

**ENVIRONMENTALLY HAZARDOUS CHEMICALS ACT
1985—REGULATION**

(Environmentally Hazardous Chemicals Regulation 1994)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council,
and in pursuance of the Environmentally Hazardous Chemicals Act 1985,
has been pleased to make the Regulation set forth hereunder.

CHRISTOPHER HARTCHER, MP,
Minister for Environment.

Citation

1. This Regulation may be cited as the Environmentally Hazardous Chemicals Regulation 1994.

Commencement

2. This Regulation commences on 1 September 1994.

Definitions

3. In this Regulation:

“fee unit” means \$6;

“the Act” means the Environmentally Hazardous Chemicals Act 1985.

Alternate members of the Hazardous Chemicals Advisory Committee

4. (1) A person or body entitled to nominate, for the purposes of Schedule 1 to the Act, one or more nominees for membership of the Committee is entitled to nominate an alternate member for each nominee of the person or body.

(2) The Local Government Association of New South Wales or the Shires Association of New South Wales, or both, may nominate alternatives for the persons nominated by them.

(3) The Minister may select:

- (a) from the persons nominated under subclause (2), a person as an alternate member for the member selected from persons nominated by the Local Government Association of New South Wales or the Shires Association of New South Wales, or both; and
- (b) a person as an alternate member for the member of the Committee selected by the Minister to represent major users of chemicals in New South Wales.

(4) During the illness or absence of a member of the Committee, the alternate member has and may exercise the functions of the member.

Applications for assessments of prohibited activities: sec. 13

5. (1) For the purposes of section 13 (2) of the Act, the prescribed fee to accompany an application for an assessment of a prescribed activity in relation to a chemical or a declared chemical waste is 200 fee units.

(2) For the purposes of section 13 (3) of the Act, the prescribed kinds of data relating to a prescribed activity to be restricted are:

- (a) a name, description or formula of a chemical in relation to which the prescribed activity is proposed to be carried on, or any other information which would reveal its chemical identity; and
- (b) any physical or chemical data which would reveal the chemical identity of a chemical referred to in paragraph (a); and
- (c) data from toxicological and ecotoxicological tests, but not the results of any such tests; and
- (d) genuine manufacturing or other industrial or commercial secrets; and
- (e) data which are the same as, or virtually the same as, or which include, data whose disclosure has been restricted in accordance with the Act or any Act of the Commonwealth or of a State or a Territory of the Commonwealth relating to chemicals or chemical wastes.

Assessments of chemicals: sec. 19

6. (1) For the purposes of section 19 of the Act, the prescribed particulars to be contained in a notice of intention to assess a listed chemical are:

- (a) the chemical name or identity of the listed chemical; and

(b) the name and address of the person with whom submissions may be lodged and the date by which any such submissions must be lodged; and

(c) the address at which data, if any, on the chemical may be inspected.

(2) For the purposes of section 19 of the Act, the minimum prescribed time to be inserted in notices in relation to submissions is 30 days.

Application fees: sec. 28

7. (1) For the purposes of section 28 (1) (b) of the Act, the prescribed fee to accompany an application for a licence to carry on a prescribed activity with respect to an environmentally hazardous chemical or a declared chemical waste is 100 fee units.

(2) For the purposes of section 28 (1) (b) of the Act, the prescribed fee to accompany an application for renewal of a licence to carry on a prescribed activity with respect to an environmentally hazardous chemical or a declared chemical waste is 50 fee units.

Notices about licence applications: sec. 28

8. (1) For the purposes of section 28 (3) (a) of the Act, the prescribed particulars to be included in a notice of an application for a licence are:

(a) the applicant's name and address; and

(b) the address of the premises, if any, in respect of which the application is made; and

(c) the name or description of the chemical or declared chemical waste to which the application relates; and

(d) details or a description of any chemical control order in force in respect of the chemical or declared chemical waste; and

(e) a list and details of the prescribed activities for which the licence is sought.

(2) Nothing in this clause requires the inclusion in the notice of matter that is required by the Act not to be disclosed or the disclosure of any matter except in the manner in which it is required by the Act to be disclosed.

Licence fees: sec. 58

9. The fee for a licence (including a renewed licence) is 50 fee units.

Fees for transfer of licences: sec. 29A

10. For the purposes of section 29A (2) (b) of the Act, the prescribed fee to accompany an application for the transfer of a licence is 50 fee units.

Notices about transfer applications: sec. 29A

11. (1) For the purposes of section 29A (4) (a) of the Act, the prescribed particulars to be included in a notice of an application for the transfer of a licence are:

- (a) the applicant's name and address; and
- (b) the name and address of the current holder of the licence; and
- (c) the address of the premises, if any, in respect of which the licence is held; and
- (d) the name or description of the chemical or declared chemical waste to which the licence relates; and
- (e) details or a description of any chemical control order in force in respect of the chemical or declared chemical waste; and
- (f) a list and details of the prescribed activities for which the licence is sought.

(2) Nothing in this clause requires the inclusion in the notice of matter that is required by the Act not to be disclosed or the disclosure of any matter except in the manner in which it is required by the Act to be disclosed.

Time before appeals may be made: sec. 37

12. For the purposes of section 37 (1) of the Act, the prescribed time for failure by the Authority to notify a decision is 60 days.

Times within which appeals may be made: secs. 38, 39, 40

13. (1) For the purposes of section 38 (1) of the Act, the prescribed time within which a person may appeal against a chemical control order or a determination under section 20 (d) of the Act is 30 days.

(2) For the purposes of section 39 (1) of the Act, the prescribed time within which a person may appeal against a decision of the Authority about a licence is 30 days.

(3) For the purposes of section 40 (1) of the Act, the prescribed time within which a person may appeal against a direction of the Authority under section 35 (1) of the Act is 15 days.

(4) For the purposes of section 40 (2) of the Act, the prescribed time within which a person may appeal against a direction of the Authority under section 35 (1) of the Act is 15 days.

Form of receipt: sec. 45

14. For the purposes of section 45 (3) of the Act, the prescribed form of receipt to be given by an authorised officer is Form 1 in Schedule 1.

Seized property: sec. 48

15. For the purposes of section 48 (3) (b) of the Act, the prescribed manner for advertising a notice of an application for forfeiture of seized property is by advertising in a newspaper circulating in New South Wales.

Registers of declared chemical wastes, chemical control orders and licences: sec. 52

16. For the purposes of section 52 (2) of the Act, the prescribed particulars to be included in a register are:

- (a) in the case of the register of declared chemical wastes—a copy of every order in force under section 10 of the Act; and
- (b) in the case of the register of chemical control orders—a copy of every chemical control order in force; and
- (c) in the case of the register of licences—a certified copy of each licence currently in force.

Rounding down of payments

17. If a person offers payment in cash of an amount payable to the Authority under the Act which is not a multiple of 5 cents, the Authority may round the amount down to the nearest multiple of 5 cents. The amount so rounded down is taken to be the amount payable to the Authority.

Repeal and savings

18. (1) The Environmentally Hazardous Chemicals Regulation 1985 is repealed.

(2) Any act, matter or thing which had effect immediately before the repeal is taken to have effect under this Regulation.

SCHEDULE 1

(Cl. 14)

Form 1

Environment Protection Authority

ENVIRONMENTALLY HAZARDOUS CHEMICALS ACT 1985

(Section 45 (3) (a) and (b))

RECEIPT FOR TAKING A SAMPLE OF A SUBSTANCE OR REMOVING
ANY SUBSTANCE OR CONTAINERTo
(name of occupier of premises)of
.....
(address of premises)I,
(name of authorised officer)an authorised officer under the Environmentally Hazardous Chemicals Act 1985,
acknowledge by this receipt that I have today

* taken from the above premises a sample of the following substance:

.....
.....
(name or description of substance—use separate page if insufficient space)
in a quantity of
(approximate quantity of sample)

* removed the following substance/container(s) from the above premises:

.....
.....
(name or description of substance or container—use separate page if
insufficient space)in a quantity of
(approximate quantify of substance or size and number of
containers)

.....
(signature of authorised officer)

.....
(address of authorised officer)

*Delete matter which is not applicable

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SCHEDULE 1

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, without any changes in substance, the provisions of the Environmentally Hazardous Chemicals Regulation 1985.

The new Regulation prescribes matters necessary for the operation of the Environmentally Hazardous Chemicals Act 1985, including:

- providing for the appointment of alternate members of the Hazardous Chemicals Advisory Committee; and

- matters to be included in applications for assessment of prescribed activities by the Environment Protection Authority and the fees for applications; and
- matters to be included in notices issued by the Environment Protection Authority about assessments of chemicals; and
- fees for licences to carry on prescribed activities in relation to environmentally hazardous chemicals or declared chemical wastes and matters to be included in notices issued by the Environment Protection Authority about applications for such licences; and
- fees for the transfer of such licences and matters to be included in notices issued by the Environment Protection Authority about applications for the transfer of licences; and
- the form for a receipt for property seized by authorised officers and the manner of advertising the proposed forfeiture of seized property; and
- information to be included in registers established under the Act.

This Regulation also repeals the Environmentally Hazardous Chemicals Regulation 1985 and saves things done under that Regulation.

This Regulation is made under the Environmentally Hazardous Chemicals Act 1985, including sections 13, 19, 28, 29A, 37, 38, 39, 40, 45, 48, 52 and 58 and Schedule 1.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
