



New South Wales

Protection of the Environment Operations (General) Amendment (Calculating Amount of Monetary Benefits) Regulation 2019

under the

Protection of the Environment Operations Act 1997

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

GABRIELLE UPTON, MP
Minister for the Environment

Explanatory note

The object of this Regulation is to prescribe a protocol to be used in determining the amount that represents the monetary benefit acquired by, or accrued or accruing to, a person as a result of that person committing an offence against the *Protection of the Environment Operations Act 1997* or the regulations made under that Act.

Section 249 of that Act authorises a court to order an offender to pay an additional penalty, as part of the penalty for committing the offence, of an amount that the court is satisfied, on the balance of probabilities, represents the amount of the monetary benefit. That additional amount is not subject to any maximum amount of penalty provided for the offence by or under that Act.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 249 and 323 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (General) Amendment (Calculating Amount of Monetary Benefits) Regulation 2019*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

3 Amendment of Protection of the Environment Operations (General) Regulation 2009

Clause 101A

Insert after clause 101:

101A Protocol for determining amount representing monetary benefits

For the purposes of section 249 (2A) of the Act, the document entitled *Protocol for calculating monetary benefits*, prepared by the EPA and published in the Gazette, as in force from time to time, is prescribed.