



New South Wales

# Contaminated Land Management Regulation 1998

under the

Contaminated Land Management Act 1997

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Contaminated Land Management Act 1997*.

PAM ALLAN, M.P.,  
Minister for the Environment

## Explanatory note

The object of this Regulation is to prescribe for the purposes of the *Contaminated Land Management Act 1997* (***the Act***):

- (a) the rate at which the Environment Protection Authority (the EPA) may recover costs incurred in connection with the preparation and service of, the monitoring of action under, and the seeking of compliance with, investigation and remediation orders, and
- (b) additional material that is to be included in the record maintained by the EPA under section 58 of the Act, and
- (c) the form to be used in notifying the EPA of the contamination of land, and
- (d) the time within which a statement of reasons for certain determinations of the EPA must be provided to persons requesting them.

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Explanatory note

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This Regulation also contains transitional provisions relating to the appointment and identification of authorised officers for the purposes of the Act. It also repeals the *Contaminated Land Management (Site Auditors) Regulation 1998*. That Regulation is remade (with minor changes) as Part 3 (and Form 2) of this Regulation.

This Regulation is made under sections 34, 49, 50, 53, 56, 58, 60, 106 and 112 (the general regulation-making power) of, and clause 1 of Schedule 2 to, the Act.

Parts 1 and 5 of this Regulation comprise or relate to matters of a machinery nature, and Part 4 comprises or relates to matters of a transitional nature.

## Contaminated Land Management Regulation 1998

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## 1998 No 471

Clause 1 Contaminated Land Management Regulation 1998

Part 1 Preliminary

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# Contaminated Land Management Regulation 1998

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Contaminated Land Management Regulation 1998*.

### 2 Commencement

- (1) This Regulation commences on the day on which it is published in the Gazette, except as otherwise provided by this clause.
- (2) Part 2 of this Regulation commences on the commencement of Part 3 of the *Contaminated Land Management Act 1997*.
- (3) Part 4 of this Regulation commences on the commencement of Part 9 of the *Contaminated Land Management Act 1997*.

### 3 Definitions

In this Regulation:

- (a) *the Act* means the *Contaminated Land Management Act 1997*, and
- (b) a reference to a Form is a reference to a Form set out in Schedule 1.

### 4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

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**Part 2 Prescription of certain matters for the purposes of the Act**

**5 Recovery of EPA's administrative costs associated with orders (section 34)**

- (1) For the purposes of section 34 (a), (b) and (c) of the Act, the rate of \$40 per hour (or part of an hour) is prescribed in respect of costs involved in connection with preparing and serving, monitoring action under, and seeking compliance with, an investigation or remediation order.
- (2) On service of an investigation or remediation order, the EPA is to give the person on whom the order is served written notification of the rate prescribed by this clause.

**6 EPA's record of current declarations and orders (section 58)**

Copies of notices served under section 28 (that is, notices requiring the maintenance of remediation action in relation to land) are prescribed as material that must be included in the record maintained by the EPA under section 58 of the Act.

**7 Duty to report contamination (section 60)**

A notification under section 60 (1) or (2) (that is, a notification that land has been contaminated) is to be given using Form 1.

**8 Reasons for certain decisions (section 106)**

A statement of reasons requested as referred to in section 106 (1) (that is, a statement of the reasons for the EPA's determination that it does not have reason to believe that land is contaminated in such a way as to present a significant risk of harm) must be provided to the person making the request within 30 days after the EPA receives the request.

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Clause 9 Contaminated Land Management Regulation 1998

Part 3 Site auditors

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### Part 3 Site auditors

#### 9 Accreditation fees

- (1) For the purposes of section 49 (1) (c) of the Act, the prescribed application fee is \$285.
- (2) For the purposes of section 50 (1) and (4) (d) of the Act, the prescribed annual accreditation fee is as follows:
  - (a) for accreditation granted during the first year following 1 June 1998—\$1400,
  - (b) for accreditation granted or renewed during the second year following 1 June 1998—\$1900,
  - (c) for accreditation granted or renewed during the third year following 1 June 1998—\$2400,
  - (d) for accreditation granted or renewed during the fourth year following 1 June 1998—\$2900,
  - (e) for accreditation granted or renewed during the fifth or any subsequent year following 1 June 1998—\$3500.

**Note.** 1 June 1998 was the date on which the *Contaminated Land Management (Site Auditors) Regulation 1998* commenced.

#### 10 Time for making renewal applications

For the purposes of section 50 (3) of the Act, an application for renewal must be made not more than 60 days and not less than 30 days before expiry of the current accreditation period.

#### 11 Particulars to be included in annual returns

For the purposes of section 53 (2) of the Act, the prescribed particulars to be included in an annual return are the following particulars of each site audit as at the date of completion of the audit (or if the audit is not complete, as at the date of the annual return):

- (a) the location of the site (including Lot and DP numbers, street address, suburb and local government area),
- (b) the size of the site, its land zoning under the *Environmental Planning and Assessment Act 1979* and (if a change in zoning is proposed) its proposed zoning,

- (c) the date when the auditor received the request,
- (d) the date of commencement of the audit,
- (e) the date or expected date of completion of the audit,
- (f) the use or uses of the site that have given rise to the contamination for which remedial action was carried out,
- (g) the current use to which the site is being put and any proposed uses,
- (h) the auditor's opinion as to the suitability of the site for the current and proposed uses,
- (i) the name of the person who carried out the remedial work that was reviewed or is being reviewed by the auditor and the titles of the reports (if any) by that person that were or are being reviewed.

## **12 Form of site audit statement**

A site audit statement is to be prepared using Form 2.

## **13 Additional ground for revocation of accreditation**

For the purposes of section 56 (1) (e) of the Act, the repeated failure by a site auditor to comply with the guidelines made or approved by the EPA under the Act or other lawful directions given by the EPA in relation to his or her activities as a site auditor is prescribed as a ground for revocation of the site auditor's accreditation.

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Clause 14          Contaminated Land Management Regulation 1998

Part 4              Transitional

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### **Part 4          Transitional**

#### **14    Application of Part**

The provisions of this Part cease to have effect on the first anniversary of the commencement of this Part, unless they are sooner repealed.

#### **15    Authorised officers (section 73)**

A person who is for the time being an authorised officer within the meaning of the *Environmentally Hazardous Chemicals Act 1985* is taken to be appointed as an authorised officer under section 73 of the *Contaminated Land Management Act 1997* for the purposes of the latter Act.

#### **16    Identification (section 75)**

A certificate of appointment provided to an authorised officer within the meaning of the *Environmentally Hazardous Chemicals Act 1985* under section 45 (5) of that Act is, in so far as the officer is taken to be an authorised officer appointed under section 73 of the *Contaminated Land Management Act 1997*, taken to be the identification card required by section 75 of that Act.

## **Part 5      Miscellaneous**

### **17 Repeal**

- (1) The *Contaminated Land Management (Site Auditors) Regulation 1998* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Contaminated Land Management (Site Auditors) Regulation 1998*, had effect under (or was done for the purposes of) that Regulation continues to have effect under (or is taken to have been done for the purposes of) this Regulation.

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Contaminated Land Management Regulation 1998

Schedule 1 Forms

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**Schedule 1 Forms**

(Clause 3)

**Form 1 Contaminated Land Notification Form**

<b>Contaminated Land Notification Form</b> Section 60 of the <i>Contaminated Land Management Act 1997</i>	
This form should be completed by:	
(a) a person who becomes aware that the person's activities in, on or under land have contaminated the land in such a way as to present a significant risk of harm, or	
(b) an owner of land who becomes aware that the land has been contaminated (whether before or during the owner's ownership of the land) in such a way as to present a significant risk of harm.	
<b>1. Where to send completed forms</b>	
Contaminated Sites Section NSW EPA P O Box 1135 CHATSWOOD NSW 2057	
<b>2. Reporter details</b>	
Name:	Telephone Number (business hours):
	Fax Number (business hours):
Address:	I am: <input type="checkbox"/> the owner of the site <input type="checkbox"/> the person whose activities have contaminated the land
<b>3. Site details</b>	
Site or Establishment Name (if appropriate):	Street Address:
Lot and DP Number:	Local Government Area:
Owner(s)	Occupier(s):
<b>4. Cause of contamination</b>	
Previous/present activities that caused or could have caused the significant risk of harm (where known):	



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Schedule 1      Forms

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**11. Signature (in the case of a notice lodged by one or more individuals)**

The matters contained in this notification are, to the best of my knowledge, true, accurate and complete.

Name:

Name:

Signature:

Signature:

Date:

Date:

If the notification is made by one or more individuals, the form must be signed by each individual concerned.

If the notification is made by a corporation, the form must be signed:

- (a) by affixing the common seal of the corporation, or
- (b) personally by a person authorised to do so by the corporation.

**Form 2 NSW Environment Protection Authority  
Site Audit Statement**

**Site Audit Statement No:** .....

**Site Auditor** (accredited under *Contaminated Land Management Act 1997*):

Name: ..... Company: .....

Address: ..... Postcode: .....

Phone: ..... Fax: .....

**Site details:**

Address: .....

..... Postcode: .....

Lot and DP number: .....

Local government area: .....

**Site audit requested by:**

Name: ..... Company: .....

Address: ..... Postcode: .....

Phone: ..... Fax: .....

Name of Contact Person (if different from above):

.....

**Consultancy(ies)** who conducted the site investigation(s) and/or remediation:

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**Title(s) of report(s)** reviewed:

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**Other information** reviewed:

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Schedule 1 Forms

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**Summary Site Audit Report** title:

.....  
..... Date: .....

I have completed a site audit (as defined in the *Contaminated Land Management Act 1997*) and reviewed the reports and information referred to above with due regard to relevant laws and guidelines. I certify that the site (tick all appropriate boxes):

**(a) is suitable for the following use(s):**

- residential, including substantial vegetable garden and poultry;
- residential, including substantial vegetable garden excluding poultry;
- residential with accessible soil, including garden (minimal home-grown produce contributing less than 10% fruit and vegetable intake) excluding poultry;
- residential with minimal opportunity for soil access, including units;
- daycare centre, preschool, primary school;
- secondary school;
- park, recreational open space, playing field;
- commercial/industrial use;
- other (please specify): .....

**subject to**

- condition(s) (please specify): .....

**(b) is not suitable for any beneficial use due to risk of harm from contamination.**

- (comments): .....

I am accredited by the NSW Environment Protection Authority under the *Contaminated Land Management Act 1997* as a site auditor (Accreditation Number: .....

I certify that:

- (a) I have personally examined and am familiar with the Information contained in this statement. Including the reports and information referred to in this statement, and
- (b) this statement is, to the best of my knowledge, true, accurate and complete, and
- (c) on the basis of my inquiries made to those Individuals immediately responsible for making the reports, and obtaining the Information, referred to in this statement, those reports and that information are, to the best of my knowledge, true, accurate and complete.

I am aware that there are penalties for wilfully submitting false, inaccurate or incomplete Information.

Signed ..... Date: .....