



New South Wales

# Protection of the Environment Operations (General) Amendment (Fees and Penalty Notices) Regulation 2014

under the

Protection of the Environment Operations Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

ROBERT STOKES, MP  
Minister for the Environment

## Explanatory note

The object of this Regulation is to amend the *Protection of the Environment Operations (General) Regulation 2009* as follows:

- (a) to increase the penalty notice amounts payable under penalty notices in respect of certain offences under the *Protection of the Environment Operations Act 1997 (the Act)*, the *Protection of the Environment Operations (Clean Air) Regulation 2010 (the Clean Air Regulation)* and the *Protection of the Environment Operations (Noise Control) Regulation 2008*,
- (b) to prescribe different penalty notice amounts in respect of certain penalty notice offences under the Act based on whether the enforcement officer serving the penalty notice is a class 1 enforcement officer (generally, a member of staff of a local authority) or any other class of enforcement officer,
- (c) to expand the penalty notice offences in relation to which members of staff of the Western Sydney Parklands Trust can be authorised to issue penalty notices to include the offence under section 143 of the Act concerning the unlawful transportation of waste,
- (d) to enable persons employed in the Office of Environment and Heritage to be authorised to issue penalty notices in relation to littering offences under the Act and offences under the Clean Air Regulation concerning burning in the open air or in incinerators,
- (e) to prescribe the administrative fee units used to calculate licence application fees, and annual licence fees, relating to waste processing (otherwise than by thermal treatment) of liquid waste or waste oil,
- (f) to make other changes by way of law revision (including updating references to Departments and to the head of the Office of Environment and Heritage).

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 53 (2) (c), 57 (1), 222, 226 (1), 227 (1) and (3) and 323 (the general regulation-making power) and Schedule 2.

## **Protection of the Environment Operations (General) Amendment (Fees and Penalty Notices) Regulation 2014**

under the

Protection of the Environment Operations Act 1997

### **1 Name of Regulation**

This Regulation is the *Protection of the Environment Operations (General) Amendment (Fees and Penalty Notices) Regulation 2014*.

### **2 Commencement**

This Regulation commences on 29 August 2014 and is required to be published on the NSW legislation website.

## **Schedule 1      Amendment of Protection of the Environment Operations (General) Regulation 2009**

**[1]    Clause 3 Definitions**

Omit the definitions of *Department* and *Director-General*.

**[2]    Clause 43 Members**

Omit “the Department” wherever occurring in clause 43 (2) (a) and (b) (iv).

Insert instead “the EPA or the Office of Environment and Heritage”.

**[3]    Clause 81 Enforcement officers**

Omit “the Department” from clause 81 (6) (a) (ii).

Insert instead “the Office of Environment and Heritage”.

**[4]    Clause 81 (6) (b) and (c)**

Omit the paragraphs. Insert instead:

(b) class 2—a member of staff of the EPA,

(c) class 3—a member of staff of the EPA,

**[5]    Clause 81 (6) (h)**

Omit “Office of the”.

**[6]    Clause 81 (6) (i)**

Omit the paragraph. Insert instead:

(i) class 9—a member of staff of:

(i) the Department of Premier and Cabinet in relation to a penalty notice offence alleged to have been committed on land vested in the Centennial Park and Moore Park Trust or in the Parramatta Park Trust, or

(ii) Venues NSW in relation to a penalty notice offence alleged to have been committed on land comprised in Parramatta Stadium (being Lots 951–965 in Deposited Plan 42643) that is vested in Venues NSW,

**[7]    Clause 81 (6) (k)**

Omit “, the Office of the Sydney Olympic Park Authority or the Western Sydney Parklands Trust”.

Insert instead “or the Sydney Olympic Park Authority”.

**[8]    Clause 81 (6) (m)**

Omit “Division of the Government Service of New South Wales”.

**[9]    Clause 81 (6) (p) and (q)**

Insert after clause 81 (6) (o):

(p) class 16—a member of staff of the Western Sydney Parklands Trust,

(q) class 17—a member of staff of the Office of Environment and Heritage.

**[10] Clause 81 (6), note**

Omit the note. Insert instead:

**Note.** Section 59 of the *Government Sector Employment Act 2013* provides that a reference to a member of staff of a statutory body is to be read as including a reference to a Public Service employee who is employed to enable the statutory body to exercise its functions and to any other person whose services the statutory body makes use of (whether by way of secondment or otherwise).

See also section 68HA (5) of the *Transport Administration Act 1988* in relation to references to the staff of Roads and Maritime Services and the staff of Transport for NSW.

**[11] Clause 81 (8)**

Omit the subclause.

**[12] Clause 87 Chief Executive of Office of Environment and Heritage**

Omit “Director-General” wherever occurring in clause 87.

Insert instead “Chief Executive of the Office of Environment and Heritage”.

**[13] Schedule 1 Licensing fees**

Omit the matter relating to “**WASTE PROCESSING (NON-THERMAL TREATMENT)**”.

Insert instead:

**WASTE PROCESSING (NON-THERMAL TREATMENT)**

**Non-thermal treatment of general waste (see clause 41 (1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

**Annual processing capacity**

**Administrative fee units**

Any capacity

16

**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**Non-thermal treatment of hazardous and other waste (see clause 41 (1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

**Annual processing capacity**

**Administrative fee units**

Any capacity

32

**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**Non-thermal treatment of liquid waste (see clause 41 (1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

**Annual processing capacity**

**Administrative fee units**

Any capacity

32

**WASTE PROCESSING (NON-THERMAL TREATMENT)**

**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**Non-thermal treatment of waste oil (see clause 41 (1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

<b>Annual processing capacity</b>	<b>Administrative fee units</b>
Not more than 1,000 tonnes	25
More than 1,000 tonnes	65

**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**Non-thermal treatment of waste tyres (see clause 41 (1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

<b>Annual processing capacity</b>	<b>Administrative fee units</b>
Any capacity	12

**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**[14] Schedule 6 Penalty notice offences**

Omit the matter relating to the *Protection of the Environment Operations Act 1997*.

Insert instead:

**Protection of the Environment Operations Act 1997**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Act</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Section 47	3	\$4,000	\$8,000
Section 48	3	\$7,500	\$15,000
Section 49	3	\$7,500	\$15,000
Section 64 failing to submit an annual return by the time required by the condition of a licence	3	\$1,500	\$3,000
Section 64 in any other case	3	\$7,500	\$15,000
Section 66 (2)	3	\$4,000	\$8,000
Section 66 (4)	3	\$4,000	\$8,000
Section 66 (6)	3	\$500	\$1,000
Section 66 (7)	3	\$500	\$1,000
Section 86	3	\$4,000	\$8,000
Section 88	3	\$4,000	\$8,000

**Protection of the Environment Operations Act 1997**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Act</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Section 91	1, 2, 12, 13, 14	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 94	1, 2, 12, 13, 14	\$500	\$1,000
Section 97	1, 2, 12, 13, 14	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 100	1, 2, 12, 13, 14	\$500	\$1,000
Section 120	1, 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 124	1, 2, 14, 15	\$2,000 (if the penalty notice is served by a class 1 enforcement officer) or \$4,000 (in any other case)	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$8,000 (in any other case)
Section 125	1, 2, 14, 15	\$2,000 (if the penalty notice is served by a class 1 enforcement officer) or \$4,000 (in any other case)	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$8,000 (in any other case)
Section 126	1, 2, 14, 15	\$2,000 (if the penalty notice is served by a class 1 enforcement officer) or \$4,000 (in any other case)	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$8,000 (in any other case)
Section 128	1, 2, 14, 15	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 129	3	\$4,000	\$8,000
Section 135	1, 2	\$200	\$400

**Protection of the Environment Operations Act 1997**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Act</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Section 135C (1)	1 (limited to member of staff of local authority)	\$200	\$400
Section 136 sell article of prescribed class (other than a motor vehicle horn or motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs by less than 5dB(A)	3	\$200	\$400
Section 136 sell article of prescribed class (other than a motor vehicle horn or motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs by 5dB(A) or more	3	\$400	\$800
Section 136 sell article of prescribed class (being a motor vehicle horn or a motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs	3	\$300	\$600
Section 137	1, 2	\$200	\$400
Section 139	1, 2, 14	\$750	\$1,500
Section 140	1, 2, 14	\$750	\$1,500
Section 142A	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 143 transport waste, being waste comprising asbestos waste or hazardous waste (within the meaning of Schedule 1 to the Act), or any other waste greater than 1 cubic metre in volume or 2 tonnes in weight, to a place that cannot lawfully be used as a waste facility for that waste	1, 2, 5, 13, 16	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)

**Protection of the Environment Operations Act 1997**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Act</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Section 143 transport other waste to a place that cannot lawfully be used as a waste facility for that waste	1, 2, 5, 13, 16	\$2,000 (if the penalty notice is served by a class 1 enforcement officer) or \$4,000 (in any other case)	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$8,000 (in any other case)
Section 144	1, 2, 5, 13	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 144AA (1)	2	\$4,000	\$8,000
Section 145 deposit litter that is a small item, including a confectionery wrapper, cigarette packet, ATM statement or bus or train ticket (excluding a cigarette and excluding litter deposited from a vehicle)	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$80	—
Section 145 deposit other litter (excluding a cigarette and excluding litter deposited from a vehicle)	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$250	\$500
Section 145 deposit litter that is an unlit or extinguished cigarette (excluding litter deposited from a vehicle)	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$80	—
Section 145 deposit litter that is a lit cigarette (excluding litter deposited from a vehicle)	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$250	—
Section 145 deposit litter from a vehicle	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$250	\$500
Section 145A deposit litter (for example, a lit cigarette) in dangerous circumstances, including the deposit of a syringe	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$450	\$900
Section 146A	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$200	\$400
Section 146B	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$200	\$400
Section 146C	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$200	\$400
Section 146E (1)	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$200	\$400



**Protection of the Environment Operations Act 1997**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Act</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Section 146E (2)	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$200	\$400
Section 146E (3)	1, 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$375	\$750
Section 152	1, 2	\$2,000 (if the penalty notice is served by a class 1 enforcement officer) or \$4,000 (in any other case)	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$8,000 (in any other case)
Section 153A	3	\$4,000	\$8,000
Section 153B	3	\$4,000	\$8,000
Section 153D	3	\$4,000	\$8,000
Section 153E	3	\$4,000	\$8,000
Section 153F	3	\$4,000	\$8,000
Section 155	3	\$750	\$1,500
Section 156	3	\$750	\$1,500
Section 157 (1)	3	\$750	\$1,500
Section 157 (2)	3	\$750	\$1,500
Section 161 (4)	3	\$300	\$600
Section 161 (7)	3	\$300	\$600
Section 167	1, 2	\$2,000 (if the penalty notice is served by a class 1 enforcement officer) or \$4,000 (in any other case)	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$8,000 (in any other case)
Section 211 (1)	1, 2, 4, 5, 13, 14, 15	\$750	\$1,500
Section 265	1, 2, 4, 14	\$750	\$1,500
Section 267A (7)	1, 2, 4, 14	\$500	\$1,000
Section 277 (1) (a)	1, 2, 4, 5, 8, 14	\$300	\$600
Section 277 (1) (b)	1, 2, 4, 5, 8, 14	\$300	\$600
Section 277 (2) (a)	1, 2, 4, 5, 8, 14	\$300	\$600
Section 277 (2) (b)	1, 2, 4, 5, 8, 14	\$300	\$600

**[15] Schedule 6**

Insert “, 17” after “2” wherever occurring in Column 2 of the matter relating to clauses 10, 11 and 12 of the *Protection of the Environment Operations (Clean Air) Regulation 2010*.

**[16] Schedule 6**

Omit the matter relating to clause 16 (1) of the *Protection of the Environment Operations (Clean Air) Regulation 2010*.

Insert instead:

Clause 16 (1) in relation to the emission of excessive air impurities by a heavy vehicle (within the meaning of the <i>Road Transport Act 2013</i> ) being used in the M5 East Tunnel	3	\$2,000	—
Clause 16 (1) in any other case	3	\$300	\$600

**[17] Schedule 6**

Omit the matter relating to clause 23 (1) of the *Protection of the Environment Operations (Clean Air) Regulation 2010*.

Insert instead:

Clause 23 (1) failure to ensure that any catalytic converter that has been fitted to the motor vehicle has not been removed, disconnected or impaired	3	\$500	\$1,000
Clause 23 (1) in any other case	3	\$300	—

**[18] Schedule 6**

Omit the matter relating to the *Protection of the Environment Operations (Noise Control) Regulation 2008*.

Insert instead:

<b>Protection of the Environment Operations (Noise Control) Regulation 2008</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 5 (1)	3	\$300	\$600
Clause 10	3	\$300	\$600
Clause 11 (1)	3	\$300	\$600
Clause 12 (1) cause or permit use of vehicle capable of emitting noise exceeding maximum level by less than 5 dB(A)	3	\$150	\$300
Clause 12 (1) cause or permit use of vehicle capable of emitting noise exceeding maximum level by between 5 and 15 dB(A)	3	\$250	\$500
Clause 12 (1) cause or permit use of vehicle capable of emitting noise exceeding maximum level by more than 15 dB(A)	3	\$600	\$1,200
Clause 13	1, 2, 5	\$200	\$400
Clause 14 (1)	1, 2, 5	\$300	\$600
Clause 15 (1)	1, 2, 5	\$300	\$600
Clause 16	1, 2, 5	\$300	\$600
Clause 17 (1)	2, 5	\$200	—

**Protection of the Environment Operations (Noise Control) Regulation 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 18 (1)	2, 5	\$200	\$400
Clause 19 (1)	3	\$200	\$400
Clause 21 (1)	3	\$300	\$600
Clause 21 (2)	3	\$300	\$600
Clause 23	1, 2, 5	\$300	\$600
Clause 24 (1) cause or permit use of noisy vehicle intruder alarm (for up to 4 hours)	1, 2, 5, 8	\$300	\$600
Clause 24 (1) cause or permit use of noisy vehicle intruder alarm (for more than 4 hours and up to 8 hours)	1, 2, 5, 8	\$600	\$1,200
Clause 24 (1) cause or permit use of noisy vehicle intruder alarm (for more than 8 hours)	1, 2, 5, 8	\$900	\$1,800
Clause 25 (1)	3	\$300	\$600
Clause 26 (5)	2, 5	\$300	\$600
Clause 27 (4)	2, 5	\$300	\$600
Clause 27 (5)	2, 5	\$300	\$600
Clause 29	1, 4, 5, 14	\$300	\$600
Clause 30	1, 4, 5, 14	\$400	\$800
Clause 32 (1)	4, 5, 14	\$300	\$600
Clause 32 (2)	4, 5, 14	\$300	\$600
Clause 33	1, 4, 5, 14	\$300	\$600
Clause 34 (5)	4, 5, 14	\$400	\$800
Clause 35 (4)	4, 5, 14	\$400	\$800
Clause 35 (5)	4, 5, 14	\$400	\$800
Clause 50 (1)	1, 5	\$300	\$600
Clause 51 (1)	1, 5	\$300	\$600
Clause 52 (1)	1, 5	\$300	\$600
Clause 53 (1) cause or permit use of noisy building intruder alarm (for up to 4 hours)	1, 2, 5	\$300	\$600
Clause 53 (1) cause or permit use of noisy building intruder alarm (for more than 4 hours and up to 8 hours)	1, 2, 5	\$600	\$1,200
Clause 53 (1) cause or permit use of noisy building intruder alarm (for more than 8 hours)	1, 2, 5	\$900	\$1,800