to emit or cause to be emitted from any premises noise, odour or electromagnetic radiation which unreasonably interferes with the health, welfare, convenience, comfort or amenity of any person.	For an unreasonable emission with intention or criminal <b>negligence</b> a <b>penalty</b> not exceeding \$250,000 (corporation) \$125,000 (individual) and for continuing offences, a daily <b>penalty</b> not exceeding \$50,000 (corporation) and \$25,000 (individual).	Otherwise for an unreasonable emission a <b>penalty</b> not exceeding \$125,000 (corporation) \$62,500 (individual) and for continuing offences, a daily <b>penalty</b> not exceeding \$25,000 (corporation) and \$12,500 (individual).
It is an <b>offence</b> to cause, or allow, <b>waste</b> to be placed in any position from which the <b>waste</b> could reasonably be expected to enter the <b>environment</b> and be likely to result in pollution.	For placing <b>waste</b> intentionally or with criminal <b>negligence</b> , a <b>penalty</b> not exceeding \$1,000,000 (corporation) \$500,000 (individual) and if it is a continuing <b>offence</b> a daily <b>penalty</b> not exceeding \$200,000 (corporation) \$100,000 (individual).	Otherwise, a <b>penalty</b> not exceeding \$500,000 (corporation) \$250,000 (individual) and if it is a continuing <b>offence</b> a daily <b>penalty</b> not exceeding \$100,000 (corporation) \$50,000 (individual).

Offence	Special Intentional or Criminal Negligence penalty	General Penalty
<p>It is an <b>offence</b> to fail to:</p> <p>(a) comply with any prescribed standard for the discharge of <b>waste</b> or the emission of noise, odour or electromagnetic radiation; and</p> <p>(b) take all reasonable and practicable measures to prevent or minimise the discharge of <b>waste</b> and the emission of noise, odour or electromagnetic radiation, from its premises.</p>		<p>A <b>penalty</b> not exceeding \$25,000 (corporation and individual) and if it is a continuing <b>offence</b> a daily <b>penalty</b> not exceeding \$5,000 (corporation and individual).</p>
<p>In respect of any part of a site which is not currently a <i>prescribed premises</i>, it is an <b>offence</b> for a person or company to carry out work on that part of a site which causes the premises to become <i>prescribed premises</i> unless it does so in accordance with a works approval.</p>		<p>A <b>penalty</b> not exceeding \$100,000 (corporation) \$50,000 (individual) and if it is a continuing <b>offence</b>, a daily <b>penalty</b> not exceeding \$20,000 (corporation) \$10,000 (individual).</p>
<p>It is an <b>offence</b> to do any of the following acts, if to do so may cause, increase or alter the nature of the discharge of <b>waste</b>, or the emission of noise, odour or electromagnetic radiation from the <i>prescribed premises</i>:</p> <p>(a) altering the method of operation of any trade, or of any process used in any trade carried on at the <i>prescribed premises</i>;</p> <p>(b) constructing, installing or altering</p>		<p>A <b>penalty</b> not exceeding \$100,000 (corporation) \$50,000 (individual).</p>



Offence	Special Intentional or Criminal Negligence penalty	General Penalty
<p>any equipment on the <i>prescribed premises</i> for:</p> <p>(i) the storage handling, transport or treatment of <b>waste</b> prior to, and for the purpose of, the discharge of <b>waste</b>; or</p> <p>(ii) the control of noise, odour or electro-magnetic radiation prior to, and for the purpose of, the emission of noise, odour or electro-magnetic radiation into the <b>environment</b>;</p> <p>(c) altering the type of material of products used or produced in any trade carried on at the <i>prescribed premises</i>;</p> <p>(d) altering the type of fuel burning equipment or industrial plant in any trade carried on at the <i>prescribed premises</i>;</p> <p>(e) installing, altering or placing any fuel burning equipment or industrial plant on the <i>prescribed premises</i> or carrying out any work on the <i>prescribed premises</i> which is the beginning of, or any subsequent step, in that installation, alteration, replacement or carrying out; or</p> <p>(f) carrying out any work which is the beginning of, or any subsequent step in, any work referred to in paragraphs (a) to (e) above,</p> <p>unless one first obtains a works approval or a licence or carries out the work in question either:</p> <p>(a) pursuant to a requirement contained in a pollution abatement</p>		

Offence	Special Intentional or Criminal Negligence penalty	General Penalty
<p>notice; or</p> <p>(b) in the course of and for the purpose of general maintenance required to maintain the efficient operation of any pollution control equipment or procedure.</p>		
<p>On <i>prescribed premises</i> it is an <b>offence</b> to construct, relocate or alter any discharge or emission pipe, channel or chimney through which <b>waste</b> is, or may be, discharged into the <b>environment</b>, or to carry out any work which is the beginning of, or any subsequent step in, any such construction, relocation or alteration, unless it first obtains a works approval or a licence or carries out the work in question either:</p> <p>(a) pursuant to a requirement contained in a pollution abatement notice; or</p> <p>(b) in the course of and for the purpose of general maintenance required to maintain the efficient operation of any pollution control equipment or procedure.</p>		<p>A <b>penalty</b> not exceeding \$100,000 (corporation) \$50,000 (individual).</p>

Offence	Special Intentional or Criminal Negligence penalty	General Penalty
It is an <b>offence</b> to contravene any condition of a works approval which applies to a site.		A <b>penalty</b> not exceeding \$125,000 (corporation) \$62,500 (individual) and if it is a continuing <b>offence</b> , a daily <b>penalty</b> not exceeding \$25,000 (corporation) \$12,500 (individual).
<p>In respect of <i>prescribed premises</i> it is an <b>offence</b> to, without holding a licence:</p> <p>(a) cause, increase, or permit to be caused or increased, the discharge of <b>waste</b> or the emission of noise, odour or electromagnetic radiation; or</p> <p>(b) alter or permit to be altered the nature of the <b>waste</b> discharged or noise, odour or electromagnetic radiation emitted.</p>		A <b>penalty</b> not exceeding \$100,000 (corporation) \$50,000 (individual), and if it is a continuing <b>offence</b> , a daily <b>penalty</b> not exceeding \$20,000 (corporation) \$10,000 (individual).

Offence	Special Intentional or Criminal Negligence penalty	General Penalty
<p>It is an <b>offence</b> to contravene a condition of any licence which the licensee holds. Further, a person or company is deemed to have contravened the licence if a person on the premises contravenes the licence, whether or not the person acted contrary to the instructions of the occupier.</p>		<p>This <b>offence</b> is a <b>strict liability offence</b> and a breached involves a <b>penalty</b> not exceeding \$125,000 (corporation) \$62,500 (individual), and if it is a continuing <b>offence</b>, a <b>daily penalty</b> not exceeding \$25,000 (corporation) \$12,500 (individual).</p>
<p>Where a licence or works approval requires a person or company to undertake a monitoring programme of <b>waste</b> being discharged or noise, odour or electromagnetic radiation being emitted from the premises, then it is an <b>offence</b> to fail to supply <u>all</u> information recorded as a result of that programme to the CEO.</p>		<p>A <b>penalty</b> not exceeding \$25,000 (corporation and individual) and if it is a continuing <b>offence</b>, a <b>daily penalty</b> not exceeding \$5,000 (corporation and individual).</p>

Offence	Special Intentional or Criminal Negligence penalty	General Penalty
<p>If a person or company is issued with a pollution abatement notice, then it is an <b>offence</b> to fail to comply with each requirement contained in it.</p>	<p>A <b>penalty</b> not exceeding \$500,000 (corporation) \$250,000 (individual) for failure to comply with intention or criminal <b>negligence</b> and if it is a continuing <b>offence</b> a daily <b>penalty</b> not exceeding \$100,000 (corporation) \$50,000 (individual).</p>	<p>A <b>penalty</b> not exceeding \$125,000 (corporation) \$62,500 (individual) for failure to comply with a stop order and if it is a continuing <b>offence</b> a daily <b>penalty</b> not exceeding \$25,000 (corporation) \$12,500 (individual).</p>
<p>If a person or company is issued with a pollution abatement notice, it is an <b>offence</b> to fail to comply with a stop order made by the Minister in relation to the notice.</p>		<p>A <b>penalty</b> not exceeding \$325,000 (corporation) \$162,500 (individual) for failure to comply with intention or criminal <b>negligence</b> and if it is a continuing <b>offence</b> a daily <b>penalty</b> not exceeding \$65,000 (corporation) \$32,500 (individual).</p>

Offence	Special Intentional or Criminal Negligence penalty	General Penalty
<p>It is an <b>offence</b> to fail to notify the CEO of the prescribed details of a discharge of <b>waste</b>, if the discharge has caused or is likely to cause pollution and:</p> <p>(a) occurs as a result of an emergency, accident or malfunction;</p> <p>(b) occurs otherwise than in accordance with a works approval, licence or pollution abatement notice;</p> <p>(c) is of the prescribed kind or a kind notified in writing to the occupier concerned; or</p> <p>(d) is of a kind specified in a relevant NEPM.</p>		<p>A <b>penalty</b> not exceeding \$50,000 (corporation and individual) and if it is a continuing <b>offence</b> a daily <b>penalty</b> not exceeding \$10,000 (corporation and individual).</p>
<p>It is an <b>offence</b> to contravene a direction given by an inspector or authorised person to remove, disburse, destroy, dispose of or otherwise deal with the <b>waste</b> being discharged or to prevent a condition of pollution from arising or to control or abate that condition if it arises, unless there is a reasonable excuse for not doing so.</p>	<p>A <b>penalty</b> not exceeding \$500,000 (corporation) \$250,000 (individual) for contravening with intention or criminal <b>negligence</b> without reasonable excuse and if it is a continuing <b>offence</b> a daily <b>penalty</b> not exceeding \$100,000 (corporation) \$50,000 (individual).</p>	<p>A <b>penalty</b> not exceeding \$125,000 (corporation) \$62,500 (individual) and if it is a continuing <b>offence</b> a daily <b>penalty</b> not exceeding \$25,000 (corporation) \$12,500 (individual).</p>
<p>It is an <b>offence</b> to use, or cause, or allow to be used, any equipment which causes or emits unreasonable noise.</p>		<p>Fine not exceeding \$5,000.</p>

Offence	Special Intentional or Criminal Negligence penalty	General Penalty
It is an <b>offence</b> to install on or in any premises, any equipment which emits unreasonable noise and which one knew or should have known would emit unreasonable noise when operated.		Fine not exceeding \$5,000.
It is an <b>offence</b> to fail, without reasonable excuse, to comply with the following directions given by an authorised person, or police officer, in relation to the emission of unreasonable noise from any premises:  (a) a direction that a person or company, as occupier, cease the emission of that unreasonable noise; or  (b) a direction that a person or occupier, if making or contributing to the making of that unreasonable noise, ceases to make or contribute to the making of that unreasonable noise.		Fine not exceeding \$25,000.
It is an <b>offence</b> for the owner or driver of a vehicle to fail to comply with any noise emission standards.		Fine not exceeding \$5,000.
It is an <b>offence</b> for the owner of any equipment which is capable of emitting excessive noise to fail to comply with any noise emission standard.		Fine not exceeding \$5,000.

Offence	Special Intentional or Criminal Negligence penalty	General Penalty
<p>It is an <b>offence</b> for as person or company, as the owner of, or the body having in its possession, any vehicle or equipment required to be fitted with a noise control device prescribed plate etc, to fail to make that vehicle or equipment available for the purposes of making an inspection, measurement or test to determine whether or not that vehicle or equipment complies with requirements under the Environmental Protection <b>Act</b> 1986.</p>		<p>A <b>penalty</b> not exceeding \$5,000 and if it is a continuing <b>offence</b>, a <b>daily penalty</b> not exceeding \$1,000.</p>
<p>It is an <b>offence</b> for any person in purporting to comply with a requirement under the <b>Act</b>, to give false or misleading information to the <b>EPA</b>, the CEO, an authorised person, an inspector or a police officer.</p>		<p>A <b>penalty</b> not exceeding \$50,000.</p>
<p>Where a person is convicted of an <b>offence</b> against the <b>Act</b> the Court may order the offender to pay:</p> <p>(a) a maximum of \$2 million to the Department or other public authority for costs reasonably incurred in dealing with the breach (including the mitigation of harm to the <b>environment</b> and the rectification of resulting environmental damage);</p> <p>(b) a person, including a public authority, that suffers loss or damage to property, or incurs costs through mitigating such loss or damage:</p> <p>To a maximum of \$100,000 to a person other than the Department or a public authority for reasonably incurred costs and expenses;</p>		



Offence	Special Intentional or Criminal Negligence penalty	General Penalty
<p>To a maximum of \$500,000 to the Department or a public authority as compensation for loss of, or damage to, property; and</p> <p>To a maximum of \$50,000 to a person other than the Department or a public authority as compensation for loss of, or damage to, property.</p> <p>In addition to the above penalties for offences, the Court may also impose additional penalties in the form of orders. The order may require forfeiture of anything used in the commission of the <b>offence</b>.</p> <p>Orders may also require steps to:</p> <p>(a) prevent, control, abate or mitigate any harm to the <b>environment</b> caused by the commission of the <b>offence</b>;</p> <p>(b) make good any resulting environmental damage;</p> <p>(c) prevent the continuance or recurrence of the <b>offence</b>;</p> <p>(d) pay an additional <b>penalty</b> of monetary benefits acquired or accrued as a result of the commission of the <b>offence</b>;</p> <p>(e) publicise and notify specified persons of the <b>offence</b> and the orders made (including publication in the annual report); and</p> <p>(f) carry out a specified project for the restoration or enhancement of the <b>environment</b> in a public place or for the public benefit.</p>		

Offence	Special Intentional or Criminal Negligence penalty	General Penalty
<p>It is an <b>offence</b> for a person who is required by a works approval or licence to carry out a specified monitoring program with approved monitoring equipment to fail to:</p> <p>(a) use approved monitoring equipment;</p> <p>(b) ensure that the approved monitoring equipment used is operating so as to provide accurate measurements; or</p> <p>(c) ensure that any conditions imposed under r.20G are complied with.</p>		A fine of \$5,000.
<p>It is an <b>offence</b> for a person who is required by a works approval or licence to carry out a specified monitoring program to fail to:</p> <p>(a) report to the CEO on the details and accuracy, or extent of inaccuracy, of the measurements taken:</p> <p>(i) at the periods or on the dates specified in the works approval or licence; or</p> <p>(ii) at such other times as the CEO may require by a written notice which sets out the reasons for the requirement.</p> <p>(b) report to the CEO, as soon as practicable, any inaccuracies discovered subsequent to the submission of a report under r.20B.</p>		A fine of \$5,000.

## Environmental Protection (Abattoirs) Regulations 2001

Offence	Penalty
It is an <b>offence</b> to fail to carry on the operations of an <b>abattoir</b> unless it is carried on in such a manner that no visible dust escapes from the <b>abattoir</b> .	A fine of \$5000.
It is an <b>offence</b> to fail to ensure that no visible dust escapes from the premises on which the <b>abattoir</b> is being constructed during the course of the construction.	A fine of \$5000.
Unless otherwise directed by a public body under a written <b>law</b> , it is an <b>offence</b> to fail to an operator ensure that any dead animal on the <b>abattoir</b> that has not been slaughtered on it is within 24 hours after the operator becoming aware of its death:  (a) taken to a rendering facility;  (b) taken to a <b>waste</b> disposal facility; or  (c) disposed of in a manner approved by the CEO.	A fine of \$5000.
It is an <b>offence</b> for an operator to fail to ensure that waste water from:  (a) lairage pens at the <b>abattoir</b> ;  (b) raceways from a lairage pen to a <b>slaughterhouse</b> at the <b>abattoir</b> ; or  (c) a solid <b>waste</b> storage area at the <b>abattoir</b> ,  is drained to the waste water treatment system.	A fine of \$5000.

Offence	Penalty
<p>It is an <b>offence</b> for an operator to fail to:</p> <p>(a) ensure that the drainage system from the <b>slaughterhouse</b> at the <b>abattoir</b> to the waste water treatment system does not become blocked with solids; or</p> <p>(b) ensure that water from the floors of the <b>slaughterhouse</b> is treated by means of a bucket trap, save-all, screen, or other device to remove solids, greases, and oils in or from the water before the water is discharged into the waste water treatment system.</p>	A fine of \$5000.
<p>It is an <b>offence</b> for the owner of an <b>abattoir</b> to which these regulations apply (other than an existing facility) to fail to ensure that the perimeter of the floor of the bleeding area of a <b>slaughterhouse</b> is constructed so as to ensure that blood or other liquid is removed from the area by drains or dedicated collection devices.</p>	A fine of \$5000.
<p>It is an <b>offence</b> for an operator to fail to ensure that:</p> <p>(a) material from the paunch of animals slaughtered at the <b>abattoir</b> is stored in water and vermin proof and water tight containers; and</p> <p>(b) dung and manure storage areas are made of an impervious material and have bunds made of an impervious material which are of sufficient height to contain the leachate.</p>	A fine of \$5000.
<p>It is an <b>offence</b> for an operator to fail to ensure that storm water on the <b>abattoir</b> which is not contaminated with solids, grease, oils, or other materials from the process of slaughtering animals does not enter the waste water treatment system.</p>	A fine of \$5000.

Offence	Penalty
It is an <b>offence</b> for an operator to fail to ensure that water from the lairage pens of the <b>abattoir</b> is screened or otherwise treated to remove solids in the water before the water is discharged into the waste water treatment system.	A fine of \$5000.
It is an <b>offence</b> for an operator to fail to ensure that all solid <b>waste</b> from the operations at the <b>abattoir</b> is taken to: <ul style="list-style-type: none"> <li>(a) a rendering facility;</li> <li>(b) premises on which compost manufacturing and soil blending is carried out;</li> <li>(c) a <b>waste</b> disposal facility; or</li> <li>(d) a disposal facility approved by the CEO.</li> </ul>	A fine of \$5000.
It is an <b>offence</b> for an operator to fail to ensure that: <ul style="list-style-type: none"> <li>(a) except in the case of an existing facility, a containment structure at the <b>abattoir</b> is impermeable;</li> <li>(b) a containment structure at the <b>abattoir</b> is operated so that there is a distance of not less than 300 mm between any point on the perimeter of the top of the structure and the surface of the water in the structure;</li> <li>(c) a crust or cover is maintained over an anaerobic treatment process used in a waste water treatment system;</li> <li>(d) in the case of a waste water treatment system which uses a pond, waste water is retained in the pond for not less than 15 days; and</li> <li>(e) the waste water treatment system is managed so as to ensure that an unreasonable odour does not escape from the <b>abattoir</b>.</li> </ul>	A fine of \$5000.

Offence	Penalty
It is an <b>offence</b> for an operator to use treated waste water for irrigation unless a treated waste water irrigation management plan has been submitted to and approved by the CEO and the treated waste water is used in accordance with the plan.	A fine of \$5000.

### Environmental Protection (Controlled Waste) Regulations 2000

Offence	Penalty
An occupier who fails to follow a direction given by the CEO commits an <b>offence</b> .	A fine of \$5,000.
An occupier of premises who causes or allows a controlled <b>waste</b> to be removed from the premises: (a) without the occupier being granted a permit by the CEO; or (b) in contravention of any condition imposed by the permit, commits an <b>offence</b> .	A fine of \$5,000.
A person required to have a permit under these regulations who, when required to do so by an inspector, fails to produce the licence or permit for inspection commits an <b>offence</b> .	A fine of \$5,000.
A holder of a permit who fails to attend a meeting as requested by the CEO, commits an <b>offence</b> .	A fine of \$5,000.

### Environmental Protection (Liquid Waste) Regulations 1996

Offence	Penalty
It is an <b>offence</b> to allow or permit a collection tank to be located on premises which it owns, unless the premises have been licensed by it or the occupier of those premises.	A fine of \$5,000.

Offence	Penalty
<p>If the occupier of premises on which either a grease trap or an oil interceptor is situated, then it is an <b>offence</b> to fail to notify the CEO in writing within 14 days of:</p> <p>(a) it ceasing to occupy those premises; or</p> <p>(b) there ceasing to be a grease trap or oil interceptor on the premises.</p>	A fine of \$5,000.
<p>Unless otherwise approved by the CEO, it is an <b>offence</b> for a person to place into a collection tank located on licensed premises a category of liquid <b>waste</b> not specified in the licence.</p>	A fine of \$5,000.

### Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974

Offence	Penalty
<p>It is an <b>offence</b> if there is:</p> <p>(a) a failure to comply with the Standard for Installation and Operation of Aerobic Treatment Units serving “single dwellings”, in respect of the installation of an aerobic treatment unit that services a single dwelling;</p> <p>(b) a failure to fit and maintain an approved mosquito-proof cowl on all educt vents in connection with septic tanks and receptacles for drainage;</p> <p>(c) a failure to notify the relevant local government upon completion of the construction of an apparatus for the treatment of sewage;</p> <p>(d) the dismantling or removing of all or part of an apparatus for the treatment of sewage, or the altering or changing of the mode of operation of the apparatus, without prior written permission;</p> <p>(e) the use of a damaged or defective septic tank;</p> <p>(f) the construction of a septic tank closer than 1.22 metres to the foundation of any building or boundary of any lot (except with written approval of the relevant local government);</p> <p>(g) the use of a gully trap in an installation for the bacteriolytic treatment of sewage;</p> <p>(h) a breach of various requirements relating to the construction and size of septic tanks and sedimentation tanks;</p> <p>(i) a failure to maintain an aerobic treatment unit, or an unauthorised person is allowed to conduct that maintenance; and</p> <p>(j) a failure to comply with the requirements for receptacles for drainage specified in regulations 49 and 50.</p>	<p>For a first <b>offence</b>, between \$100 and \$1,000.</p> <p>For a second <b>offence</b>, between \$200 and \$1,000.</p> <p>For a third or subsequent <b>offence</b>, between \$500 and \$1,000.</p> <p>A daily <b>penalty</b> of between \$50 and \$100 for continuing offences.</p>



Offence	Penalty
<p>It is an <b>offence</b> to provide false or misleading information on an application for permission to construct or install an apparatus for the treatment of sewage.</p>	<p>For a first <b>offence</b>, between \$100 and \$1,000.</p> <p>For a second <b>offence</b>, between \$200 and \$1,000.</p> <p>For a third or subsequent <b>offence</b>, between \$500 and \$1,000.</p> <p>A daily <b>penalty</b> of between \$50 and \$100 for continuing offences.</p>
<p>It is an <b>offence</b> to cause or permit any business or industrial <b>waste</b> to enter into an apparatus for the treatment of sewage, except with the approval of the Executive Director, Public Health.</p>	<p>Fine of not more than \$1,000 and not less than:</p> <p>(a) for a first <b>offence</b>, \$100;</p> <p>(b) for a second <b>offence</b>, \$200; and</p> <p>(c) for a third and subsequent <b>offence</b>, \$500,</p> <p>plus a daily <b>penalty</b> of between \$50.00 and \$100.00 for continuing offences.</p>

Offence	Penalty
<p>It is an <b>offence</b> to allow or cause:</p> <p>(a) surface, subsoil or rain water drainage;</p> <p>(b) insoluble, inflammable or explosive materials or materials which when mixed with sewage are liable to form explosive compounds, or interfere with the treatment process;</p> <p>(c) any insoluble matter or articles; or</p> <p>(d) any bacterial liquids or solids likely to interfere with the proper functioning of the septic tank,</p> <p>to be discharged into an apparatus for the treatment of sewage or receptacle for drainage of effluent or liquid <b>waste</b>.</p>	<p>For a first <b>offence</b>, between \$100 and \$1,000.</p> <p>For a second <b>offence</b>, between \$200 and \$1,000.</p> <p>For a third or subsequent <b>offence</b>, between \$500 and \$1,000.</p> <p>A daily <b>penalty</b> of between \$50 and \$100 for continuing offences.</p>

### Executive officer liability

Officers of a company can also be made liable for offences of the company in circumstances where they had knowledge of the **offence** or were negligent.

## Existing Legislation Western Australia Secondary

### A. Title of Act

*Agricultural Produce (Chemical Residues) Act 1983*

### B. Objective

This **Act** regulates certain chemical residues in agricultural produce, including meat products, and to control the use, disposal and handling of agricultural produce in which excessive chemical residues are present.

### C. Application of Act

The **Act** requires a person to hold a licence if they intend to use, dispose of or otherwise deal with any agricultural produce, animal, plant, food or other substance or graze animals or grow plants on land, in a manner that would otherwise contravene a quarantine notice or a disposal notice issued under this **Act**.

Quarantine and Disposal Notices may be issued by authorised persons directing the manner in which agricultural produce thought to contain chemical residue, is to be dealt with.

### D. Consequences of application

A fine of up to \$3,000 and a further **penalty** of up to twice the value of anything used, disposed of, or otherwise dealt with contrary to the provisions of this **Act**, may be imposed.

It is an **offence** under the **Act** to do any of the following contrary to a quarantine or disposal notice:

- use, dispose or otherwise deal with any agricultural produce, animal, plant, food or other substance; or
- cause or permit animals to be grazed or plants grown on land.

It is also an **offence** to fail to label, mark or otherwise identify a substance contrary to an express requirement to do so in a quarantine notice or a disposal notice issued.

**A. Title of Act*****Agriculture and Related Resources Protection Act 1976*****B. Objective**

This **Act** manages and controls the spread and keeping of certain animals in order to provide for the protection of agriculture and related resources.

Animals and plants are declared under the **Act** if they are considered to be pests or weeds in need of control so as to protect agricultural produce and other related resources.

**C. Application of Act**

The **Act** applies to all *declared animals and plants*<sup>80</sup>. A land owner must notify the Protection Board or an inspector appointed under the **Act** or an authorised person of any *declared animals or plants* appearing or existing on the land.

An inspector, authorised person or the Protection Board may issue a written notice demanding a land owner to control declared animals and plants on the land, where such control is not being exercised.

It is an **offence** to bring into WA from elsewhere, or to a different part of WA from another area of WA, a prohibited material declared under the **Act**.

**D. Consequences of application**

Fines of up to \$5,000 are prescribed by the **Act**.

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<sup>80</sup> A current list of *declared animals* is available online at [http://www.agric.wa.gov.au/programs/app/dec\\_an/dec99a.htm](http://www.agric.wa.gov.au/programs/app/dec_an/dec99a.htm) or by contacting the Department of Agriculture – Western Australia (Refer to p.219)

**A. Title of Act**

***Health Act 1911***

**B. Objective**

This **Act** protects public health by regulating sewage, drainage and **waste** disposal.

**C. Application of Act**

The **Act** covers a range of activities that have an effect on public health. These include:

- regulating the filling of low lying land that may fill with water;
- draining of stagnant ponds;
- requiring proper drainage of premises;
- prevention of injurious matter and chemical refuse from entering sewers;
- use of apparatus for the treatment of sewerage;
- requiring the removal of offensive matter; and
- making it an **offence** to pollute a public water supply.

The Department of Local Government produces model **local laws** which are then adopted by local governments via mirror legislation. Consequently, it is not unusual for different local governments to have identical **local laws** in force.

**Relevant Regulations under the Act**

- *The Health Act (Underground Water Supply) Regulations* governs the construction and use of any well or other underground source of water for human consumption and any works for the disposal of sewage or offensive matter, including leach drains.
- *The Fly Eradication Regulations* requires that **waste** food, manure, refuse, garbage, **waste** matter or other matter likely to attract or be a breeding place for flies, be disposed of in such a manner as to effectively prevent it attracting or being a breeding place for flies.

- *The Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations* controls the construction and installation of apparatus for, and the disposal generally of, effluent and liquid **waste**. Approval from the Executive Director of Public Health is required in order to install apparatus for the treatment of sewage. It is an **offence** to cause or permit any business or industrial **waste** to enter into an apparatus for the treatment of sewage, except with the approval of the Executive Director, of Public Health. There are several general offences which relate to the maintenance and use of the apparatus.

#### **D. Consequences of application**

Various penalties are prescribed under the **Act** with fines up to \$10,000 for pollution of a public water supply.

**A. Title of Act**

***Litter Act 1979***

**B. Objective**

This **Act** aims to control the disposal of litter on public land.

**C. Application of Act**

It is an **offence** for any person to deposit litter on land or waters, unless it was deposited:

- in the case of private land, with the landowner's consent;
- in an appointed area;
- in a place or receptacle set aside for that purpose; or
- on land adjacent to private land by arrangement with the public authority.

It is also an **offence** to deposit commercial **waste** (generated by shops, offices, industrial premises, hotels, restaurants and hospitals) in a litter receptacle.

**D. Consequences of application**

Fines up to \$1,000 are provided under the **Act**.

**A. Title of Act**

***Metropolitan Water Supply Sewerage and Drainage Act 1909***

**B. Objective**

This **Act** controls the water supply, sewerage and drainage within the *Metropolitan Water, Sewerage, and Drainage Area*<sup>81</sup>.

**C. Application of Act**

The **Act** controls, among other things, all works conducted in connection with sewers, apparatus used by the WA Water Corporation to supply water and the commissioning of sanitary works. The **Act** also provides that it is an **offence** to take water through the use of an unauthorised fitting, tamper with an authorised fitting, fraudulently take water or wilfully **waste** water.

**D. Consequences of application**

Various penalties are available under the **Act** with fines of up to \$20,000 for offences relating to the unauthorised use of Water Corporation water.

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<sup>81</sup> The *Metropolitan Region Town Planning Scheme* comprises the local government districts bound by the coastline and the local government district boundaries of the City of Wanneroo, the City of Swan, the Shire of Mundaring, the Shire of Kalamunda, the City of Armadale, the Shire of Serpentine-Jarrahdale and the City of Rockingham.



**A. Title of Act**

***Rights in Water and Irrigation Act 1914***

**B. Objective**

This **Act** governs rights in relation to water resources within WA and makes provision for the conservation and use of such waters, including water extracted from artesian and non-artesian wells.

**C. Application of Act**

The **Act's** application to surface water is divided into two parts. One part applies to declared irrigation districts and proclaimed areas. The other part applies to land outside of declared irrigation districts and outside of proclaimed areas.

The **Act's** application to ground water depends on the existence of a declared ground water area and the type of well in question. A licence to construct a non-artesian well is only required within declared ground water areas. All artesian wells, wherever they are located, must be licensed.

**Local laws** made under the **Act** can further control the allocation and use of water in particular areas. These are made by the Minister after consultation with the Water and Rivers Commission. To date no such **local laws** have been made.

**D. Consequences of application**

Fines up to \$10,000 are provided under the **Act**.

**A. Title of Act*****Soil and Land Conservation Act 1945*****B. Objective**

This **Act** regulates the conservation of soil and land resources within WA by seeking to mitigate the effects of erosion, salinity and flooding.

**C. Application of Act**

The **Act** applies to all parts of the State generally as well as declared Land Conservation Districts and declared Soil Conservation Reserves. The **Act** sets up Land Conservation District Committees whose functions are governed by the **Act**.

Notice must be given to the Commissioner of any intention to clear land or drain or pump water on land which would result in a change of land use. The Commissioner may serve a soil conservation notice on the land holder requiring them to refrain from:

- clearing specified land;
- destroying, cutting down or injuring any tree, shrub, grass or other plant as specified;
- take such action as is specified in the notice to prevent erosion, drift or movement of sand, soil, dust or water; or
- to do or not do any other matter incidental to the above.

**D. Consequences of application**

Fines up to \$3,000 are provided under the **Act**.

**A. Title of Act**

***Waterways Conservation Act 1976***

**B. Objective**

This **Act** makes provision for the conservation and management of waters and the associated land and **environment** within management areas.

**C. Application of Act**

The **Act** gives the Water and Rivers Commission powers in respect of declared management areas and areas of private land in respect of which the Commission, landowner, lessee or licensee have entered into an agreement to have the control or management of the land governed by the **Act**.

Licences are required under the **Act** in order to dispose of **waste** and to create structures which interfere with water flow in any management area. It is an **offence** to discharge poisonous, noxious, or polluting matter or industrial effluent within a management area unless authorised by licence.

There are many other general offences provided in the **Act** relating to general interference with water bodies inside a management area.

**D. Consequences of application**

Fines up to \$5,000 are provided under the **Act**.

## Codes of Practice and Guidelines

Environmental **Codes of Practice** (Codes) are released by the **EPA** in order to advise industry on the likely environmental impacts of their actions and to suggest acceptable methods of controlling such impacts. Codes are merely advisory, not regulatory. Consequently no penalties attach to the breach of a Code alone.

A Code's usefulness to meat processors stems from the fact that the **EPA** believes that if a Code is adhered to by industry, then the industry's relevant operations will cause little, if any, environmental damage and correspondingly will probably not be in breach of associated legislative environmental requirements to which penalties may attach.

The level of adherence to a Code will depend upon the location of a particular industry – operators not in sensitive locations can apply a relevant Code in a relaxed manner, whereas those in sensitive areas, where there is likely to be an air, noise or water impact, would need to diligently adhere to the Code.

## Title

### *Environmental Code of Practice for Abattoirs*

The aim of the Code is to encourage **abattoir** operators to adopt best management practices to minimise **waste** and other off-site effects.

The Code sets out general environmental principles for the operation of **abattoirs**, including:

- site selection;
- visual impact;
- water usage and conservation;
- occupational health and safety;
- building design;
- liquid **waste** treatment; and
- noise and light minimisation.

The Code provides several suggestions for the minimisation of water pollution in particular, including information with respect to:

- separate **waste** water collection systems to isolate fatty **wastes** from others and keep cooling waters free of contamination;
- the treatment of **waste** water which contains blood;
- effluent pre-treatment processes;
- the structure and composition of anaerobic or aerobic and facultative ponds; and
- the disposal of effluent by irrigation.

## Title

### *Environmental Code of Practice for Rendering Plants 1991*

The Code is intended to help rendering operations to prevent pollution. The main environmental problems associated with rendering works are odour and the discharge of **waste**. The Code outlines general principles for the environmental management of rendering plans, including:

- site selection;
- visual impact of the plant;
- plant design;
- health issues with the use of meat for animal feeds;
- occupational health and safety;
- maintenance of vehicles; and
- a commitment to being aware of associated environmental problems, including offensive odours and pollution.

The Code sets out various control practices for operations to minimise the environmental impact of rendering plans, for example:

- the use of receipt and storage bins, cookers/condensers, meal conveyers, exhaust treatment, ring driers for drying blood and cooker discharge expellers;
- ensuring that environmental control equipment is installed at the plant and is monitored and cleaned regularly;
- equipping rendering plants with an effective **waste** treatment system, eg. ponds; and
- limiting the impact of noise and light on nearby residential premises.

**Title**

***Environmental Protection of Native Vegetation in Western Australia  
Position Statement***

This Position Statement was released by the **EPA** in December 2000. The Position Statement is a legally non-binding document which seeks to advise persons generally, but particularly those operating in agricultural areas, to limit or ideally to cease, the clearing of land of native vegetation.

## Draft Legislation, Codes of Practice and Guidelines

### Title

#### ***Contaminated Sites Bill***

Draft 9 of the *Contaminated Sites Bill* was released on 12 December 2000. The proposed legislation is aimed at identifying, assessing and managing contaminated sites in Western Australia. The Bill and its associated guidelines and regulations are likely to cover the following areas:

- certificate of contamination audit scheme;
- contaminated site assessment - a general guideline for reporting;
- contaminated site assessment - guidelines for development of sampling and analysis programs;
- disclosure statements;
- guidelines for assessment of sites incorporating USTs;
- guidelines for the proposed contaminated site auditors accreditation scheme;
- contaminated site guide for planners;
- contaminated site assessment criteria; and
- potentially contaminating activities, industries and land.

It is possible that the **waste** generated from **abattoirs** has resulted, or may result in, contamination which brings the site within the ambit of the Bill. **Abattoirs** should have a strategy in place now for dealing with the Bill's implications. The Bill is likely to become **law** at the end of 2001.



## Relevant Contacts and Information Sources

### Relevant Contacts:

#### Freehills

Environmental Law Services

Contact: Tony van Merwyk (Partner)

Telephone: (08) 9211 7660

#### Freehills

Environmental Law Services

Contact: Aidan Kelly (Solicitor)

Telephone: (08) 9211 7928

#### Department of Environmental Protection

Contact: Michelle Andrews

Telephone: (08) 9222 7000

<http://www.environ.wa.gov.au>

#### Western Australian Meat Industry Authority

Contact: David Saunders

Telephone: (08) 9274 7533

#### Environmental Protection Agency

Contact: Chairman

Telephone: (08) 9222 7000

#### Department of Agriculture – Western Australia

Telephone: (08) 9368 3333

Email – General enquiries: [enquiries@agric.wa.gov.au](mailto:enquiries@agric.wa.gov.au)

Western Australian legislation may be viewed online at

<http://www.austlii.edu.au/databases.html#w>

## **Northern Territory**

## Legislative Summary Northern Territory

### A. Primary Legislation

#### *Environmental Assessment Act 1994*

This **Act** provides for the assessment of the environmental effects of development proposals (for example an **abattoir**) and for the protection of the **environment**. Matters which could reasonably be considered to be capable of having a significant effect on the **environment** must be examined and taken into account when formulating and carrying out development proposals.

#### *Environmental Offences and Penalties Act 1996*

This **Act** establishes **penalties** for certain **offences** relating to the protection of the **environment**. Four levels of environmental **offences** are provided. It also imposes **penalties** for other **Acts** (for example the *Waste Management and Pollution Control Act 1998*).

#### *Waste Management and Pollution Control Act 1998*

This **Act** provides for protection of the **environment** through encouragement of effective **waste** management and pollution prevention control practices.

### B. Secondary Legislation

#### *Litter Act 1972*

This **Act** makes it an **offence** to litter in, onto or from a public place or vacant Crown land, other than into an authorised receptacle.

#### *Local Government Act 1996*

This **Act** provides for the making of by-laws by Councils. This includes by-laws relating to the seizure and destruction of diseased animals.

#### *Ozone Protection Act 1990*

This **Act** makes provision for a system of control of substances that, when released into the atmosphere, act as atmosphere pollutants that contribute to the depletion of the ozone layer.

### **Public Health Regulations**

Some of the more relevant **Regulations** to **meat processors** are:

- *Public Health (Nuisance Prevention) Regulations 1960*
- *Public Health (General Sanitation, Mosquito Prevention, Rat Exclusion and Prevention) Regulations 1960*
- *Public Health (Noxious Trades) Regulations 1960*

### **Water Act 1992**

The objective of the **Act** is to provide for the investigation, use, control, protection, management and administration of water resources in the NT.

### **Water Supply and Sewerage Services Act 2000**

This **Act** aims to regulate and protect the efficient operation of the sewerage system by making it an **offence** to deposit rubbish (which includes a dead animal) into a sewer if it is likely to injure or impair the efficient operation of the sewerage system.

The associated **Code of practice** provides standards for the correct design, manufacture and installation of septic tanks and alternative septic systems in the NT.

## **C. Codes of Practice and Guidelines**

### **Guidelines for Solid Waste Disposal Sites**

The aim of these Guidelines is to adopt an integrated approach to **waste** management which includes **waste** avoidance, recycling and minimisation. The Guidelines present the *Key Criteria* for site selection and the design and management of disposal sites for solid, non-hazardous **wastes** in the Northern Territory.

## Existing Legislation Northern Territory Primary

### A. Title of Act

*Environmental Assessment Act 1982*

### B. Objective

This **Act** provides for the assessment of environmental effects of development proposals (for example an **abattoir**) for the protection of the **environment**.

The **Act** aims to ensure that each matter which could reasonably be considered to be capable of having a significant effect on the **environment**, is fully examined and taken into account in relation to:

- the formulation of proposals;
- the carrying out of works and other projects;
- the negotiation, operation and enforcement of agreements and arrangements (including arrangements with governments);
- the making of, or the preparation in the making of, decisions and recommendations; and
- the incurring of expenditure.

To put this into effect, procedures may be developed to ensure that the Minister is supplied with information to assess the effect of a proposed **action** on the **environment**. This information is delivered by way of a public **environment** report or **environmental impact statement**.

**A. Title of Act*****Environmental Offences and Penalties Act 1996*****B. Objective**

To establish penalties for certain **offences** relating to the protection of the **environment**.

**C. Consequences of application**

Offence	Penalty
<p>Where -</p> <p>(a) an incident occurs in the conduct of an activity; and</p> <p>(b) the incident causes, or is threatening or may threaten to cause, pollution resulting in material environmental harm or serious environmental harm,</p> <p>the person conducting the activity must not fail to notify the Administering Agency as soon as practicable after (and in any case within 24 hours after) first becoming aware of the incident.</p>	<p>Not more than \$5,000 (individual)</p> <p>Not more than \$25,000 (corporation)</p>
<p>Where -</p> <p>(a) an incident occurs in the conduct of an activity; and</p> <p>(b) the incident causes, or is threatening or may threaten to cause, pollution resulting in material environmental harm or serious environmental harm,</p> <p>the person conducting the activity must not intentionally fail to notify the Administering Agency as soon as practicable and in any case within 24 hours after first becoming aware of the incident.</p>	<p>Between \$5,000 and \$50,000 (individual)</p> <p>Between \$25,000 and \$250,000 (corporation)</p>

Offence	Penalty
<p>A person must not, except under an <b>environment</b> protection approval, conduct an activity specified in Part 1 of Schedule 2.</p> <p>Such activities could include an owner or occupier of an <b>abattoir</b> (other than any <b>waste</b> generated by pastoral activities) if it planned to carry out works in relation to the <b>abattoir</b> and dispose of its <b>waste</b> by burial.</p>	<p>Not more than \$5,000 (individual)</p> <p>Not more than \$25,000 (corporation)</p>
<p>A person must not, except under an <b>environment</b> protection licence or a best practice licence, conduct an activity specified in Part 2 of Schedule 2.</p> <p>Such activities could include an owner or occupier of an <b>abattoir</b> (other than any <b>waste</b> generated by pastoral activities) if it planned to dispose of its <b>waste</b> by burial.</p>	<p>Not more than \$5,000 (individual)</p> <p>Not more than \$25,000 (corporation)</p>
<p>The holder of an <b>environment</b> protection approval or a licence must not intentionally contravene or fail to comply with the <b>environment</b> protection approval or licence.</p>	<p>Between \$5,000 and \$50,000 (individual)</p> <p>Between \$25,000 and \$250,000 (corporation)</p>
<p>The holder of an <b>environment</b> protection approval or a licence must not contravene or fail to comply with the approval or licence.</p>	<p>Not more than \$5,000 (individual)</p> <p>Not more than \$25,000 (corporation)</p>
<p>A person required to carry out an environmental audit program must provide to the auditor all information that is relevant to the audit. Failure to do so is an <b>offence</b>.</p>	<p>Between \$5,000 and \$50,000 (individual)</p> <p>Between \$25,000 and \$250,000 (corporation)</p>
<p>It is an <b>offence</b> to provide to an auditor information that the person knows to be false or misleading in a material particular.</p>	<p>Between \$5,000 and \$50,000 (individual)</p> <p>Between \$25,000 and \$250,000 (corporation)</p>

Offence	Penalty
It is an <b>offence</b> to carry out an environmental audit program and not submit results or information that he or she knows to be false or misleading in a material particular.	Between \$5,000 and \$50,000 (individual) Between \$25,000 and \$250,000 (corporation)
A person to whom a compliance plan relates must not intentionally contravene or intentionally fail to comply with the compliance plan.	Between \$5,000 and \$50,000 (individual) Between \$25,000 and \$250,000 (corporation)
A person to whom a compliance plan relates must not contravene or fail to comply with the compliance plan.	Not more than \$5,000 (individual) Not more than \$25,000 (corporation)
A person to whom a pollution abatement notice is issued must not intentionally contravene or intentionally fail to comply with the notice.	Between \$5,000 and \$50,000 (individual) Between \$25,000 and \$250,000 (corporation)
A person to whom a pollution abatement notice is issued must not contravene or fail to comply with the notice.	Not more than \$5,000 (individual) Not more than \$25,000 (corporation)
It is an <b>offence</b> to intentionally pollute the <b>environment</b> where -  (a) serious environmental harm results; and  (b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.	Between \$25,000 and \$250,000 or not more than 5 years imprisonment (individual). Between \$125,000 and 1,250,000 (corporation)



Offence	Penalty
<p>It is an <b>offence</b> to pollute the <b>environment</b>, where -</p> <p>(a) serious environmental harm results; and</p> <p>(b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.</p>	<p>Between \$10,000 and \$100,000 (individual)</p> <p>Between \$50,000 and \$500,000 (corporation)</p>
<p>It is an <b>offence</b> to intentionally pollute the <b>environment</b>, where -</p> <p>(a) material environmental harm results; and</p> <p>(b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.</p>	<p>Between \$10,000 and \$100,000 (individual)</p> <p>Between \$50,000 and \$500,000 (corporation)</p>
<p>It is an <b>offence</b> to pollute the <b>environment</b>, where -</p> <p>(a) material environmental harm results; and</p> <p>(b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.</p>	<p>Between \$5,000 and \$50,000 (individual)</p> <p>Between \$25,000 and \$250,000 (corporation)</p>
<p>It is an <b>offence</b> to cause an environmental nuisance.</p>	<p>Not more than \$5,000 (individual)</p> <p>Not more than \$25,000 (corporation)</p>

Offence	Penalty
<p>It is an <b>offence</b> to intentionally cause or permit a contaminant or <b>waste</b> to be stored -</p> <p>(a) in a manner or condition in which; or</p> <p>(b) at a place from which,</p> <p>it is reasonably likely that the contaminant or <b>waste</b> could -</p> <p>(c) leak, spill, or escape from storage into the <b>environment</b>; and</p> <p>(d) in leaking, spilling or escaping from storage, cause environmental harm.</p>	<p>Between \$5,000 and \$50,000 (individual)</p> <p>Between \$25,000 and \$250,000 (corporation)</p>
<p>It is an <b>offence</b> to cause or permit a contaminant or <b>waste</b> to be stored -</p> <p>(a) in a manner or condition in which; or</p> <p>(b) at a place from which,</p> <p>it is reasonably likely that the contaminant or <b>waste</b> could -</p> <p>(c) leak, spill, or escape from storage into the <b>environment</b>; and</p> <p>(d) in leaking, spilling or escaping from storage, cause environmental harm.</p>	<p>Not more than \$5,000 (individual)</p> <p>Not more than \$25,000 (corporation)</p>
<p>A person who contravenes or fails to comply with a provision of an environmental protection objective is guilty of an environmental <b>offence</b>.</p>	<p>Environmental <b>offence</b> level 1 to 4, depending on the provisions of the specific environmental protection objective.</p>

#### Additional penalty

Where a person is found guilty of an **offence** against this **Act**, the Court may, on the application of the prosecutor, order the person to prepare and submit to the Minister, before the date specified in the order, a draft compliance plan in relation to a provision of the **Regulations** or of an environment protection objective specified in the order.

Such an order may be made in addition to or instead of any other punishment that the Court may impose.

**A. Title of Act*****Waste Management and Pollution Control Act 1998*****B. Objective**

This **Act** is the primary source of protection for the **environment** in the Northern Territory. It encourages effective **waste** management and pollution prevention measures and control practices.

**C. Application of Act**

The **Act** establishes a general duty for persons who conduct an activity or performs an action that causes (or is likely to cause) pollution resulting in environmental harm or that generates (or is likely to generate) **waste** (for example an **abattoir**). This duty is to take all reasonable and practicable measures to prevent or minimise pollution or environmental harm and reduce the amount of the **waste** coming from that activity. Failure to comply with this duty does not of itself constitute an **offence**, however it is sufficient grounds for a pollution abatement notice to be issued.

In carrying out this duty, a person may have regard to:

- the nature of the environmental harm and the sensitivity of the **environment** into which a contaminant or **waste** is placed or may be placed;
- current technical information which suggests that a measure would minimise the pollution, environmental harm or **waste** that the activity or action may cause; and
- the financial implications of implementing or carrying out the measures.

A person conducting an activity which causes an incident causing pollution or threatening to cause pollution must notify the Administering Agency within 24 hours after first becoming aware of the incident. Failure to do so is an **offence** under the **Act**.

**Environmental protection objectives**

The **Act** makes provision for environment protection objectives. These may be made in relation to, most relevantly:

- water quality;

- a type or class of contaminant;
- a type or class of **waste**;
- a type or class of industry or activity; and
- **waste** management.

An environmental objective may state that a person who fails to comply with the objective is guilty of an environmental **offence**.

## D. Authorisations required

### Environmental protection approvals and licences

An Environmental Protection Approval or Licence would be required by an **abattoir** if it planned to dispose of its **waste** by burial. Such an approval or licence is obtained by application to the Chief Executive Officer (CEO).

The CEO may issue the licence, subject to any conditions that he/she thinks fit. It is an **offence** to fail to comply with such an approval or licence.

### Pollution abatement notices

A pollution abatement notice may be issued to a person who is the owner or occupier of land that is polluted or who has breached certain provisions of the **Act**. This notice may require a person to comply with certain orders or take certain actions.

### Environmental audits

Where a person has been found guilty of an **offence** under this **Act**, the Court can order that an environmental audit be carried out.

An environmental audit is an evaluation of, among other things, the following:

- the ability to manage **waste** or prevent, reduce, control, rectify or clean up pollution or environmental harm resulting from pollution;
- the extent to which actions required to be taken, or results required to be achieved, for **waste** management or the prevention, reduction, control, rectification or clean up of pollution or environmental harm resulting from pollution have been taken or achieved;
- the extent, nature and source of **wastes** generated by an activity, premises or process;

- the likelihood of **waste** management problems or pollution resulting in environmental harm occurring and the adequacy of safeguards in place to prevent their occurrence or limit their impact on the **environment**;
- the extent to which compliance with this **Act**, the *Water Act 1992* or a **code of practice** has been achieved; and
- the types, amount, distribution or mobility of contaminants or **waste** present in the **environment**.

An environmental audit program is often required if a pollution abatement notice has been issued. In this case the environmental audit program would need to specify:

- the environmental audits to be performed under the program;
- the activities, operations, premises or locations to which the environmental audits are to relate;
- the date or dates by which the environmental audits are to be performed or the frequency with which and the period during which the environmental audits are to be performed; and
- the date or dates by which results of the environmental audits performed under the program are to be submitted.

### Compliance plans

A person who has been found guilty of an **offence** against the **Act** or who has been issued with a pollution abatement notice may be required to submit to the Minister a draft compliance plan.

A compliance plan enables a person who is or will be unable to comply with a provision of the **Act** or **Regulations** or of an **environment** protection objective, to enter into a compliance plan. The aim of the plan is to implement in stages improvements in **waste** management as well as the prevention, reduction, control, rectification or clean up of pollution or environmental harm.

The Minister has a discretion as to whether or not to approve a draft compliance plan.

A person to whom a compliance plan relates is guilty of an environmental **offence** if they contravene or fail to comply with the compliance plan.

### Performance agreements

The Minister may enter into an agreement (in this section called a performance agreement) with a person who is:

- conducting an activity that causes, or is likely to cause, pollution resulting in environmental harm or that generates or is likely to generate **waste**; or
- the owner or occupier of land that is polluted.

A performance agreement may provide that the person is to undertake or cause to have undertaken a program to protect, restore or enhance the **environment** or to improve **waste** management or the prevention, reduction, control, rectification or clean up of pollution or environmental harm resulting from pollution.

Where the Minister enters into a performance agreement with a person, the agreement has effect as a contract binding on the Northern Territory and the person with whom the agreement is entered into.

## E. Consequences of application

### Offences

Various degrees of environmental **offences** are set out which prohibit pollution to the **environment** where:

- serious or material environmental harm results; and
- the person involved knows, or ought reasonably be expected to know, that serious environmental harm, or material environmental harm, will or might result.

The relevant **offences** and **penalties** under this **Act** and the *Environmental Offences and Penalties Act 1996* are as follows.

Offence	Penalty
<p>Where -</p> <p>(a) an incident occurs in the conduct of an activity; and</p> <p>(b) the incident causes, or is threatening or may threaten to cause, pollution resulting in material environmental harm or serious environmental harm,</p> <p>the person conducting the activity must not fail to notify the Administering Agency as soon as practicable after (and in any case within 24 hours after) first becoming aware of the incident.</p>	<p>Not more than \$5,000 (individual)</p> <p>Not more than \$25,000 (corporation)</p>
<p>Where -</p> <p>(a) an incident occurs in the conduct of an activity; and</p> <p>(b) the incident causes, or is threatening or may threaten to cause, pollution resulting in material environmental harm or serious environmental harm,</p> <p>the person conducting the activity must not intentionally fail to notify the Administering Agency as soon as practicable and in any case within 24 hours after first becoming aware of the incident.</p>	<p>Between \$5,000 and \$50,000 (individual)</p> <p>Between \$25,000 and \$250,000 (corporation)</p>
<p>A person must not, except under an environment protection approval, conduct an activity specified in Part 1 of Schedule 2.</p> <p>Such activities could include an owner or occupier of an <b>abattoir</b> (other than any <b>waste</b> generated by pastoral activities) if it planned to carry out works in relation to the <b>abattoir</b> and dispose of its <b>waste</b> by burial.</p>	<p>Not more than \$5,000 (individual)</p> <p>Not more than \$25,000 (corporation)</p>
<p>A person must not, except under an environment protection licence or a best practice licence, conduct an activity specified in Part 2 of Schedule 2.</p> <p>Such activities could include an owner or occupier of an <b>abattoir</b> (other than any <b>waste</b> generated by pastoral activities) if it planned to dispose of its <b>waste</b> by burial.</p>	<p>Not more than \$5,000 (individual)</p> <p>Not more than \$25,000 (corporation)</p>



Offence	Penalty
The holder of an environment protection approval or a licence must not intentionally contravene or fail to comply with the environment protection approval or licence.	Between \$5,000 and \$50,000 (individual)  Between \$25,000 and \$250,000 (corporation)
The holder of an environment protection approval or a licence must not contravene or fail to comply with the approval or licence.	Not more than \$5,000 (individual)  Not more than \$25,000 (corporation)
A person required to carry out an environmental audit program must provide to the auditor all information that is relevant to the audit. Failure to do so is an <b>offence</b> .	Between \$5,000 and \$50,000 (individual)  Between \$25,000 and \$250,000 (corporation)
It is an <b>offence</b> to provide to an auditor information that the person knows to be false or misleading in a material particular.	Between \$5,000 and \$50,000 (individual)  Between \$25,000 and \$250,000 (corporation)
It is an <b>offence</b> to carry out an environmental audit program and not submit results or information that he or she knows to be false or misleading in a material particular.	Between \$5,000 and \$50,000 (individual)  Between \$25,000 and \$250,000 (corporation)
A person to whom a compliance plan relates must not intentionally contravene or intentionally fail to comply with the compliance plan.	Between \$5,000 and \$50,000 (individual)  Between \$25,000 and \$250,000 (corporation)
A person to whom a compliance plan relates must not contravene or fail to comply with the compliance plan.	Not more than \$5,000 (individual)  Not more than \$25,000 (corporation)

Offence	Penalty
A person to whom a pollution abatement notice is issued must not intentionally contravene or intentionally fail to comply with the notice.	Between \$5,000 and \$50,000 (individual) Between \$25,000 and \$250,000 (corporation)
A person to whom a pollution abatement notice is issued must not contravene or fail to comply with the notice.	Not more than \$5,000 (individual) Not more than \$25,000 (corporation)
It is an <b>offence</b> to intentionally pollute the <b>environment</b> where - (a) serious environmental harm results; and (b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.	Between \$25,000 and \$250,000 or not more than 5 years imprisonment (individual). Between \$125,000 and 1,250,000 (corporation)
It is an <b>offence</b> to pollute the <b>environment</b> , where - (a) serious environmental harm results; and (b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.	Between \$10,000 and \$100,000 (individual) Between \$50,000 and \$500,000 (corporation)
It is an <b>offence</b> to intentionally pollute the <b>environment</b> , where - (a) material environmental harm results; and (b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.	Between \$10,000 and \$100,000 (individual) Between \$50,000 and \$500,000 (corporation)
It is an <b>offence</b> to pollute the <b>environment</b> , where - (a) material environmental harm results; and (b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.	Between \$5,000 and \$50,000 (individual) Between \$25,000 and \$250,000 (corporation)

Offence	Penalty
It is an <b>offence</b> to cause an environmental nuisance.	Not more than \$5,000 (individual)  Not more than \$25,000 (corporation)
It is an <b>offence</b> to intentionally cause or permit a contaminant or <b>waste</b> to be stored -  (a) in a manner or condition in which; or  (b) at a place from which,  it is reasonably likely that the contaminant or <b>waste</b> could -  (c) leak, spill, or escape from storage into the <b>environment</b> ; and  (d) in leaking, spilling or escaping from storage, cause environmental harm.	Between \$5,000 and \$50,000 (individual)  Between \$25,000 and \$250,000 (corporation)
It is an <b>offence</b> to cause or permit a contaminant or <b>waste</b> to be stored -  (a) in a manner or condition in which; or  (b) at a place from which,  it is reasonably likely that the contaminant or <b>waste</b> could -  (c) leak, spill, or escape from storage into the <b>environment</b> ; and  (d) in leaking, spilling or escaping from storage, cause environmental harm.	Not more than \$5,000 (individual)  Not more than \$25,000 (corporation)
A person who contravenes or fails to comply with a provision of an environmental protection objective is guilty of an environmental <b>offence</b> .	Environmental <b>offence</b> level 1 to 4, depending on the provisions of the specific environmental protection objective.

**Additional penalty**

Where a person is found guilty of an **offence** against this **Act**, the Court may, on the application of the prosecutor, order the person to prepare and submit to the Minister, before the date specified in the order, a draft compliance plan in relation to a provision of the Regulations or of an environment protection objective specified in the order.

Such an order may be made in addition to or instead of any other punishment that the Court may impose.

## Existing Legislation Northern Territory Secondary

### A. Title of Act

*Litter Act 1972*

### B. Application of Act

This **Act** makes it an **offence** to leave, throw, deposit or abandon *litter*<sup>82</sup> in, onto or from a public place or vacant Crown land, other than into an authorised receptacle. The maximum **penalty** is a fine of \$2,000.

### C. Consequences of Application

Where a person is found guilty of an **offence** against the **Act**, the **penalty** imposed by the court may include the reasonable costs of cleaning up the *litter* with which the **offence** was committed.

One of the defences under this **Act** is if the **defendant** can establish that it was not practicable to dispose of the litter in a place approved by the Chief Health Officer for the disposal of rubbish and the *litter* was disposed of by the **defendant** in such a manner as to be unlikely to cause annoyance or nuisance to other persons.

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<sup>82</sup> *Litter* is defined to include the body of a dead animal.

**A. Title of Act**

***Ozone Protection Act 1990***

**B. Application of Act**

This **Act** makes provision for a system to control substances which, when released into the atmosphere act as atmosphere pollutants and contribute to the depletion of the ozone layer.

The **Regulations** to the **Act** place controls on purchasers of ozone depleting controlled substances. An **abattoir** would be affected if a chiller was being constructed and serviced. If a chiller was being constructed, a licence from the Work Health Authority would be required. If it was being serviced in-house the service person would be required to attend a TAFE course and be registered by the Work Health Authority. All work must comply with the Chillers' **code of practice**.

**C. Consequences of application**

An **offence** is committed if a person or business carries on the manufacture, sale or use of a controlled substance. As a consequence:

- the person or business may have to provide specific information in regard to the substances;
- fines for breach include \$1,000 or \$5000 for body corporates;
- the controlled substance or article must be forfeited to the government.

An **offence** is committed if the servicing is not in accordance with the Chillers' **code of practice**.

**A. Title of Act*****Public Health Act*****B. Application of Act**

This **Act** makes provision for the appointment of, and confers certain powers on, the Chief Health Officer (CHO).

If the CHO is of the opinion that an owner or occupier of land has committed an **offence** against this **Act** or **Regulations**, which in his/her opinion causes or may cause a risk to public health, the CHO may require the owner or occupier to remove the risk within such time as he/she specifies in the notice.

If the person fails to comply with the notice, the CHO may authorise a person to enter the land to carry out the work necessary to remove the risk.

The operative part of this **Act** is found in its **Regulations** which are detailed below.

## A. Title of Regulation

### *Public Health (Nuisance Prevention) Regulations 1960*

## B. Application of Regulation

These **Regulations** list those things that are deemed to be a *nuisance* or offensive to public health. An **abattoir** might be considered to be a *nuisance* if it:

- is in such a state as to be a *nuisance* or injurious or prejudicial to health;
- contains an animal kept in such a way as to be a *nuisance* or injurious or prejudicial to health;
- is not kept in a cleanly state, or not ventilated in such a manner as to prevent any gases, vapours, dust or impurities generated in the course of the work becoming injurious or prejudicial to the health of persons employed therein; or
- is infested by rats, mice or other vermin, or by any form of insect life declared by the Chief Health Officer (CHO) to be injurious or prejudicial to health.

The **Regulations** state that:

- a properly covered vessel or vehicle must be used if a person is to carry dung, offal, refuse, or matter, from which an offensive or unwholesome smell arises;
- persons must not carry food for human consumption in a vessel containing manure or offensive matter (or which has recently contained offensive matter and has not been purified);
- persons must not dispose of materials including offal, dung, dead animals and blood or any offensive, dangerous or noxious matter or thing into any part of a public place; and
- persons must not kill, slaughter or cut up animals in, or near, a public place in such a way as to pollute that public place with blood.

The owner or occupier of a cow-yard or cattle shed (and by implication an **abattoir**) must ensure that:

- the floor is impervious to water and rats;



- it has adequate ventilation to the satisfaction of a Health Surveyor;
- there is a box or bin for the reception of all dung;
- the box or bin is covered and emptied and cleaned at least once a week; and
- the premises are cleaned daily and are kept clean from filth or rubbish.

The CHO, or someone delegated by him/her, is given powers to visit and inspect all fell-mongering establishments and any similar place, to give instructions as to how it could be cleaned.

### **C. Consequences of Application**

The maximum **penalty** for contravention of these **Regulations** is \$1,000 and an additional **penalty** of \$100 for every day during which the **offence** continues if it is a continuing **offence**.

**A. Title of Regulation**

***Public Health (General Sanitation, Mosquito Prevention, Rat Exclusion and Prevention) Regulations 1960***

**B. Consequences of Application**

These **Regulations** make it an **offence** to place any rubbish, animal or other matter into or within 100 feet of a reservoir, dam or water channel of the water supply system.

The **Regulations** prohibit the placing of dead animals in water courses, as is the failure to promptly remove dead or bogged animals from a water course.

It is an **offence** for an occupier or the owner of premises to allow any kind of offensive matter or impure matter to escape from the premises into any kind of water course.

The maximum **penalty** for offences under the **Regulations** is \$1000 plus \$100 for each day that the **offence** continues.

## A. Title of Regulation

### *Public Health (Noxious Trades) Regulations 1960*

## B. Application of Regulation

The **Regulations** state that a person carrying on a *noxious trade* (this includes **abattoirs**) must:

- provide an apparatus or appliance capable of controlling all offensive vapour, gas, dust or other substances arising from the premises;
- provide appropriate lighting and ventilation to the reasonable satisfaction of the Chief Health Officer (CHO);
- ensure that the drains and sewers discharge into either the sewerage system, appropriate open ground drainage divided into plots for daily rotation so that the effluent will not become injurious to public health, or any other place approved by the CHO;
- ensure that any effluent does not flow into the water system;
- ensure that there is a constant supply of water in adequate quantities for washing;
- wash down the premises at least every 24 hours; and
- ensure that offensive material is stored in impervious receptacle or place closed with tight fitting covers or doors.

Specific provisions also apply to activities such as gut-scraping, and hide-drying.

## C. Consequences of Application

The maximum **penalty** for not providing the necessary controlling equipment is \$1,000 plus \$100 for each day of continuing breach.

**A. Title of Act**

***Water Act 1992***

**B. Application of Act**

This **Act** provides for the investigation, use, control, protection, management and administration of *water resources*<sup>83</sup>.

**C. Authorisations required**

In order to discharge **waste** into water, an **abattoir** operator must have a licence.

Licence applications are made to the Controller of Water Resources who may grant it on such terms and conditions as he/she thinks fit. A licence is valid for two years unless the Minister for Transport and Works is of the opinion that there are special circumstances to justify a licence exceeding that time. A licence may be subject to a condition that the Licensee shall at its own expense conduct a monitoring program to provide the controller with information about the effects of **waste**.

In deciding whether to grant, amend or modify a licence the Controller may take into account a number of considerations including:

- the quality of water in the area;
- adverse effects likely to be created by drainage waters;
- any adverse effects on the supply of water to which any other parties are entitled;
- quantity or quality of water to which the applicant is entitled from other sources; and
- relevant planning and development objectives published under the *Planning Act 1993*.

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<sup>83</sup> *Water* is defined broadly to include tidal, ground, flowing water and water contained in waterways.

*Pollute* is defined broadly to include anything which changes the physical, thermal, biological or radioactive properties of the water in a non-beneficial way so as to cause a hazard to living organisms.

The Controller may amend or modify the terms and conditions of a licence by serving a notice on the holder. Contravention of a term or condition of the licence may result in its revocation or suspension.

The **Act** does not oblige polluters to clean up pollution as such. However, the Controller of Waters may enter on land and take such measures as he thinks fit for the protection of water (including ground water). The Controller may also require the owner or occupier to do anything necessary or expedient for the protection of water. If the owner or occupier does not comply with such a direction, the Controller can take such measures as are necessary to ensure compliance. The cost of doing so is a debt due and payable by the owner or occupier to the Northern Territory.

It is an **offence** for a licence holder to breach a term or condition of a licence. The maximum **penalty** is \$5000 or 12 months imprisonment for an individual and \$25,000 for a body corporate.

#### **D. Consequences of Application**

The **Act** makes it an **offence** to cause or permit **waste** to come into contact with water or water to be polluted either directly or indirectly, unless carried out under a licence. The maximum **penalty** for the **offence** is \$2,000.

**A. Title of Act**

*Water Supply and Sewerage Services Act*

**B. Objective**

The purpose of this **Act** is to regulate the water supply and sewerage services industries.

**C. Application of Act**

A person must not deposit or discharge any trade waste into the licensee's sewer or an opening, pipe or receptacle connected to the sewer. However it is possible to obtain the written approval of the licensee to deposit **waste** into the licensee's sewer.

The **Act** requires an owner of land who is about to demolish a building that is connected to a sewer or water main of a licensee to provide written notice within 7 days to that licensee of his or her intention to demolish the building.

The **Act** makes it an **offence** to pollute with any substance a reservoir, dam, reservoir or dam catchment area, groundwater recharge area, bore, borefield, aqueduct, water storage tank or other infrastructure that is used or constructed to hold or supply water for human consumption.

A person who proposes to do work near a licensee's water supply infrastructure or sewerage services infrastructure must give the licensee at least 7 days notice of the proposed work if the work may affect or interfere with any part of the water supply or sewerage services infrastructures.

**D. Authorisations required**

Written approval from the licensee is required to deposit trade waste into the licensee's sewer. This approval must set out the conditions on which the licensee will approve trade waste being discharged into the licensee's sewerage services infrastructure.

**E. Consequences of Application**

Various **penalties** may be applied, up to 200 penalty units for natural persons or 1,000 penalty units for corporations for acts of pollution under this **Act**.

## Codes of Practice and Guidelines

### Title

#### *Guidelines for Solid Waste Disposal Sites*

The aim of these Guidelines is to adopt an integrated approach to **waste** management which includes **waste** avoidance, recycling and minimisation. The Guidelines present the *Key Criteria* for site selection and the design and management of disposal sites for solid, non-hazardous **wastes** in the Northern Territory. However, the Guidelines recognise the need for alternative management in certain circumstances, provided that health risks and environmental impacts continue to be minimised.

Criteria addressed in the Guideline for solid **waste** disposal sites include:

- site selection (eg. hydrology, adjacent land use and capacity);
- landfill design, eg fencing, wheel wash areas and landfill methods;
- landfill management, eg access, refuse covering and pest control; and
- site rehabilitation, eg rehabilitation plans, capping of **wastes** and inspection of closed sites.

The Guidelines are released in order to advise industry on likely environmental impacts and to suggest acceptable methods of controlling impacts to avoid breaching relevant environmental legislation. It should be noted that Guidelines are merely advisory and are not regulatory – no penalties attach to the breach of a Guideline alone, however, if such an **action** also breaches a relevant **statute** then penalties may be imposed.

## **Relevant Contacts and Information Sources**

### **Relevant Contacts:**

#### **Freehills**

Environmental Law Services

Contact: Tony van Merwyk (Partner)

Telephone: (08) 9211 7660

#### **Freehills**

Environmental Law Services

Contact: Aidan Kelly (Solicitor)

Telephone: (08) 9211 7928

#### **Department of Lands, Planning and Environment**

**Environment & Heritage Division**

Barbara Singer – Assistant Secretary Environment & Heritage

Level 2, Darwin Plaza Building

21 Smith Street

DARWIN NT

Phone: (08) 8924 4139

Fax: (08) 8924 4053

Northern Territory legislation may be viewed at

<http://notes.nt.gov.au/dcm/legislat.nsf?OpenDatabase>



## **Australian Capital Territory**

## Legislative Summary Australian Capital Territory

Note: At present there are no abattoirs operating in the ACT. Existing environmental legislation would be applicable in the circumstance that an abattoir was opened, however it would be likely that further guidelines and policy documents would be drafted to cover the **abattoir** activities.

### A. Primary Legislation

#### *Environment Protection Act 1997*

This **Act** regulates environmental pollution associated with air, water, noise, ozone protection, pesticides, hazardous chemicals and their **wastes**, soil conservation and other aspects of environmental management.

The **Act** prohibits certain scheduled activities, including the operation of **abattoirs** without environmental authorisation.

The **Act** allows for the development of environmental protection policies, **environment** protection orders and infringement notices.

A tiered **offence** structure is included in the **Act** reflecting the level of **environment** harm from an **offence**.

#### *Environment Protection Regulations 1997*

The Regulations provide detailed information on certain acts that are deemed to cause environmental harm including:

- the emission of ozone depleting substances;
- excessive noise levels; and
- the emission of certain pollutants into waterways.

### B. Secondary Legislation

#### *Land (Planning and Environment) Act 1991*

The **Act** develops a comprehensive planning document for the ACT incorporating various aspects of development in the ACT. The **Act** requires people conducting certain forms of development (including construction or modification of an **abattoir**) to obtain a development approval from the relevant authority. Development without an approval constitutes an **offence**.

## **C. Codes of Practice and Guidelines**

### ***Codes of Practice – Livestock and Poultry At Slaughtering Establishments***

This **Code of practice** aims to guide all people involved in the management of animals of various species at slaughtering establishments in the ACT. The Code covers unloading, pre-slaughtering handling and the slaughter process.

#### ***Code of Practice – Welfare of Animals – Cattle***

The Code aims to promote the humane treatment of cattle by providing information to people with the responsibility for the care of cattle. The Code provides guidelines regarding the management of cattle.

#### ***Code of Practice – Welfare of Animals – Sheep***

This Code aims to assist in handling and managing sheep. The Code provides guidelines on keeping of sheep at either an extensive grazing location or in close confinement and housing.

## Existing Legislation Australian Capital Territory Primary

### A. Title of Act

*Environment Protection Act 1997*

### B. Objective

The key objective of the **Act** is to develop an integrated approach to environmental management. Other objectives of the **Act** include:

- protecting and enhancing the quality of the ACT **environment**;
- achieving effective integration of environmental, economic and social considerations in decision-making processes;
- promoting the principles of **ESD** and to adopt a precautionary approach when assessing environmental risk; and
- regulating, reducing, eliminating the discharge of pollutants and hazardous substances into the air, land or water consistent with maintaining environmental quality.

The **Act** incorporates an integrated approach to environmental management regulating the impacts of an activity on air, water, land and biodiversity.

### C. Application of Act

The **Act** applies to *pollutants* which are considered to cause environmental harm if:

- the measure of the pollutant entering the **environment** exceeds the prescribed measure; or
- the pollutant entering the **environment** is a *prescribed pollutant*.

The **Act** *does not* apply in relation to noise made by or a pollutant emitted into the air by an animal.

### ***Environment Protection Policies*** (EPP)

EPPs are administrative guidelines developed by the Environmental Management Authority (Authority) which the Authority has regard to in administering the **Act** and ensuring effective environmental protection. EPPs can specifically consider the operation of particular industries.

EPPs set standards and management criteria for environmental management considerations covered by the **Act**, including air, water, noise and land contamination.

## **D. Authorisations required**

The **Act** categorises certain activities which may cause significant environmental risk. Class A activities (which includes the operation of **abattoirs**) require an *environmental authorisation* before they are allowed to occur.

## **E. Consequences of Application**

### ***Environment Protection Orders*** (EPO)

Where the authority has reasonable grounds for believing that a person has contravened or is contravening an environmental authorisation or a provision of the **Act**, the authority may serve an EPO on the owner or lessee of the land.

The EPO may impose any requirement reasonably required for the purposes for which the order is served, including:

- stopping a person from commencing a specified activity;
- requiring a person to undertake specified action to remedy environmental harm; or
- if appropriate, requiring a person to take action to prevent or mitigate further environmental harm.

### ***Infringement Notices***

An authorised officer may serve an infringement notice on a person if the officer has reasonable grounds for believing that the person has committed a minor environmental **offence**. The notice may include an on-the-spot fine.

**Environmental offences**

The **Act** incorporates a tiered **offence** structure to respond to different levels of environmental harm and impact on environmental amenity which may result from an environmental **offence**. If an environmental **offence** is committed which causes:

- *serious environmental harm*, it is a Tier 1 **offence**;
- *material environmental harm*, it is a Tier 2 **offence**; and
- *environmental nuisance* with no impact on environmental amenity, it is a Tier 3 **offence**.

**Offences**

Offence	Civil penalty	Criminal penalty
A person who is served with a notice under subsection 43 (1) shall not conduct, or continue to conduct, the activity described in the notice unless the person holds an environmental authorisation in respect of that activity.	(a) if the offender is a natural person—200 <b>penalty</b> units; (b) if the offender is a body corporate—1,000 <b>penalty</b> units.	
A person shall not contravene an environmental authorisation.	(a) if the offender is a natural person—200 <b>penalty</b> units; (b) if the offender is a body corporate—1,000 <b>penalty</b> units.	

Offence	Civil penalty	Criminal penalty
<p>A person shall not contravene an <b>environment</b> protection order.</p>	<p>(a) if the order was grounded on a contravention of this <b>Act</b> and this <b>Act</b> specifies a <b>penalty</b> for the contravention— that <b>penalty</b>;</p> <p>(b) if the order was grounded on a contravention of an environmental authorisation and this <b>Act</b> specifies a <b>penalty</b> for the contravention— that <b>penalty</b>;</p> <p>(c) in any other case :-</p> <p>(i)if the offender is a natural person—200 <b>penalty</b> units;</p> <p>(ii)if the offender is a body corporate—1,000 <b>penalty</b> units.</p>	
<p>A person shall not knowingly or recklessly pollute the <b>environment</b> causing serious environmental harm.</p>		<p>(a) if the offender is a natural person—2,000 <b>penalty</b> units or imprisonment for 5 years, or both;</p> <p>(b) if the offender is a body corporate— 10,000 <b>penalty</b> units.</p>

Offence	Civil penalty	Criminal penalty
A person shall not negligently pollute the <b>environment</b> causing serious environmental harm.		(a) if the offender is a natural person—1,500 <b>penalty</b> units or imprisonment for 3 years, or both; (b) if the offender is a body corporate—7,500 <b>penalty</b> units.
A person shall not pollute the <b>environment</b> causing serious environmental harm.	(a) if the offender is a natural person—1,000 <b>penalty</b> units; (b) if the offender is a body corporate—5,000 <b>penalty</b> units.	
A person shall not knowingly or recklessly pollute the <b>environment</b> causing material environmental harm.		(a) if the offender is a natural person—1,000 <b>penalty</b> units or imprisonment for 2 years, or both; (b) if the offender is a body corporate—5,000 <b>penalty</b> units.
A person shall not negligently pollute the <b>environment</b> causing material environmental harm.		(a) if the offender is a natural person—750 <b>penalty</b> units or imprisonment for 1 year, or both; (b) if the offender is a body corporate—3,750 <b>penalty</b> units.



Offence	Civil penalty	Criminal penalty
A person shall not pollute the <b>environment</b> causing material environmental harm.	(a) if the offender is a natural person—500 <b>penalty</b> units; (b) if the offender is a body corporate—2,500 <b>penalty</b> units.	
A person shall not knowingly or recklessly pollute the <b>environment</b> causing environmental harm.		(a) if the offender is a natural person—100 <b>penalty</b> units or imprisonment for 6 months, or both;  (b) if the offender is a body corporate—500 <b>penalty</b> units.
A person shall not negligently pollute the <b>environment</b> causing environmental harm.	(a) if the offender is a natural person—75 <b>penalty</b> units;  (b) if the offender is a body corporate—375 <b>penalty</b> units.	
A person shall not pollute the <b>environment</b> causing environmental harm.	(a) if the offender is a natural person—50 <b>penalty</b> units;  (b) if the offender is a body corporate—250 <b>penalty</b> units.	

Offence	Civil penalty	Criminal penalty
A person shall not cause an environmental nuisance.	(a) if the offender is a natural person—50 <b>penalty</b> units; (b) if the offender is a body corporate—250 <b>penalty</b> units.	
A person shall not cause or allow a pollutant or the source of a pollutant to be placed in a position as a result of which the pollutant could reasonably be expected to cause environmental harm.	(a) if the offender is a natural person—100 <b>penalty</b> units; (b) if the offender is a body corporate—500 <b>penalty</b> units.	
Before transferring ownership of an activity or place in respect of which an instrument is in effect, the transferor shall not, without reasonable excuse, fail to notify the transferee of the existence and content of the instrument.	(a) if the offender is a natural person—20 <b>penalty</b> units; (b) if the offender is a body corporate—100 <b>penalty</b> units.	

**Defences**

Available defences include for persons and corporations:

- the exercise of *due diligence*, by establishing an environmental management system and taking all reasonable steps to comply with the relevant laws and standards; or
- there was an emergency and:
- the act or omission alleged to constitute the **offence** or an element of the **offence** was necessary to protect life, the **environment** or property in an emergency situation; and
- the **defendant** took all reasonable and practicable measures to prevent or deal with the emergency.



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**Executive officer liability**

The **Act** also contains provisions resulting in the vicarious **liability** of the officers of a corporation charged with an **offence** under the **Act**.

**A. Title of Act*****Environment Protection Regulations 1997*****B. Objective**

The main purpose of this **Regulation** is to regulate:

- air quality;
- hazardous materials;
- noise;
- petroleum products;
- water.

The **Regulation** also makes further provisions in relation to minor environmental offences.

**C. Application of Regulation****Ozone Depleting Substances**

For the purposes of the **Act**, an ozone-depleting substance is be taken to cause environmental harm if it enters the atmosphere. However the following discharges of ozone depleting substances, which are relevant to **abattoirs**, are permitted – if the substance:

- is registered under the Agvet Code and is being used in accordance with the conditions of registration;
- is being used in accordance with a permit under the Agvet Code;
- is discharged as part of an aerosol product the manufacture or import of which is not prohibited under the *Ozone Protection Act 1989 (Cth)*;
- is a halon or an HCFC<sup>84</sup> and is discharged in an emergency for the purposes of extinguishing a fire; or
- is a residual CFC<sup>85</sup> or HCFC discharged from a discarded domestic article; or

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<sup>84</sup> *HCFC* means a hydrochlorofluorocarbon mentioned in the *Ozone Protection Act 1989 (Cth)*, schedule 1, part 5, whether existing alone or in a mixture.

- is discharged as a solvent for cleaning or degreasing where:
  - (i) the cleaning or degreasing is necessary for the continued operation of a business; and
  - (ii) there is no acceptable alternative to using the substance for that cleaning or degreasing; and
  - (iii) such steps as are practicable and reasonable are taken to minimise the discharge.

The **Regulation** extends to the prohibition of the sale or hire of a thing that may cause ozone depleting substances to be emitted.

The **Regulation** provides that for the purposes of the *Environment Protection Act 1997* section 5(b), any PCB material, or anything containing PCB material shall be taken to cause environmental harm if the material or thing enters the **environment**.

### Noise

The **Regulation** provides details in relation to the monitoring of noise levels emitting from sites (including **abattoirs**). For the purposes of the *Environment Protection Act 1997* section 5(a), subject to this **Regulation**, noise being emitted from a parcel of land in a noise zone shall be taken to cause environmental harm if the noise level exceeds the zone noise standard in respect of the period during which the noise is emitted.

An **abattoir** that emits excessive noise will not contravene the **Act** in respect of that emission unless:

- an affected occupier makes a complaint to an authorised officer; and
- the noise level at the affected land exceeds the zone noise standard for the noise zone that the affected land is in.

### Water

For the purposes of the *Environment Protection Act 1997* section 5(b), a pollutant specified in the table below shall be taken to cause environmental harm if it enters certain waterways.

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<sup>85</sup> CFC means a chlorofluorocarbon mentioned in the *Ozone Protection Act 1989* (Cth), schedule 1, part 1, whether existing alone or in a mixture.

**Inorganic chemicals**

Aluminium	Calcium	Fluoride	Nitrate-N
Arsenic	Chloride	Iron	Nitrite-N
Barium	Chromium	Lead	Selenium
Beryllium	Cobalt	Mercury	Sulfate
Boron	Copper	Molybdenum	Vanadium
Cadmium	Cyanide	Nickel	Zinc

**Organic compounds**

Atrazine
Glyphosate
Metolachlor
Simazine

Water quality standards are detailed in Schedule 4 to the **regulation**.

**D. Consequences of application**

**Environmental Harm**

As outlined above, certain actions are deemed to cause environmental harm. The *Environment Protection Act 1997* details the **offence** structure and penalties if a person or corporation causes environmental harm.

Details of the offences and penalties can be seen above in the discussion on offences.

## Existing Legislation Australian Capital Territory Secondary

### A. Title of Act

*Land (Planning & Environment) Act 1991*

### B. Objective

The **Act** brings together legislation on planning, heritage, leasing, public land and the **environment**. The **Act** creates a *Territory Plan*<sup>86</sup> which aims to ensure that the planning and development of the ACT results in an ecologically sustainable, healthy, attractive, safe and efficient **environment** in which to live, work and have their recreation.

### C. Application of Act

The **Act** deals with most land (all *Territory land*) in the ACT.

The *Territory Plan* operates to ensure that the Territory, the Executive, a Minister or a Territory authority shall not do any act, or approve the doing of any act, that is inconsistent with the Plan.

Provision is made under the **Act** for environmental assessments and enquiries. It provides for the preparation of environmental assessments, procedures for public consultation and the conduction of inquiries into environmentally significant projects.

Heritage assessments are conducted under the **Act** and a register of heritage places including the nature of the place and the heritage significance and conservation measures required for its protection. The listing of a heritage place can impact upon the development that is allowed in certain locations.

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<sup>86</sup> The *Territory Plan* is a set of statutory documents, including a map which sets out the ACT's planning principles and policies.

## D. Authorisations required

### Development Approvals

The **Act** provides a complex system of applications and approvals relating to the leasing and development of land in the ACT. Approval must be obtained for certain forms of *development*<sup>87</sup>. A person or corporation proposing to conduct *development* (including an **abattoir**) in the ACT must apply for approval to the relevant authority under the **Act** before the *development* is carried out.

## E. Consequences of Application

### Offences

Offence	Civil penalty	Criminal penalty
A person shall not, without reasonable excuse, undertake a <i>development</i> otherwise than in accordance with an approval.	50 <b>penalty</b> units.	

### Orders

Orders may be given in certain circumstances to ensure compliance with development obligations under the **Act**. An order may direct any person against whom it is made to:

- not commence a development without approval;
- stop carrying out a development without approval;
- stop, or not commence, a controlled activity without approval; or
- comply with the terms of an approval to undertake a development.

A person or Territory authority who, without reasonable excuse, contravenes an order is guilty of an **offence** punishable, on conviction, by a fine.

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<sup>87</sup> *Development* in relation to land includes:

- the erection, alteration or demolition of a building on that land;
- the carrying on of work on that land; or
- the use, or change of use, of that land.



## **Codes of Practice and Guidelines**

Environmental **Codes of Practice** (Codes) are released by the **EPA** in order to advise industry on the likely environmental impacts of their actions and to suggest acceptable methods of controlling such impacts. Codes are merely advisory, not regulatory. Consequently no penalties attach to the breach of a Code alone.

A Code's usefulness to meat processors stems from the fact that the **EPA** believes that if a Code is adhered to by industry, then the industry's relevant operations will cause little, if any, environmental damage and correspondingly will probably not be in breach of associated legislative environmental requirements to which penalties may attach.

The level of adherence to a Code will depend upon the location of a particular industry – operators not in sensitive locations can apply a relevant Code in a relaxed manner, whereas those in sensitive areas, where there is likely to be an air, noise or water impact, would need to diligently adhere to the Code.

Note: The guidelines discussed below deal with the transportation of animals rather than environmental considerations relating to abattoirs. The ACT has no specific guidelines relating to the environmental management of abattoirs as currently there are no abattoirs in the ACT.

## Title

### ***Code of Practice – Livestock and Poultry At Slaughtering Establishments***

This **Code of practice** aims to guide all people involved in the management of animals of various species at **slaughtering establishments** in the ACT. The Code covers unloading, pre-slaughtering handling and the **slaughter** process. The Code aims to encourage the efficient and considerate treatment of animals so that stress is minimised. Each species of animal is considered separately in the Code to account for the different needs of the animals.

The Code includes considerations of:

- the design and construction of unloading ramps at **abattoirs**;
- stock holding facilities and stock management; and
- **abattoir** management.

## **Title**

### ***Code of Practice – Welfare of Animals - Cattle***

The aims of the Code are:

- to promote humane and considerate treatment of beef and dairy cattle, and the use of good husbandry practices to improve the welfare of cattle in all types of farming enterprises;
- to inform all people responsible for the care and management of cattle about their responsibilities; and
- to set an industry standard by defining acceptable cattle management practices.

The Code provides guidelines on activities associated with the management of cattle including:

- rearing of calves;
- cattle handling facilities, mustering and yarding;
- management practices (eg: supervision, milking, castration, and spraying)
- health of cattle;
- agistment; and
- the humane destruction of cattle.

## **Title**

### ***Code of Practice – Welfare of Animals - Sheep***

The Code is intended as a guide for those who handle and manage sheep. The Code provides certain guidelines regarding the keeping of sheep whether it involves extensive grazing or close confinement and housing.

The Code outlines sound sheep husbandry practices, but is not prescriptive to allow for a flexible approach in managing sheep. The basic physiological and behavioural needs of sheep are considered.

The Code outlines the basic requirements for the welfare of sheep as including:

- a level of nutrition adequate to sustain good health and vigour;
- access to sufficient water of suitable quality;
- protection from pain, injury and disease; and
- handling facilities which under normal usage do not cause injury and which minimise stress to the sheep.



**Other ACT Websites:**

Parliamentary Counsel's Office

<http://www.pco.act.gov.au>

ACT Courts

<http://www.courts.act.gov.au>

Commonwealth Ombudsman

<http://www.comb.gov.au>

# Tasmania

## Legislative Summary Tasmania

### A. Primary Legislation

#### ***Environmental Management and Pollution Control Act 1994***

The **Act** provides for the management of the **environment** and control of pollution.

It is an **offence** to cause environmental harm and the **Act** sets out various penalties according to the degree of environmental harm or nuisance caused.

When applying for a development permit for an **abattoir** or **slaughterhouse** under the *Land Use Planning and Approvals Act 1993* the planning authority must refer the application to the Board of Environmental Management and Pollution Control. The Board is given power under the **Act** to recommend that environmental performance conditions be attached to the development permit.

### B. Secondary Legislation

#### ***Land Use Planning and Approvals Act 1993***

The **Act** requires that planning authorities seek to further the objective of **sustainable development** of an area's natural and physical resources in determining applications for development permits (including development permits for **abattoirs**).

#### ***State Policies and Projects Act 1993***

The **Act** provides for the development of *Tasmanian Sustainable Development Policies*.

#### ***Water Management Act 1999***

The **Act** requires all persons (including **meat processors**) to hold a licence to take water from a watercourse.



## C. Codes of Practice and Guidelines

### *Draft Wastewater Management Guidelines for Meat Premises*

The Draft Guidelines outline the appropriate **wastewater** emission practices for **abattoirs**, **slaughterhouses** and **slaughtering works**.

### *Environmental Code of Practice for Meat Premises (Slaughtering) 1995*

The Code outlines the various environmental principles and controls to be adopted to handle the **waste** generated from **abattoirs**.

## Existing Legislation Tasmania Primary

### A. Title of Act

***Environmental Management and Pollution Control Act 1994***

### B. Objective

To provide for the management of the **environment** and control of pollution in Tasmania.

The **Act's** objectives include:

- to promote the **sustainable development** of natural and physical resources and the maintenance of ecological processes and genetic diversity;
- to provide for the fair, orderly and sustainable use and development of air, land and water; and
- to encourage public involvement in resource management and planning.

### C. Application of Act

#### General environmental duty

The **Act** establishes a general environmental duty that must be complied with. **Meat processors** must take steps that are practicable or reasonable to prevent or minimise *environmental harm*<sup>88</sup> or *environmental nuisance*<sup>89</sup> caused, or likely to be caused, by an **abattoir**.

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<sup>88</sup> *Environmental harm* is defined as any adverse effect on the **environment** and includes an *environmental nuisance*.

<sup>89</sup> *Environmental nuisance* is defined as the emission of a pollutant that unreasonably interferes with, or is likely to unreasonably interfere with, a person's enjoyment of the **environment**, and any emission specified in an environment protection policy to be an *environmental nuisance*.

*Environmental harm* may be *serious*<sup>90</sup> or *material*<sup>91</sup>.

In determining whether a person has complied with the general environmental duty, regard must be had to all the circumstances of the conduct of the activity, including but not limited to:

- the nature of the harm or nuisance or potential harm or nuisance;
- the sensitivity of the **environment**;
- the current state of technical knowledge for the activity;
- the likelihood and degree of success in preventing or minimising the harm or nuisance of each of the measures that might be taken; and
- the financial implications of taking each of those measures.

A person is deemed to have satisfied the general environmental duty if the person takes all measures specified in a **code of practice**, which has been made and approved as meeting the requirements for compliance with the general environmental duty.

### **Environment Protection Policies (EPPs)**

As yet there are no EPPs developed. The Department of Primary Industries, Water and Environment is, however, currently considering proposal for an air quality EPP and a noise EPP.

### **Environmental Agreements**

An environmental agreement may be entered into between the Board and an operator of an **abattoir**. An agreement can apply to individual premises, regions or industry groups. Such agreements must specify the management, investment and monitoring functions which the parties consider necessary to ensure sound environmental performance.

An environmental agreement is a way in which operators can achieve recognition, and a financial reward by way of fee and tax remissions for excellent environmental management practices.

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<sup>90</sup> An *environmental harm* is to be treated as *serious environmental harm* if it involves an actual adverse effect on the health or safety of human beings or the **environment** that is of a high impact or on a wide scale.

<sup>91</sup> An *environmental harm* is to be treated as *material environmental harm* if it consists of an *environmental nuisance* of a high impact or on a wide scale or it involves an actual adverse effect on the health or safety of human beings or the **environment** that is not negligible.

An environmental agreement will not relieve a party from complying with any duty under the **Act** and must not allow anything to be done which would contravene a planning scheme or a permit.

An environmental agreement has a maximum term of five years.

### Audits

The **Act** sets out two types of audits: mandatory and voluntary.

Mandatory audits are required to be undertaken if an environmentally relevant activity (eg. the operation of an **abattoir** is a level 2 activity) has caused or is likely to cause environmental harm.

A person who undertakes a voluntary environmental audit may obtain protection against the use of certain documents in legal proceedings as an encouragement to operators to assess their own environmental performance.

### Environmental Improvement Programmes (EIPs)

If a **meat processor** is carrying out or proposes to carry out an activity that is causing or may cause *environmental harm* (for example **meat processing**) the Board of Environmental Management and Pollution Control may require an operator to develop an EIP to ensure compliance with the **Act** and reduce the *environmental harm*.

EIPs must be for a fixed period, not exceeding three years, and are designed to take into account best practice environmental management and the risk of environmental harm.

The Board must advertise the proposed EIP and any person can make representations. There is a right of **appeal** for the operator and any person who makes representations against the terms of a EIP.

### Environmental Assessment

An **environmental impact assessment** may be required when a level 2 activity (an **abattoir**) is proposed to be undertaken.

The **environmental impact assessment** is to establish an information base for making a decision on:

- the environmental impacts of the activity;
- whether the activity should proceed;
- any conditions under which the activity should proceed; and
- the management regime under which the activity should proceed.

The level of assessment is dependent upon the degree of significance of the activity to the **environment** and the likely public interest in the project.

The authority responsible for assessing the activity must provide the proponent with guidance on:

- the potential environmental impacts of the activity;
- the issues arising from the activity which may be of public concern;
- the level of assessment required; and
- the timing for each stage of the assessment.

An opportunity for public consultation on the proposal must be provided before the assessment process is completed.

#### **D. Authorisations required**

All applications made to a local council in accordance with the *Land Use Planning and Approvals Act 1993* for the use and development of land for the purpose of carrying on an **abattoir** or **slaughterhouse** must be referred to the Board of Environmental Management and Pollution Control for assessment under this **Act**.

Where a person proposes to use land for the purposes of carrying on an **abattoir** or **slaughterhouse** which does not require a permit under the *Land Use Planning and Approvals Act 1993*, that person must refer the proposed activity to the Board of Environmental Management and Pollution Control for assessment under this **Act**.

The **Act** provides that the operation of an *abattoir or slaughterhouse*<sup>92</sup> is a level 2 activity.

Where an application has been made to a local council or other planning authority under the *Land Use Planning and Approvals Act 1993* for a permit in respect of a use or development of land that is a *level 2 activity* (this includes an **abattoir**), the planning authority must refer the application to the Board of Environmental Management and Pollution Control for assessment under this **Act**.

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<sup>92</sup> An *abattoir* or *slaughterhouse* is defined as a *meat premises* that produces 100 tonnes or more of product per year.

*Meat premises* is defined as premises used or intended to be used for or in connection with the processing of animals or animal carcasses for the production of meat for human consumption.

Where a person proposes to undertake a level 2 activity, which does not require a permit under the *Land Use Planning and Approvals Act 1993*, that person must refer the proposed activity to the Board of Environmental Management and Pollution Control for assessment under this **Act**.

The Board may consider an assessment is not required because in its opinion the proposed activity will not result in an environmental harm. Alternatively, the Board may instruct the development authority not to grant a permit. A development permit may be issued subject to conditions including:

- a further permit must be applied for if there is a proposed change in the activity which might result in *environmental harm*;
- an environmental management plan be submitted;
- environmental effects of the activity be monitored on a regular basis and reports be made to the Board; and
- if the activity ceases, the site must be rehabilitated in accordance with the Board's requirements.

### Ozone Protection

A person must not undertake a *controlled activity*<sup>93</sup> unless the person has an authorisation to do so.

The **penalty** for non-compliance is:

- in the case of a body corporate – a fine not exceeding \$100,000.
- In the case of a natural person – a fine not exceeding \$50,000.

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<sup>93</sup> A *controlled activity* means:

- the use of a *controlled substance* for manufacturing or industrial purposes; or
- the manufacture, installation, service or decommissioning of a *controlled article*.

A *controlled substance* is defined as CFCs, halons, HCFCs, HBFCs, methal bromides, methal chloroforms and carbon tetrachlorides as specified in:

- Schedule 5 of the *Environmental Management and Pollution Control Act 1994*, or
- Schedule 1 of the *Ozone Protection Act 1989* (Commonwealth).

A *controlled article* means an article:

- that contains a *controlled substance*; or
- that uses or is intended to use a *controlled substance*.

## E. Consequences of Application

### Offences and penalties

Offence	Civil penalty	Criminal penalty
A person who causes <i>serious environmental harm</i> by polluting the <b>environment</b> intentionally or recklessly and with the knowledge that <i>serious environmental harm</i> will or might result is guilty of an <b>offence</b> .	Issue of an environment protection notice	\$1,000,000 fine (corporation) 4 years imprisonment and/or \$250,000 fine (individual)
A person who causes <i>serious environmental harm</i> by polluting the <b>environment</b> is guilty of an <b>offence</b> .	Issue of an environment protection notice	\$250,000 fine (corporation) \$120,000 fine (individual)
A person who causes <i>material environmental harm</i> by polluting the <b>environment</b> intentionally or recklessly and with the knowledge that <i>material environmental harm</i> will or might result is guilty of an <b>offence</b> .	Issue of an environment protection notice	\$250,000 fine (corporation) \$120,000 fine and/or 2 years imprisonment (individual)
A person who causes <i>material environmental harm</i> by polluting the <b>environment</b> is guilty of an <b>offence</b> .	Issue of an environment protection notice	\$120,000 fine (corporation) \$60,000 fine (individual)
A person must not deposit a pollutant, or cause or allow a pollutant to be deposited, in a place or position where it could reasonably be expected to cause <i>serious environmental harm</i> .	Issue of an environment protection notice	\$250,000 fine (corporation) \$120,000 fine (individual)
A person must not deposit a pollutant, or cause or allow a pollutant to be deposited, in a place or position where it could reasonably be expected to cause <i>material environmental harm</i> .	Issue of an environment protection notice	\$120,000 fine (corporation) \$60,000 fine (individual)

Offence	Civil penalty	Criminal penalty
A person who wilfully and unlawfully causes an <i>environmental nuisance</i> is guilty of an <b>offence</b> .	Issue of an <b>environment</b> protection notice	\$30,000 fine
A person who unlawfully causes an <i>environmental nuisance</i> is guilty of an <b>offence</b> .	Issue of infringement notice or issue of an environment protection notice	\$10,000 fine
A person must not contravene the general environmental duty.	Issue of an environment protection notice.  Costs and expenses may be recovered	
A person must not contravene a provision of an <b>environment</b> protection notice	Issue of infringement notice. Failure to comply with an infringement notice may incur a \$500 fine	\$100,000 fine (corporation)  \$50,000 fine (individual)
A person must not refuse to undertake an environmental audit		\$10,000 fine
A person must not contravene an environment improvement plan.		4 years imprisonment and/or \$250,000 fine

Note: Where the act or omission which constituted the alleged **offence** continues after the person has been served with notice of the alleged **offence** and the person is subsequently convicted of the **offence**, the person is liable, in addition to the **penalty** otherwise applicable to the **offence**, to a **penalty** for each day during which the act or omission continues after the service of the notice of not more than an amount equal to one-fifth of the maximum **penalty** prescribed for that **offence**.



## Defences

It is a defence to a charge of an **offence** against this **Act** if it is proved that the alleged **offence** did not result from a breach of the general environmental duty.

In any proceedings where it is alleged that a person has breached the general environmental duty it is a defence if:

- maximum levels for the particular pollutant have been set in a State Policy or an EPP or as a condition in a permit, and it is shown that those levels were not breached;
- a State Policy, EPP or condition in a permit provides that compliance will satisfy the general environmental duty and it is shown that those provisions or conditions were complied with; or
- it is shown that all measures specified in a **code of practice** made and approved in accordance with the regulations as meeting the requirements for compliance with the general environmental duty have been taken.

## Executive officer liability

Officers of companies may be liable for the same **penalty** that is imposed on any natural person for **offences** committed by the company. Officers will not be liable to imprisonment.

## Environmental Protection Notices (EPN)

Where the Director of Environmental Management is satisfied that environmental harm has been caused, is being caused or is likely to be caused an EPN may be issued on the person responsible for the activity. An EPN may require the person to take measures to prevent, control or reduce environmental harm.

If an EPN is not complied with the Director of Environmental Management may take any action required by the EPN. The reasonable costs and expenses incurred by the Director in taking this action, may be recovered as a debt from the person failing to comply with the requirements, and these costs operate as a charge over the person's land. The failure to comply with the general environmental duty does not itself constitute an **offence**. However, if a person has failed to comply with the duty an EPN may be issued to that person.

## Existing Legislation Tasmania Secondary

### A. Title of Act

*Land Use Planning and Approvals Act 1993*

### B. Objective

The **Act** establishes a framework for planning the use, protection and development of land. The **Act** requires sound strategic planning and co-ordinated action by State and local government. The planning process must ensure that the effects on the **environment** and social and economic effects are considered when decisions are made about the use and development of land.

### C. Application of Act

The **Act** provides the procedure to be followed for the formulation of planning schemes by planning authorities (generally local councils).

A planning scheme may apply to the whole or part of any area in a municipality.

All planning schemes must be approved by the Resource Planning and Development Commission (Commission).

### D. Authorisations required

The **Act** provides that a person must not commence any use or development of land that requires a permit under a planning scheme. When a planning authority receives a permit application it must give public notice and provide an opportunity for persons to make representations about the application.

In determining an application for a permit, a planning authority must:

- make reference to the planning scheme;
- seek to further the objectives of the Tasmanian Resource Management and Planning System;

- take into consideration matters relevant to the use or development the subject of the application (in the case of meat processing developments this would include the *Environmental Code of Practice for Meat Premises (Slaughtering) 1995* which is summarised below); and
- take into consideration representations made by the public.

A permit may be subject to conditions or restrictions. An applicant may be required to provide additional information to a planning authority before the application will be considered.

### **E. Consequences of Application**

It is an **offence** under the **Act** to use land or undertake development in a way that is contrary to a Tasmanian Sustainable Development Policy (which may be developed under the *State Policies and Projects Act 1993*), planning scheme or a permit given under a planning scheme. The maximum **penalty** for such an **offence** is \$50,000.

**A. Title of Act*****State Policies and Projects Act 1993*****B. Objective**

To provide for the development of *Tasmanian Sustainable Development Policies* (State Policies) by the Resource Planning and Development Commission.

**C. Application of Act**

A State Policy:

- must seek to further the objectives of the resource management and planning system of Tasmania;
- may be made only where there is, in the opinion of the Minister, a matter of State significance to be dealt with in the State Policy;
- must seek to ensure that a consistent and co-ordinated approach is maintained throughout the State with respect to the matters contained in the State Policy; and
- must incorporate the minimum amount of regulation necessary to obtain its objectives.

The provisions of a State Policy will prevail over a provision of a planning scheme or an interim order.

State Policies must be reviewed by the Minister at least once every five years.

***Policy on Water Quality Management***

The *Policy on Water Quality Management* (Water Policy) is currently the only State Policy in operation in Tasmania which affects **meat processors**.

The purpose of the Water Policy is to achieve sustainable management of Tasmania's surface water and groundwater resources.

The Water Policy identifies its objectives as including:

- ensuring that diffuse source and point source pollution does not prejudice the achievement of water quality objectives, and that

pollutants discharged into waterways are reduced as far as possible by the use of best practice environmental management;

- ensuring that efficient and effective water quality monitoring programs are carried out;
- facilitating and promoting integrated catchment management; and
- applying the precautionary principle<sup>94</sup> in actions to achieve water quality objectives.

Specific water quality objectives are defined and activities aimed at meeting the objectives are detailed. The activities include economic instruments, water licences, communications strategies and regulatory measures.

The Water Policy provides for the formulation of emission limit guidelines for activities that are likely to give rise to point source discharges of pollutants to surface waters.

The Water Policy further requires emission limit guidelines be published for **abattoirs** and **slaughterhouses** and intensive animal husbandry activities. This requirement has been met with emission limit guidelines embodied in *Wastewater Management Guidelines for Abattoirs and Slaughterhouses*<sup>95</sup>.

## D. Consequences of Application

A person who contravenes or fails to comply with a provision of a State Policy is guilty of an **offence** punishable by a fine up to \$50,000. Where the person continues to contravene the State Policy the person will be liable to a fine of \$5,000 for each day the **offence** continues.

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<sup>94</sup> The *precautionary principle* refers to a situation where an activity may cause irreversible environmental damage. Measures for preventing the damage should not be deferred due to a lack of scientific certainty as to the effect of the activity.

<sup>95</sup> Refer to p.290 for further details about the Guidelines.

**A. Title of Act**

***Water Management Act 1999***

**B. Objective**

This **Act** provides for the management of Tasmania's water resources, by regulating the use of water resources, in particular to provide for the use and management of the freshwater resources of Tasmania.

**C. Application of Act**

The **Act** provides for the development of Water Management Plans (WMP) for watercourses. A WMP is to include:

- an assessment of the quantity of water needed by the ecosystems that depend on a water resource;
- an assessment of likely detrimental effects arising from the taking or use of water from the resource; and
- an assessment of likely detrimental effects of the plan on the quality of water.

A WMP may:

- provide for the allocation and use of water;
- provide for the licensing of all or specified classes of persons taking water from the relevant water resource; and
- provide for the transfer and dealings with water allocations.

General provisions provide that water may not be taken from a watercourse without a licence where the WMP does not provide for the allocation of water and licensing of water, or where the relevant watercourse is not managed by a WMP.

**D. Authorisations required**

A licence is required for a person to take water from a watercourse, lake or well or surface water. A licence authorises the holder to take water in accordance with the licence and is subject to any relevant WMP and any condition specified in the licence.

A licence:

- must specify the water resource from which the water is to be taken;
- must express a water allocation; and
- may specify conditions under which the licensee may take water or the licence holder may transfer its water allocation or licence.

The Minister may refuse to grant a licence if:

- it is not possible to allocate a volume of water consistently with any relevant WMP or the objectives of this **Act**;
- satisfied that the grant would have a significant adverse impact on any existing licensee or a person taking water;
- satisfied that the water to be taken under the licence is so contaminated that its use would create a risk to the health of people or animals;
- satisfied that the proposed taking or use of the water would contravene the *Environmental Management and Pollution Control Act 1994*; or
- the applicant has been convicted of an **offence** under this **Act**.

## E. Consequences of Application

A person who takes water from a watercourse or well without a licence is guilty of an **offence** and may be fined up to \$50,000 and, in the case of a continuing **offence**, fined up to \$5,000 for each day the **offence** continues.

A licensee who:

- takes water in excess of their water allocation;
- contravenes a condition of the licence; or
- uses water taken under the licence for a purpose that is not specified in the licence;

is guilty of an **offence** punishable by a fine of up to \$50,000 and, in the case of a continuing **offence**, a further fine not exceeding \$5,000 for each day the **offence** continues.

A court may also cancel or suspend a licence where the **offence** resulted in a significant adverse impact on any other person or environmental harm.

## Codes of Practice and Guidelines

Environmental **Codes of Practice** (Codes) are released by the **EPA** in order to advise industry on the likely environmental impacts of their actions and to suggest acceptable methods of controlling such impacts. Codes are merely advisory, not regulatory. Consequently no penalties attach to the breach of a Code alone.

A Code's usefulness to meat processors stems from the fact that the **EPA** believes that if a Code is adhered to by industry, then the industry's relevant operations will cause little, if any, environmental damage and correspondingly will probably not be in breach of associated legislative environmental requirements to which penalties may attach.

The level of adherence to a Code will depend upon the location of a particular industry – operators not in sensitive locations can apply a relevant Code in a relaxed manner, whereas those in sensitive areas, where there is likely to be an air, noise or water impact, would need to diligently adhere to the Code.



## Title

### ***Environmental Code of Practice for Meat Premises (Slaughtering) 1995***

The purpose of this Code is to set out environmental guidelines in order to:

- promote industry self regulation;
- provide information for planning authorities on the assessment and control of meat slaughtering premises under the *Land Use Planning and Approvals Act 1993* and the *Environmental Management and Pollution Control Act 1994*;
- achieve better environmental outcomes and help industry to achieve a higher level of environmental performance; and
- increase general community awareness about environmental management within the industry.

The code is not a legally enforceable document though compliance with the Code's principles will be considered by a planning authority when deciding whether to issue a planning permit under the *Land Use Planning and Approvals Act 1993*. It is intended to encourage operators to achieve good environmental performance without the regulator needing to resort to prosecutions.

Meat premises are classified according to their potential harm and the tonnage of meat product produced per year.

The code outlines various principles and controls to be adopted to handle **waste** generation, namely:

**Environmental management** - the operator must ensure compliance with the legislation. The operator must consult the Department of Primary Industries - Water and Environment, in order to change processes, structures, quantity of materials, or change the nature of materials dealt with at the premises. The operator may also need to provide the regulatory authority with an environmental management plan setting out the level of activity on the premises.

**Site Selection** - an adequate buffer should be maintained between the meat premises and other properties. The selection of a suitable location should be based on minimising the potential for problems caused by noise, atmospheric emissions and **waste** disposal. The code sets out a table of recommended distances that meat premises should be from other premises and water courses.

**Visual management** - premises should be located to minimise visual impact with trees and shrubs planted where necessary to screen them from the public.

**Waste management** - implementation of best management practices to manage **waste** water discharge from meat premises to a water course or body of water and minimise **waste** discharges from the premises and where possible recycle and re-use **waste**. The Code sets out appropriate treatment systems to control run-off and **waste** water.

**Air** - discharges to the atmosphere in the form of dusts, odours and particulates must be controlled and should be managed so they are not able to be detected beyond the boundary of the premises. The code sets out various site specific management strategies to minimise pollutants into the air.

**Waste disposal** - solid, organic animal **wastes** including offal, fat, blood etc. should be disposed of quickly and by an approved method. **Waste** should be removed to a permitted refuse disposal site and not disposed of or buried on the premises.

**Noise** - meat premises generate noise from vehicles, equipment and animals in holding areas. The necessary precautions should be taken to reduce the noise and its impact on the **environment**. Noise should be confined to reasonable hours of operation.

**Hazardous substances** - all hazardous substances on site should be stored appropriately to reduce the risk of release to the **environment**. Any spillage must be contained and cleaned up according to the method approved by the regulatory authority.

## Draft Legislation, Codes of Practice and Guidelines

**Title*****Draft Wastewater Management Guidelines for Meat Premises***

These Draft Guidelines were developed under the State Policy on Water Quality Management to set water emissions limits for *meat premises*<sup>96</sup>.

When operational, the Guidelines will be used by local councils to assist with planning decisions.

The Draft Guidelines require pollutant discharges to the **environment** to be reduced to the maximum extent possible having regard to best practice environmental management and in accordance with the *hierarchy of waste management*<sup>97</sup>.

The Draft Guidelines prohibit the discharge of waste waters into waterways and surface water. In accordance with the *Environmental Code of practice for Meat Premises (Slaughtering) 1995*, waste water treatment ponds should service all waste water, wash water and stormwater. The ponds should have adequate capacity to prevent the overflow of waste water into the water ways.

The Draft Guidelines provide four options for the discharge of treated waste water from meat premises.

**Disposal to sewer**

One method for the disposal of waste water is by discharge to municipal sewer. This may require prior treatment of waste water for reductions in nutrient and organic loading.

**Irrigation to land**

Land irrigation of treated effluent is the preferred option where municipal sewerage systems are unavailable and/or site characteristics allow.

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<sup>96</sup> *Meat premises* include **abattoirs**, game **meat processing works**, pet food works, **slaughterhouses** and **slaughtering works**.

<sup>97</sup> The *hierarchy of waste management* is:

- waste avoidance
- recycling/reclamation
- waste re-use
- waste treatment to reduce potentially degrading impacts
- waste disposal.

Waste water recycling should be managed to achieve the following environmental and health performance objectives:

- control of recycling operations so as not to pollute ground or surface waters;
- use of organic matter, nutrients, salt and waste water for sustainable operations; and
- management of waste water so as not to cause any interference with community health or amenity.

Monitoring programs are needed to ensure that long-term irrigation re-use does not affect soil and ground water quality.

#### **On-site re-use**

Suitably treated waste water may also be considered for use to irrigate golf courses, gardens and parks, dust suppression on roads, emergency fire fighting or for washing down stock holding yards.

#### **Approved disposal to a watercourse**

For new sites, discharge to surface waters will not generally be acceptable.

For existing meat premises the discharge of effluent to surface waters will only be approved in exceptional circumstances. It must be clearly demonstrated to the Board that alternative methods of disposal (discharge to a sewer, on-site re-use or irrigation) are not practical or would result in a higher net environmental risk considering the effluent quality to be discharged.

## Relevant Contacts and Information Sources

### Relevant Contacts:

#### Freehills

Environmental Law Services

Contact: Tim Power (Partner)

Telephone: (03) 9288 1484

#### Department of Primary Industries, Water and Environment

Mick Leigh (Meat Hygiene Officer)

Telephone: (03) 6233 6890

Environment Policy Section

Telephone: (03) 6233 4028

Meat Standards Section

Telephone: (03) 6336 5280

### Information Sources:

Copies of all **Acts** of Parliament and **Regulations** are available from:

#### The Printing Authority of Tasmania

2 Salamanca Place

Hobart 7000

Telephone: (61 3) 6233 3499

**Acts** of Parliament and **Regulations** are available online at:

[www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au)

Copies of the *Environmental Code of Practice for Meat Premises (Slaughtering) 1995* are available from:

#### Service Tasmania

Ground floor, 134 Macquarie Street

Hobart Tas 7000

Telephone: (61 3) 6233 3382

Department of Primary  
Industries, Water and  
Environment:

<http://www.dpiwe.tas.gov.au>

Tasmanian Government  
Agencies:

<http://www.tas.gov.au/GovOrgs/>

**Tasmania**

***Relevant Contacts and Information Sources***

Resource Development and  
Planning Commission:

<http://www.rpdc.tas.gov.au/>

## **Commonwealth**

## Legislative Summary Commonwealth

### A. Primary Legislation

#### ***Environment Protection and Biodiversity Conservation Act 1999***

This **Act** provides for the protection of the **environment** and conservation of biodiversity. Any activity deemed to have a significant impact on a Commonwealth area or on a matter of national environmental significance must be assessed under the **Act**.

#### ***National Environment Protection Council Act 1994***

This **Act** establishes the National Environment Protection Council and provides for the development of National Environment Protection Measures (NEPMs) in an attempt to impose uniform environmental standards across Australia. So far, NEPMs have been developed in relation to ambient air quality, the movement of controlled wastes, the National Pollutant Inventory, used packaging materials, site contamination and diesel vehicle emissions.

### B. Secondary Legislation

#### ***Corporations Act 2001***

This **Act** requires that a company, registered scheme or disclosing entity must prepare a director's report for each financial year which includes details of the entity's performance in relation to environmental regulation.

### C. Codes of Practice and Guidelines

#### ***The National Beef Cattle Feedlot Environmental Code of Practice***

The Code establishes the environmental performance objectives and operational activities required to assist feedlot operators in complying with the environmental legislation of all the States and Territories.

#### ***ISO 14,000 Series: Environmental Management Systems***

The ISO 14,000 Series contains Environmental Management Standards that are intended to provide guidance for the establishment of effective environmental management systems.



***Australian and New Zealand Guide for Fresh and Marine Water Quality***

The guidelines are designed to assist in the assessment and management of water quality in accordance with defined environmental values. Chapter 4 of the guidelines applies specifically to primary industries and to protect human consumers of food products.

## Existing Legislation Commonwealth Primary

### A. Title of Act

*Environment Protection and Biodiversity Conservation Act 1999*

### B. Objective

The primary objectives of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) are to:

- promote the *environment*<sup>98</sup>;
- promote **ESD**; and
- promote conservation of biodiversity.

### C. Application of the Act

**What requires approval under the EPBC Act?**

An *action*<sup>99</sup> (which includes the operation of an **abattoir**) that has, or is likely to have, a significant impact on a matter of *national environmental significance* will require approval from the Commonwealth Environment Minister.

The **Act** currently identifies six matters of *national environmental significance*:

- world heritage properties;
- Ramsar wetlands of international significance;

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<sup>98</sup> *Environment* includes:

- ecosystems and their constituent parts, including people and communities;
- natural and physical resources;
- qualities and characteristics of locations, places; and
- social, economic and cultural aspects of a thing mentioned above.

<sup>99</sup> *Action* includes a project, a development, an undertaking, an activity or series of activities, and an alteration to any of these things.

- listed threatened species and ecological communities;
- listed migratory species;
- Commonwealth marine areas; and
- nuclear actions (including uranium mining).

*Significant impact* is not defined in the **Act**. However, the Commonwealth Government has released the *EPBC Administrative Guidelines on Significance* to assist in determining whether an *action* has, will have or is likely to have a *significant impact* on a matter of *national environmental significance* under the **Act**.

These guidelines are available through the Environment Australia webpage at <http://www.ea.gov.au/epbc/assessapprov/referrals/significanceguide.html>.

The guidelines are not legally binding, but are a useful reference for determining the types of *actions* that will require approval.

It is important to note that an *action* (for example the operation or development of an **abattoir**) need not necessarily occur within an area of *national environmental significance*. The critical issue is whether or not the *action* has, will have or is likely to have, a *significant impact* on the area. For example, an activity to be conducted outside a Ramsar wetland could still *significantly impact* the Ramsar wetland through flow on effects (eg. water run-off).

Approval is also required for *actions* that are likely to have a *significant impact* on the *environment* on *Commonwealth land*<sup>100</sup>.

## D. Authorisations required

### The approval process

#### When should an action be referred?

Any *action* that requires the approval of the Commonwealth Environment Minister is a *controlled action*.

All *actions* that are or may be *controlled actions*, should be referred to the Minister for a decision.

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<sup>100</sup> *Commonwealth Land* is so much of a Commonwealth area as is not a *Commonwealth marine area* (see footnote 108).

Accordingly, where an **abattoir** may have a *significant impact* on a *matter of national environmental significance*, then the *action* should be referred to the Minister for a decision on whether it is a *controlled action*.

### **Who can refer a controlled action?**

The following persons can refer a *controlled action* to the Minister:

- the person proposing to take the *action* (the proponent); and
- a State, Territory or Commonwealth Minister or government agency that:
  - is aware of the proposed *action*; and
  - has administrative responsibilities relating to the *action*.

The Minister may request that a person make a referral within 15 days of the request.

Where the referral is not made by the proponent, the Minister must:

- advise the proponent; and
- invite the proponent to make a submission within 10 days, as to whether the *action* is a *controlled action*.

A proponent can also refer a matter to the Minister which it believes is not a matter of *national environmental significance*. In this case, the Minister:

- must publish the referral on the internet and invite public comment; and
- may request comment and/or relevant information from Commonwealth, State or Territory Ministers.

The Minister may issue a notice to the proponent in this situation to safeguard against any future claim in relation to the development.

### **Minister decides whether controlled action or not**

The Minister is required to make a binding decision as to whether the *action* is a *controlled action*:

- within 20 days of receipt of the referral; or
- within 10 days of receipt of the referral, where the proponent made the referral on the basis that it was a *controlled action*.

There are limited circumstances in which the Minister may reconsider the decision.

If the Minister decides that the *action*:

- is not a *controlled action* – then a person will not contravene the **Act** if the *action* is taken in accordance with the decision; or
- is a *controlled action* then – the impacts of the *action* must be assessed. This assessment will be considered when deciding whether or not to approve the *action*. An approval will be required before carrying out the *controlled action*.

### Assessing impacts of controlled actions

An assessment can be carried out in a number of ways including:

- under Part 8 of the **Act**; or
- by way of State or Territory assessment.

### Bilateral agreement

If a bilateral agreement is in place which accredits a State or Territory assessment process, then the State or Territory will carry out the assessment under the terms of that agreement. The intention is to avoid the need for a separate Commonwealth assessment process.

Currently only Tasmania has a bilateral agreement with the Commonwealth. The assessment processes that have been agreed are as follows:

Assessment process	Legislation	Corresponding process under the Act
<ul style="list-style-type: none"> <li>• <b>Environmental impact statement (EIS)</b></li> </ul>	<i>State Policies &amp; Projects Act 1993</i>	EIS
<ul style="list-style-type: none"> <li>• Development proposal and environmental management plan</li> </ul>	<i>Environmental Management &amp; Pollution Control Act 1994</i>	EIS

The Minister has prepared draft bilateral agreements with each of the other States and Territories, but none of these have been endorsed as yet. Until endorsed, the Minister may decide to accept assessment by a state or territory on a case by case basis.

The proposed assessment processes in the other States and Territories are as follows:

Assessment process	Legislation	Corresponding process under the Act
<b>ACT</b>		
• Preliminary assessment	Div 2, Part 4, <i>Land (Planning and Environment) Act 1991</i>	Assessment by preliminary documentation
• Public Environment Report (PER)	Div 3, Part 4, <i>Land (Planning and Environment) Act 1991</i>	Assessment by PER
• EIS	Div 3, Part 4, <i>Land (Planning and Environment) Act 1991</i>	Assessment by EIS
• Inquiry	Div 4, <i>Land (Planning and Environment) Act 1991</i>	Assessment by inquiry
<b>NT</b>		
• EIS	<i>Environmental Assessment Act</i>	EIS
• PER	<i>Environmental Assessment Act</i>	PER
• Inquiry	<i>Inquiries Act</i>	Inquiry

Assessment process	Legislation	Corresponding process under the Act
<b>QLD</b> <sup>101</sup>		
<ul style="list-style-type: none"> <li>Assessment</li> </ul>	Part 4, <i>State Development &amp; Public Works Organisation Act 1971</i>	EIS
<b>SA</b>		
<ul style="list-style-type: none"> <li>EIS</li> </ul>	<i>Development Act 1993</i>	EIS
<ul style="list-style-type: none"> <li>PER</li> </ul>	<i>Development Act 1993</i>	PER
<ul style="list-style-type: none"> <li>Development Report</li> </ul>	<i>Development Act 1993</i>	PER
<b>WA</b>		
<ul style="list-style-type: none"> <li>Consultative Environment Report</li> </ul>	<i>Environment Protection Act 1986</i>	Assessment on preliminary documentation
<ul style="list-style-type: none"> <li>PER</li> </ul>	<i>Environment Protection Act 1986</i>	PER
<ul style="list-style-type: none"> <li>Environmental Review &amp; Management Programme</li> </ul>	<i>Environment Protection Act 1986</i>	EIS

<sup>101</sup> As yet, the draft bilateral agreement between Queensland and the Commonwealth contains only one assessment process (as described). However, the Queensland Government has indicated its intention to include three assessment processes under the final bilateral including assessment under:

- *State Development and Public Works Organisation Act 1971* (Qld) for declared significant projects;
- *Environmental Protection Act 1994* (Qld) for impact assessment of mining projects other than significant projects; and
- *Integrated Planning Act 1997* (Qld) for actions subject to the Integrated Development Assessment Scheme.

Assessment process	Legislation	Corresponding process under the Act
<b>NSW</b>		
• EIS	Part 4, <i>Environmental Planning and Assessment Act 1979</i>	Assessment by EIS
• EIS	Part 5, <i>Environmental Planning and Assessment Act 1979</i>	Assessment by EIS
• Statement of environmental effects	Part 4, <i>Environmental Planning and Assessment Act 1979</i>	Assessment by EIS
• Species impact statement	Div 2, Part 6, <i>Threatened Species Conservation Act 1997</i> or Subdiv 2, Div 6, Part 7A, <i>Fisheries Management Act 1994</i>	Assessment on preliminary documentation
<b>VIC</b>		
• EIS	<i>Environment Effects Act 1978</i>	EIS

## Assessing impacts of controlled actions

### Part 8 of the Act

Where there is no bilateral agreement (which is currently the case in all States and Territories except Tasmania), the Minister must choose one of the following methods of assessment:

- an accredited assessment process;
- an assessment on preliminary documentation;
- a PER;
- an EIS; or



- a public inquiry.

The **Act** sets out process and timing requirements for each assessment approach.

## Approval

### When is the approval decision made?

When the assessment is completed, the Minister must decide whether to approve the taking of the *action*:

- within 30 business days of receiving an assessment report; or
- within 40 business days of receiving a report from a commission of inquiry.

### What is considered?

The Minister must consider:

- relevant environmental impacts; and
- economic and social matters.

In considering these matters the Minister must take into account:

- the principles of **ESD**;
- the assessment report of a commission of inquiry;
- the documents provided by the proponent;
- any other information available to the Minister on the relevant impacts of the *action*; and
- relevant comments from other Commonwealth Ministers.

The Minister may also consider the proponent's environmental history.

### What conditions can be placed on an approval?

The Minister may attach conditions to an approval to:

- protect a matter of *national environmental significance*; or
- repair or mitigate damage to a matter of *national environmental significance*.

It is intended at some future time that approval powers may be given to States or Territories to further facilitate State and Federal environment approvals.

### E. Consequences of application

Offence	Civil penalty	Criminal penalty
<p>A person must not take an <i>action</i> which has, will have or is likely to have a <i>significant impact</i> on:</p> <ul style="list-style-type: none"> <li>• the world heritage values of a World Heritage property;</li> <li>• the ecological character of a declared Ramsar wetland;</li> <li>• a listed threatened species or ecological community included in the: <ul style="list-style-type: none"> <li>• critically endangered category;</li> <li>• the endangered category; or</li> <li>• the vulnerable category; or</li> </ul> </li> <li>• a listed migratory species; or</li> <li>• on the <b>environment</b> of a Commonwealth marine area<sup>102</sup>.</li> </ul>	<p>\$550,000 (individual)</p> <p>\$5,500,000 (corporation)</p>	

<sup>102</sup> A *Commonwealth Marine Area* is any waters of the sea within the seaward boundary of the exclusive economic zone including the airspace above the water and the seabeds beneath the water but excluding and State and Territory waters.

Offence	Civil penalty	Criminal penalty
<p>If a person takes an <i>action</i> (whether recklessly or not) that results in or is likely to result in a <i>significant impact</i> on one of the following matters of <i>national environmental significance</i>:</p> <ul style="list-style-type: none"> <li>• the world heritage values of a World Heritage property;</li> <li>• the ecological character of a declared Ramsar wetland;</li> <li>• a listed threatened species or listed threatened ecological community;</li> <li>• a listed migratory species; or</li> <li>• a Commonwealth marine area (whether the <i>action</i> is taken from within or outside the area)</li> </ul> <p>then the person is deemed to be guilty of an <b>offence</b>.</p>		7 years imprisonment and/or \$46,200 fine
<p>A person must not take on or outside of <i>Commonwealth land</i> an <i>action</i> that has, will have or is likely to have a <i>significant impact</i> on the <i>environment</i> of the <i>Commonwealth land</i>.</p>	<p>\$110,000 (individual)</p> <p>\$1,100,000 (corporation)</p>	
<p>A person is guilty of an <b>offence</b> if the person takes an <i>action</i> on <i>Commonwealth land</i> which:</p> <p>(a) results in or will result in a <i>significant impact</i> on the <i>environment</i>; or</p> <p>(b) is likely to have a <i>significant impact</i> on the <i>environment</i> and the person is reckless as to that fact.</p>		2 years imprisonment and/or \$13,200

Offence	Civil penalty	Criminal penalty
<p>A person is guilty of an <b>offence</b> if the person takes an <i>action</i> outside <i>Commonwealth land</i> but within the Australian jurisdiction which:</p> <p>(a) results in or will result in a <i>significant impact</i> on the <i>environment</i>; or</p> <p>(b) is likely to have a <i>significant impact</i> on the environment and the person is reckless as to that fact.</p>		2 years imprisonment and/or \$13,200
<p>If a person takes an <i>action</i> which:</p> <ul style="list-style-type: none"> <li>• results in the death or injury of a member of a native species or a member of an ecological community; and</li> <li>• the species or community is listed as threatened; and</li> <li>• the member is in or on a Commonwealth area</li> </ul> <p>the person is guilty of an <b>offence</b> and <b>strict liability</b> will apply.</p>		2 years imprisonment and/or \$110,000 fine
<p>If a person –</p> <ul style="list-style-type: none"> <li>• takes, trades, keeps or moves a member of two native species or member of an ecological community;</li> <li>• the species or community is listed as threatened;</li> <li>• the member is in, or has been taken in, or on a Commonwealth area;</li> </ul> <p>the person is guilty of an <b>offence</b> and <b>strict liability</b> applies.</p>		2 years imprisonment and/or \$110,000

Offence	Civil penalty	Criminal penalty
Recklessly killing or injuring a member of a listed threatened species or community.		2 years imprisonment and/or \$110,000
Recklessly taking a member of a listed threatened species, ecological community, migratory species or cetacean.		2 years imprisonment and/or \$110,000
Failing to notify the Secretary of the taking of a listed threatened species of ecological community.		\$11,000
Contravening the condition of a permit issued under the <b>Act</b> .		\$33,000 fine
<b>Offence</b> of knowingly damaging a critical habitat.		2 years and/or \$110,000 fine
Killing or injuring a member of a listed migratory species or cetacean.		2 years and/or \$110,000 fine

### Third Party Enforcement

If a person has engaged, engages or proposes to engage in conduct that constitutes an **offence** under the **Act**, the Minister or an *interested person*<sup>103</sup> may apply to the Federal Court for an **injunction** to restrain the offender.

<sup>103</sup> An *interested person* is a person whose interests have been, are, or would be affected by the **offence** or a person who has engaged in a series of activities within the previous two years that protects, conserves or researches the affected **environment**.

**A. Title of Act*****National Environment Protection Council Act 1994*****B. Objective**

To ensure that:

- people enjoy the benefits of protection from air, water or soil pollution and from noise, throughout Australia; and
- decisions of the business community are not distorted, and markets are not fragmented, by variations between participating jurisdictions in relation to the adoption and implementation of National Environment Protection Measures.

**C. Application of the Act**

The **Act** establishes the National Environment Protection Council (NEPC), which is the Council of Ministers (usually the respective Ministers of Environment) nominated by each of the States, Territories and the Commonwealth.

The function of the Council is to:

- make National Environment Protection Measures (NEPMs); and
- assess and report on the implementation and effectiveness of the NEPMs.

NEPMs may cover such things as air quality, water quality, noise pollution, site contamination, hazardous **wastes**, recycling and motor vehicle noise and emissions.

**Development of NEPMs**

Currently NEPMs have been developed for:

- ambient air quality;
- movement of controlled wastes;
- the National Pollutant Inventory;
- used packaging materials;
- site Contamination; and

- diesel vehicle emissions (this NEPM applies to in-service diesel fleets and is not summarised).

In June 2001, the NEPC resolved to develop a NEPM for Ambient Air Toxics. It is proposed that the NEPM will be developed by December 2002. Each of these NEPMs, except the Diesel Vehicle Emissions NEPM, is relevant to meat processors.

### **Air Quality NEPM**

Uniform standards for ambient air quality are contained in the *National Environment Protection (Ambient Air Quality) Measure* (the Air Quality NEPM).

The desired environmental outcome of the Air Quality NEPM is to ensure human health and well-being is adequately protected.

The NEPM focuses on six air pollutants:

- carbon monoxide;
- photochemical oxidant (as ozone);
- lead;
- nitrogen dioxide;
- sulfur dioxide; and
- particles.

The national environmental protection standards for each of these pollutants are to be achieved by 26 June 2008.

The NEPM prescribes the processes to be followed in measuring the concentration of pollutants in the air to determine whether the standards of the NEPM are being met.

The NEPC is currently reviewing the ambient air quality standards for particles.

### **National Pollutant Inventory NEPM**

The *National Environment Protection (National Pollutant Inventory) Measure* (NPI NEPM) was made by the National Environment Protection Council on 27 February 1998 and amended on 20 June 2000.

A National Pollutant Inventory (NPI) has been established to collect information from industries including meat processors, on the emission of **waste** substances to the **environment** and the transfer of **waste**. The Inventory details the types and volumes of pollutants or **waste** substances

entering different areas of the **environment**. The NPI contains a Schedule that lists all the **waste** substances the Inventory records.

The NPI demonstrates trends in emissions and facilitates **waste** minimisation programs for industry, government and the community. The NPI also makes information about specific **waste** emissions publicly available.

The first 3 reporting periods for the NPI NEPM were:

- 1 July 1998 to 30 June 1999 (voluntary);
- 1 July 1999 to 30 June 2000 (voluntary); and
- 1 July 2000 to 30 June 2001 (mandatory for all industries for which an Industry Handbook has been published).

For these reporting periods, industries were only required to report on the 30 substances contained in Table 1 of the NEPM. For the reporting period 1 July 2001 to 30 June 2002 and each subsequent reporting period, facilities will be required to report on all 90 substances in Table 2.

The report must be given to the chief executive by 30 September each year. For example, the reporting date for the third period was 30 September 2001.

In June 1999, Environment Australia published the *Emission Estimation Technique Manual for Meat Processing*. (Reporting is therefore mandatory for the **meat processing** industry on and from the third reporting period.) This industry guideline identifies:

- emission sources and control technologies; and
- emission estimation techniques.

A copy of this guide is available at the Environment Australia National Pollutant Inventory website at:

[www.npi.ea.gov.au](http://www.npi.ea.gov.au)

The guideline also recommends the *Combustion in Boilers Emission Estimation Technique Manual* as a source for estimating emissions from combustion processes.

**Abattoirs**, like other reporting facilities, may claim that the information provided is confidential on the grounds of commercial sensitivity.

The Measure clearly states that granting a claim of commercial in-confidence status in no way removes the obligation of reporting facilities to provide emissions and other supporting data. Instead it confirms that the confidential information will be securely stored.



The penalties for a failure to comply with the provisions of the NEPMs are contained in State legislation.

The data provided is not to be used as evidence in court proceedings for a conviction of non-compliance with another obligation.

Provision is also made for the security of the data and public access.

Third parties will be able to **appeal** decisions by following the procedures prescribed in each jurisdiction.

### **Movement of Controlled Wastes NEPM**

The *National Environment Protection (Movement of Controlled Wastes) Measure* (Waste NEPM) was finalised by the NEPC on 26 June 1998. The goal of the Waste NEPM is to minimise the potential for adverse impacts associated with the movement of *controlled waste*<sup>104</sup> on the **environment** and human health.

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<sup>104</sup> *Controlled Waste* means any **waste** in List 1 of the NEPM that possesses at least one characteristic contained in List 2 of the NEPM.

List 1 is comprehensive and contains a variety of substances including:

- animal effluent and residues;
- acidic solutions and acids in solid form;
- basic solutions and bases in solid form;
- clinical and related **waste**;
- organic phosphorus compounds;
- phosphorus compounds excluding mineral phosphates;
- soils contaminated with a controlled **waste**; and
- tannery **waste**.

The characteristics in List 2 are:

- explosive;
- flammable materials (liquid or solid);
- substance or **waste** liable to spontaneous combustion;
- substances and **wastes** which, in contact with water, emit flammable gases;
- oxidising;
- organic peroxides;
- poisonous (acute);
- infectious substances;
- corrosive;
- liberation of toxic gas in contact with air or water;
- toxic (delayed or chronic);

The Waste NEPM will apply to **abattoirs** where *controlled wastes* are to be moved between States and Territories.

The onus is on **meat processors** to demonstrate that a substance does not exhibit a List 2 characteristic. A failure to demonstrate the absence of a List 2 characteristic will result in the presumption that List 1 material is a *controlled waste*.

The Waste NEPM identifies the information that must be provided by producers (eg. **abattoirs**), transporters and facilities in the movement of *controlled wastes*. There are certain exclusions to the application of the Measure.

The Waste NEPM provides guidance for developing and integrating State and Territory systems for the management of the movement of *controlled wastes* between States and Territories. These management systems include:

- tracking systems which provide information to assist agencies and emergency services, and ensure that *controlled wastes* are directed to and reach appropriate facilities;
- prior notification systems which provide participating States and Territories with access to information, to assess the appropriateness of proposed movements of *controlled wastes* in terms of transportation and a facility selection process; and
- the licensing and regulation of generators, transporters and facilities so that tracking and notification functions are compatible with participating State and Territory requirements.

### Used Packaging Materials NEPM

The *National Environment Protection (Used Packaging Materials) Measure* (Packaging NEPM) established the National Packaging Covenant (Covenant). The Covenant is a non-binding agreement between governments and industry participants in the packaging chain.

**Abattoirs** that either purchase packaging to distribute their products or sell packaged products that make a significant contribution to packaging **waste** should consider signing the Covenant.

The Covenant governs consumer packaging and household paper and is based on the principles of product stewardship and shared responsibility.

- 
- ecotoxic; or
  - capable of yielding another material which possesses H1 – H12.

Product stewardship imposes obligations on all those who benefit from a product to assume a share of the responsibility for a product over its life.

The Packaging NEPM requires the assistance of participants in the Covenant to achieve the **waste** reduction and recycling objectives of the Covenant.

The NEPM is limited to the recovery, re-use and recycling of:

- materials used for packaging products consumed on domestic premises;
- materials used for packaging food and beverage products intended for consumption in public places or in commercial provision of food services to individuals in hotels or restaurants;
- household paper and cardboard; and
- bulk packaging of household products.

The Protocols under the Packaging NEPM set out the data recording procedures for brand owners and the data reporting goals for participating jurisdictions.

The Packaging NEPM imposes an obligation on governments to introduce legislation to ensure that industry representatives who are signatories to the Covenant are not disadvantaged in the market place through their participation.

### Site Contamination NEPM

The *National Environment Protection (Site Contamination) Measure* (Site Contamination NEPM) aims to:

- establish a nationally consistent approach to the assessment of site contamination<sup>105</sup> to ensure sound environmental practices by the community; and
- where site *contamination* has occurred, to protect human health and the **environment** through the development of an efficient and effective national approach to the assessment of site *contamination*.

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<sup>105</sup> *Contamination* is defined as the condition of land or water where any chemical substance or **waste** has been added at above background level and represents, or potentially represents, an adverse health or environmental impact.

The Site Contamination NEPM will apply to **abattoirs** where the site upon which the **abattoir** is situated is or may be *contaminated*.

The Site Contamination NEPM identifies the recommended process for the Assessment of Site Contamination, that is determining the nature, extent and levels of existing contamination and the actual or potential risk to human health or the **environment** on or off site resulting from that contamination. This process involves preliminary assessment, which is usually followed by a more detailed assessment of health and ecological risks.

In assessing the actual or potential risk to human health and the **environment**, a balance is to be achieved between:

- optimising the current or intended use of the site; and
- the need to adequately protect human health and the **environment**.

General guidelines for the assessment of site contamination apply at various stages of the recommended process, and these are also identified in the Site Contamination NEPM.

## Existing Legislation Commonwealth Secondary

### A. Title of Act

***Corporations Act 2001 (Cth)***

### B. Application of Act

Where a *company*<sup>106</sup>, *registered scheme*<sup>107</sup> or *disclosing entity*<sup>108</sup> own or operate an **abattoir**, a directors' report must be prepared for each financial year<sup>109</sup>.

The director's report must include details of the entity's performance in relation to environmental regulation<sup>110</sup>. However, this only relates to any *particular and significant*<sup>111</sup> environmental legislation.

### C. Consequences of Application

A director of a *company*, *registered scheme* or *disclosing entity* contravenes the **Act** if they fail to comply with any reporting provisions<sup>112</sup> if the contravention is dishonest.

The **penalty** for this **offence** is \$200,000 or five years imprisonment or both.

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<sup>106</sup> A *company* is a company registered under this **Act**.

<sup>107</sup> A *registered scheme* is a managed investment scheme registered under this **Act**.

<sup>108</sup> If either:

- the securities of a body (except interests in a managed investment scheme) are enhanced disclosed securities (ED Securities), the body is a *disclosing entity*; or
- any interests of a managed investment scheme are ED Securities then the undertaking to which the interest relates is a *disclosing entity*.

<sup>109</sup> Section 298.

<sup>110</sup> Section 299(1)(f).

<sup>111</sup> Although there is no definition of *particular and significant*, it is accepted that this would include performance against environmental licences and the major State, Territory or Commonwealth environmental legislation.

<sup>112</sup> Including those in section 299(1)(f).

## Codes of Practice and Guidelines

National environmental **Codes of Practice** (Codes) are released by industries and by industry associations in order to advise industry on the likely environmental impacts of their actions and to suggest acceptable methods of controlling such impacts. Codes are merely advisory, not regulatory. Consequently no penalties attach to the breach of a Code alone.

A Code's usefulness to meat processors stems from the fact that if a Code is adhered to by meat processors, then the industry's relevant operations will cause little, if any, environmental damage and correspondingly will probably not be in breach of associated legislative environmental requirements to which penalties may attach.

The level of adherence to a Code will depend upon the location of a particular industry – operators not in sensitive locations can apply a relevant Code in a relaxed manner, whereas those in sensitive areas, where there is likely to be an air, noise or water impact, would need to diligently adhere to the Code.

## Title

### ***The National Beef Cattle Feedlot Environmental Code of Practice***

The *National Beef Cattle Feedlot Environmental Code of Practice* (the Code) was developed in 1998 to address the environmental regulations of all States and Territories.

The Code is designed to assist feedlot management and staff to achieve compliance with environmental legislation through providing environmental performance objectives and operational objectives and practices. The Code is also designed to set the benchmark for industry performance.

The Code discusses:

- the steps that a feedlot manager will have to take in order to demonstrate compliance with the Code;
- the importance of monitoring, recording and reporting environmental outcomes;
- the need for the education of feedlot staff as to the environmental management obligations imposed on feedlots; and
- the importance of environmental research in relation to the industry.

The Code lists the following desired environmental outcomes to be achieved through the implementation of best management practices:

- utilisation of effluent and manure; and
- the protection of:
  - land;
  - groundwater resources;
  - surface water resources; and
  - community amenity.

The Code lists the objectives, operational policies and performance indicators of the following areas of environmental practice management:

- drainage management;

- pen management;
- manure management;
- effluent management;
- spoiled feed management;
- dead stock management;
- odour management;
- dust management;
- noise management;
- visual impact measures;
- fly and vermin management;
- weeds and seed management; and
- chemical management.

The Code also specifies that the following areas are to be monitored and recorded by all feedlots including:

- operations;
- climate;
- complaints; and
- effluent discharge.

The term *beef feedlot* as defined in the Code does not apply to the feeding of cattle at an **abattoir**.



## Title

### ***ISO 14,000 Series: Environmental Management Systems***

The ISO 14,000 Series Environmental Management Standards are intended to provide organisations with guidance in establishing an effective environmental management system which will be sufficient to meet the organisation's legal and policy requirements. There are five standards in this series, each of which deals with different aspects of environmental management systems. All are of relevance to **abattoirs**.

#### **ISO 14,001 - 1996: Environmental Management Systems - Specification with Guidance for Use**

ISO 14,001 provides a model for organisations (including meat processors) to formalise their environmental management systems (EMS) and their internal reporting of environmental information. ISO 14,001 aims to ensure that environmental reviews and audits that are undertaken by organisations are effective and are sufficient to meet the organisation's legal and policy requirements.

ISO 14,001 sets out the requirements of an environmental management system, which are as follows:

- environmental policy;
- planning;
- implementation and operation; and
- checking and corrective action.

ISO 14,001 certification will provide confirmation of the effectiveness of an EMS, including the organisation's internal and external reporting mechanisms which are designed to fulfil its commitment to both industry codes and non-regulatory Guidelines.

The ISO 14,001 Standard is a non-prescriptive management system specification. It describes the functional requirements of an EMS but does not go as far as prescribing how those requirements are to be achieved. Accordingly, ISO 14,001 should be read with the four other draft environmental management standards which have been published and relate to systems and auditing.

**ISO 14,004 - 1996: Environmental Management Systems - General Guidelines on Principles, Systems and Supporting Techniques: 1996**

This guideline outlines the elements of an EMS and provides practical advice on implementing or enhancing such a system.

The Standard is very detailed and goes as far as suggesting the most appropriate methods for conducting reviews, identifying environmental impacts, performance criterion and methods for implementing an EMS.

**ISO 14,010 - 1996: Guidelines for Environmental Auditing - General Principles: 1996**

This Standard provides guidance on the general principles common to the execution of environmental audits.

This Standard provides information on:

- the requirements for an environmental audit;
- the objectives and scope of environmental audits;
- objectivity, independence and competence;
- systematic procedures;
- audit criteria, evidence and findings;
- reliability of audit findings and conclusions; and
- reporting.

**ISO 14,011 - 1996: Guidelines for Environmental Auditing - Audit Procedures - Auditing of Environmental Systems: 1996**

ISO 14,011 establishes audit procedures that provide for the planning and performance of an audit of an EMS to determine conformance with EMS audit criteria.

**ISO 14,012 - 1996: Guidelines for Environmental Auditing - Qualification Criteria for Environmental Auditors**

ISO 14,012 provides guidance on qualification and criteria for environmental auditors and lead auditors. This Standard applies to both internal and external auditors.

This Standard states that auditors should maintain their competence by ensuring the currency of their knowledge of various aspects of environmental science and technology, **environmental laws**, environmental management systems and auditing processes, procedures and techniques.

### **ISO 14,031 - 1998: Environmental Management - Environmental Performance Evaluation - Guidelines**

ISO 14,031 provides for Environmental Performance Evaluations (EPE). An EPE is a process to facilitate management decisions regarding an organisation's environmental performance by selecting indicators, collecting and analysing data, assessing information against environmental performance criteria, reporting and communicating, and periodic review and improvement of this process.

### **ISO 14,041: Environmental Management - Life Cycle Assessment - Goal and scope definition and inventory analysis**

This Standard specifies the requirements and the procedures necessary for the compilation and preparation of a Life Cycle Assessment (LCA) and for performing, interpreting and reporting a Life Cycle Inventory (LCI) analysis.

This Standard can be used to:

- establish a baseline of environmental performance for a given product system (eg. an **abattoir**) by quantifying the use of energy flows and raw materials and emissions to air, water and land associated with that system; and
- identify those unit processes within a product system where the greatest use of energy flows, raw materials and emissions occur with a view to making targeted improvements.

This standard provides components, the definition and scope of the LCI, details of the inventory analysis, methods for interpreting the results of the analysis and the details that should be provided in the study report.

### **ISO 14050 - Environmental Management - Vocabulary**

This Standard contains definitions of fundamental concepts as used in the ISO 14,000 series of standards.

Terms which are defined include:

- *environmental impact* - any change to the **environment** whether adverse or beneficial, wholly or partially resulting from an organisation's activities, products or services
- *environmental management system* - part of the overall management system that includes organisational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementing, achieving, reviewing and maintaining the environmental policy.

- *environmental performance* - measurable results of the environmental management system related to an organisation's control of its environmental aspects, based on its environmental policy, objective and targets.

## Title

### ***Australian and New Zealand Guidelines for Fresh and Marine Water Quality***

The guidelines are based on the philosophy of **ESD** and are intended to be a tool for assessing and managing water quality in accordance with defined environmental values. The Guidelines are often referred to by environmental agencies. The guidelines are not mandatory and do not signify threshold levels of pollution. However, if the guidelines are achieved, it is considered that there will be no significant impact on water resource values.

Chapter 4 of the Guidelines outlines the water quality objectives recommended to sustain primary industries to protect human consumers of food products.

Animal industries can have an effect on water quality downstream, for example, through faecal contamination.

Chapter 4 makes specific reference to livestock drinking water. The guidelines acknowledge that good quality drinking water is essential for successful livestock production as poor quality water may:

- reduce animal production;
- kill stock; and
- produce residues in animal products (eg. meat that may affect saleability and/or human health).

The guidelines outline trigger values of the following contaminants in livestock drinking water:

- cyanobacteria (blue-green algae);
- pathogens and parasites;
- calcium;
- magnesium;
- nitrate and nitrite;
- sulfate;
- total dissolved solids (salinity);
- heavy metals and metalloids; and
- pesticides and other organic contaminants.

## Relevant Contacts and Information Sources

### Relevant Contacts:

#### Freehills

Environmental Law Services

Contact: Janette Hewson (Senior Associate)

Telephone: (07) 3258 6657

#### Freehills

Environmental Law Services

Contact: Jen Shegog (Solicitor)

Telephone: (07) 3258 6627

#### ***Environment Australia (EA)***

Phone (02) 6274 1111

Fax (02) 02) 6274 1666

Email via internet <http://www.ea.gov.au/about/comments.html>

Address John Gorton Building

King Edward Terrace

Parkes ACT 2600

Mailing address GPO Box 787, Canberra ACT, 2601

Internet address <http://www.ea.gov.au/>

#### ***Agriculture, Fisheries and Forestry Australia (AFFA)***

Phone (02) 6272 3933

Address Edmund Barton Building

Broughton St, Bardon

Mailing address GPO Box 858, Canberra ACT, 2601

Internet address <http://www.affa.gov.au/>

#### ***Meat and Livestock Australia (MLA)***

MLA Hotline 1800 635 445

Email [mlahotline@ozemu.com](mailto:mlahotline@ozemu.com)

Internet address <http://www.mla.com.au/>

### Information Sources:

#### Commonwealth Government Departments

Environment Australia <http://www.ea.gov.au/>

Agriculture, Fisheries and  
Forestry Australia <http://www.affa.gov.au/>

Australian Greenhouse  
Office <http://www.greenhouse.gov.au/>

EPBC Act <http://www.environment.gov.au/epbc/>

Environment Industries Focus Group (Environment Australia)	<a href="http://www.environment.gov.au/epg/eifu/index.htm">http://www.environment.gov.au/epg/eifu/index.htm</a>
ANZECC	<a href="http://www.environment.gov.au/psg/igu/anzecc/index.html">http://www.environment.gov.au/psg/igu/anzecc/index.html</a>
National Heritage Trust	<a href="http://www.nht.gov.au/">http://www.nht.gov.au/</a>
National Pollutant Inventory	<a href="http://www.environment.gov.au/epg/npi/">http://www.environment.gov.au/epg/npi/</a>
NEPC	<a href="http://www.nepc.gov.au/">http://www.nepc.gov.au/</a>
Public Environment Reporting Website (Environment Australia)	<a href="http://www.ea.gov.au/industry/sustainable/per/">http://www.ea.gov.au/industry/sustainable/per/</a>

**Australian Meat Websites**

AUS-MEAT	<a href="http://www.ausmeat.com.au/">http://www.ausmeat.com.au/</a>
Australian Meat Council	<a href="http://www.amc.asn.au/">http://www.amc.asn.au/</a>
Australian Meat Processor Corporation	<a href="http://www.ampc.com.au/">http://www.ampc.com.au/</a>
Meat & Livestock Australia	<a href="http://www.mla.com.au/">http://www.mla.com.au/</a>
Meat Standards Australia	<a href="http://msa.une.edu.au/">http://msa.une.edu.au/</a>
National Meat Association of Australia	<a href="http://www.nmaa.org.au/">http://www.nmaa.org.au/</a>
Red Meat Advisory Council	<a href="http://www.rmac.com.au/">http://www.rmac.com.au/</a>