

Passed by both Houses



New South Wales

Environmental Legislation Amendment (Hazardous Chemicals) Bill 2024

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Council
2024*

Clerk of the Parliaments



New South Wales

Environmental Legislation Amendment (Hazardous Chemicals) Bill 2024

Act No _____, 2024

An Act to amend the *Protection of the Environment Operations Act 1997* to implement national reforms to the management of certain chemicals; and for related purposes.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Environmental Legislation Amendment (Hazardous Chemicals) Act 2024*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Repeal of Environmentally Hazardous Chemicals Act 1985 No 14

The following are repealed—

- (a) the *Environmentally Hazardous Chemicals Act 1985*,
- (b) the *Environmentally Hazardous Chemicals Regulation 2017*.

Schedule 1 Amendment of Protection of the Environment Operations Act 1997 No 156

[1] Section 3 Objects of Act

Insert after section 3(d)(v)—

- (vi) the proper environmental management of chemicals throughout their whole lifecycle,

[2] Section 69A

Insert after section 69—

69A Chapter extends to licence conditions relating to chemicals

This chapter extends to the exercise of a function relating to licence conditions under Part 9.3E.

[3] Section 169 Liability of directors etc for offences by corporation—offences attracting special executive liability

Insert after section 169(1A)(q)—

- (r) section 296C(1),
- (s) section 296E(1).

[4] Section 169A Liability of directors etc for offences by corporation—offences attracting executive liability generally

Insert after section 169A(1)(u)—

- (v) section 296F(7),
- (w) section 296L(1).

[5] Section 196 Powers of authorised officers to enter premises

Insert after section 196(1)(b)—

- (b1) premises at or from which the authorised officer reasonably suspects an offence against this Act or the regulations involving an industrial chemical or an environmentally hazardous chemical is being or is likely to be committed—at any time, and

[6] Section 206A

Insert after section 206—

206A Powers relating to vehicles suspected of transporting industrial chemicals or environmentally hazardous chemicals

- (1) An authorised officer who suspects on reasonable grounds that an industrial chemical or an environmentally hazardous chemical is being transported by, or is situated in a container being transported by, a vehicle or vessel may—
 - (a) if the vehicle or vessel is moving—direct that the vehicle or vessel be stopped, and
 - (b) take, for the purpose of examination or testing, samples of a substance being transported, and
 - (c) detain the vehicle or vessel for the time necessary to take the samples.
- (2) If the authorised officer suspects on reasonable grounds that the substance and a vehicle, vessel or container being used to transport the substance has been or

is being used in connection with an offence against this Act or the regulations, the authorised officer may do one or more of the following—

- (a) seize and remove the substance and the vehicle, vessel or container,
- (b) direct the occupier of the place where the substance is seized to keep the substance in that place,
- (c) direct the owner of the substance to keep the substance in a place under the control of the occupier or owner that will, in the officer's opinion, least endanger the environment,
- (d) give directions for, or in relation to, the detention of the substance, vehicle, vessel or container.

(3) Sections 199A–202 extend to the exercise of functions under this section.

[7] Section 213 Application of Chapter and extension of Chapter to other environment protection legislation

Omit section 213(2)(a) and (4)(a).

[8] Section 216 Time within which summary proceedings may be commenced

Omit section 216(6), definition of *prescribed offence*, paragraph (c2).

[9] Section 216(6) definition of “prescribed offence”

Insert after paragraph (c6)—

- (c7) an offence under section 296C(1), or
- (c8) an offence under section 296E(1), or

[10] Section 261 Certificate evidence of certain matters

Insert after section 261(2)(u)—

- (v) that, at a specified time, a chemical was or was not the subject of a chemical control order,
- (w) that, at a specified time, a chemical control order was or was not subject to specified conditions,
- (x) that, at a specified time, a chemical was or was not the subject of a chemical use notice,
- (y) that, at a specified time, an industrial chemical was or was not listed in the NSW IChEMS register,
- (z) that, at a specified time, a risk management measure was or was not specified in the NSW IChEMS register for an industrial chemical.

[11] Chapter 9 Miscellaneous

Insert after Part 9.3D—

Part 9.3E Chemicals

Division 1 Industrial chemicals

296 Definitions

In this division—

Commonwealth register means the Register within the meaning of the *Industrial Chemicals Environmental Management (Register) Act 2021* of the Commonwealth.

industrial chemical has the same meaning as in the *Industrial Chemicals Act 2019* of the Commonwealth.

manufacture, an industrial chemical, has the same meaning as in the *Industrial Chemicals Act 2019* of the Commonwealth.

use, an industrial chemical, has the same meaning as in the *Industrial Chemicals Act 2019* of the Commonwealth.

296A NSW Industrial Chemicals Environmental Management Standard Register

- (1) The Commonwealth register, as in force from time to time and as modified by the regulations, applies for the purposes of this part and may be referred to as the NSW Industrial Chemicals Environmental Management Standard Register (the *NSW IChEMS register*).
- (2) The regulations may modify the Commonwealth register for the purposes of the NSW IChEMS register, including by adding, varying or omitting matter.
Example—The regulations may modify the Commonwealth register by adding a chemical for inclusion in the NSW IChEMS register that is not listed in the Commonwealth register.
- (3) If a later amendment to the Commonwealth register is inconsistent with the regulations, the regulations prevail to the extent of any inconsistency.
- (4) Terms used in the NSW IChEMS register that have been applied from the Commonwealth register have the same meanings as in the Commonwealth register unless the regulations provide otherwise.

296B Users and manufacturers to comply with risk management measures

- (1) A person who manufactures or uses an industrial chemical listed in the NSW IChEMS register must comply with the risk management measures specified in the register for the chemical.
- (2) A failure to comply with a risk management measure referred to in subsection (1) is taken to be a pollution incident.

296C Person must not do things prohibited by NSW IChEMS register

- (1) A person must not do a thing in relation to an industrial chemical listed in the NSW IChEMS register if doing the thing is prohibited for the chemical in the register.

Maximum penalty—

- (a) for an individual—
 - (i) \$500,000, and
 - (ii) for each day the offence continues—\$60,000, or
- (b) otherwise—
 - (i) \$2,000,000, and
 - (ii) for each day the offence continues—\$120,000.

Note—An offence against this section committed by a corporation is an offence attracting special executive liability for a director or other person involved in the management of the corporation—see section 169.

- (2) An activity authorised by an environment protection licence is taken not to be a contravention of subsection (1).
- (3) A person is not guilty of an offence against subsection (1) if the person proves the thing was done in relation to the industrial chemical in a way specified in the NSW IChEMS register as an exception to the prohibition.

296D Licence conditions

- (1) The conditions of a licence may deal with the following in relation to an industrial chemical—
 - (a) implementing a decision to—
 - (i) list an industrial chemical in the NSW IChEMS register, or
 - (ii) specify a prohibition, restriction, risk management measure or other matter for, or in relation to, an industrial chemical listed in the NSW IChEMS register,
 - (b) engaging in or carrying on another activity involving an industrial chemical listed in the NSW IChEMS register.
- (2) A condition imposed under this section may require compliance with the condition within a specified period.

296E Failure to comply with phase-out conditions

- (1) If a phase-out condition of a licence is contravened by a person, each holder of the licence is guilty of an offence.
Maximum penalty—
 - (a) for an individual—
 - (i) \$500,000, and
 - (ii) for each day the offence continues—\$60,000, or
 - (b) otherwise—
 - (i) \$2,000,000, and
 - (ii) for each day the offence continues—\$120,000.

Note—An offence against this section committed by a corporation is an offence attracting special executive liability for a director or other person involved in the management of the corporation—see section 169.
- (2) The holder of a licence is not guilty of an offence against this section if the holder establishes that—
 - (a) the contravention of the condition was caused by another person, and
 - (b) the other person was not associated with the holder when the condition was contravened, and
 - (c) the holder took all reasonable steps to prevent the contravention of the condition.
- (3) Without limiting subsection (2)(b), a person is associated with the holder if the person is an employee, agent, licensee, contractor or subcontractor of the holder.
- (4) In this section—

holder, of a licence, includes—

 - (a) the former holder of the licence, and
 - (b) another person required to comply with the condition or to whom the condition applies.

phase-out condition means a condition—

 - (a) imposed on a licence in relation to a Schedule 6 or 7 chemical within the meaning of Schedule 1, and
 - (b) specified in the licence as a phase-out condition.

Division 2 Chemical use notices

296F Chemical use notices

- (1) The EPA may publish an order in the Gazette requiring a person to give information to the EPA in relation to a chemical (a **chemical use notice**) if—
 - (a) the chemical is listed in the NSW IChEMS register, or
 - (b) a chemical control order is in force for the chemical, or
 - (c) the chemical, in the EPA's opinion, has the potential to present a risk of harm to human health or the environment.
- (2) A chemical use notice may require persons who manufacture or use, or who intend to manufacture or use, the chemical—
 - (a) to give information to the EPA, and
 - (b) to pay to the EPA a fee in accordance with the regulations.
- (3) A chemical use notice must specify the following—
 - (a) the information that must be given,
 - (b) the time within which the information must be given.
- (4) A chemical use notice may specify the form and way in which the information must be given.
- (5) A chemical use notice may require a person to give information about the following—
 - (a) the chemical,
 - (b) if the person manufactures the chemical—the manufacture of the chemical by the person, or the use or proposed use of the chemical,
 - (c) if the person uses the chemical—the use of the chemical by the person,
 - (d) the use or manufacture of another substance or thing, including another chemical, that together with the chemical may increase the risk posed by the chemical,
 - (e) the person, including the contact details of the person,
 - (f) the premises at which the chemical is manufactured or used,
 - (g) the quantity of the chemical manufactured, used or stored at the premises,
 - (h) other information prescribed by the regulations.
- (6) A chemical use notice may require a person to update information given under the notice at the times or in the circumstances specified in the notice.
- (7) A person must comply with a chemical use notice.
Maximum penalty—
 - (a) for an individual—
 - (i) \$250,000, and
 - (ii) for each day the offence continues—\$60,000, or
 - (b) otherwise—
 - (i) \$1,000,000, and
 - (ii) for each day the offence continues—\$120,000.

Note—An offence against this section committed by a corporation is an offence attracting executive liability for a director or other person involved in the management of the corporation—see section 169A.

296G Use and disclosure of information

- (1) The EPA may, for the exercise of its functions, use information collected under a chemical use notice.
- (2) The EPA may disclose information collected under a chemical use notice if—
 - (a) the disclosure is to an agency of this or another Australian jurisdiction, and
 - (b) the EPA is reasonably satisfied the disclosure is relevant to the functions of the agency in relation to industrial chemicals.

296H Chemical use notice fees

- (1) The regulations may make provision about fees required to be paid to the EPA by persons who are required to give the EPA information under a chemical use notice.
- (2) Without limiting subsection (1), the regulations may make provision about the following—
 - (a) the method for determining the amount of the fees,
 - (b) the payment of the fees, including the period within which the fees must be paid, payment by instalments and the payment of interest on unpaid fees,
 - (c) the recovery of the fees by the EPA,
 - (d) the refund or waiver of the fees, in whole or in part, by the EPA,
 - (e) the reduction of the fees in specified circumstances, including the granting of fee discounts by the EPA.

Division 3 Chemical control orders

296I Grounds for making orders

- (1) The EPA may make an order (a *chemical control order*) prohibiting or regulating one or more of the following activities in relation to a chemical—
 - (a) manufacturing or processing the chemical,
 - (b) keeping or storing the chemical,
 - (c) distributing or transporting the chemical,
 - (d) using the chemical,
 - (e) selling or disposing of the chemical,
 - (f) an activity relating to an activity referred to in paragraphs (a)–(e).
- (2) The EPA may make the order if satisfied the order is necessary to prevent or minimise an adverse effect on the environment that may result from carrying on the activity in relation to the chemical.
- (3) Without limiting subsection (2), an activity that results or is likely to result in the following is taken to have an adverse effect on the environment—
 - (a) storing the chemical in accumulating deposits,
 - (b) dumping or abandoning the chemical,
 - (c) otherwise dealing with the chemical as waste.

296J Making orders

- (1) A chemical control order is made by publishing the order in the Gazette.

- (2) The order must include the following—
 - (a) the name of the chemical to which the order relates,
 - (b) for activities prohibited by the order—details of the activities,
 - (c) for activities regulated by the order—
 - (i) details of the activities, and
 - (ii) details of how the activities are regulated,
 - (d) the day on which the order commences,
 - (e) the grounds for making the order.
- (3) If the chemical to which the order relates is mixed with other chemicals or substances, the order may apply to the other chemicals or substances in the same way as it applies to the chemical.
- (4) An order must not be made in relation to—
 - (a) a chemical prescribed by the regulations, or
 - (b) a radioactive substance within the meaning of the *Protection from Harmful Radiation Act 1990*.

296K Date orders come into force

A chemical control order comes into force—

- (a) if the order is specified to be an emergency chemical control order—
 - (i) on the day the order is made, or
 - (ii) if a later date is specified in the order—on the later date, or
- (b) otherwise—
 - (i) on the date specified in the order, or
 - (ii) if the date specified is less than 21 days after the order is made—on the day that is 21 days after the order is made.

296L Person must comply with orders

- (1) A person must not carry on an activity in relation to a chemical in contravention of a chemical control order.

Maximum penalty—

- (a) for an individual—
 - (i) \$250,000, and
 - (ii) for each day the offence continues—\$60,000, or
- (b) otherwise—
 - (i) \$1,000,000, and
 - (ii) for each day the offence continues—\$120,000.

Note— An offence against this section committed by a corporation is an offence attracting executive liability for a director or other person involved in the management of the corporation—see section 169A.

- (2) A licence does not authorise the carrying out of an activity in contravention of a chemical control order.

296M Licence conditions

- (1) A condition of a licence may be imposed to prohibit or regulate one or more of the following activities in relation to a chemical—
 - (a) manufacturing or processing the chemical,

- (b) keeping or storing the chemical,
 - (c) distributing or transporting the chemical,
 - (d) using the chemical,
 - (e) selling or disposing of the chemical,
 - (f) an activity relating to an activity referred to in paragraphs (a)–(e).
- (2) Without limiting subsection (1), a condition of a licence may be imposed to require steps to be taken to secure premises or a storage area in or on which a chemical is stored.

Division 4 Assessment of technology

296N Application for assessment of technology

- (1) A person may apply to the EPA for an assessment of technology that the person proposes to use in relation to processing, remediating or disposing of—
- (a) a chemical the subject of a chemical control order, or
 - (b) an industrial chemical.
- (2) The application must be in the approved form.
- (3) The EPA may require the application to be accompanied by the fee prescribed by the regulations.

296O Requirement for assessment of technology

If a licence application has been made, the appropriate regulatory authority may, by written notice given to the applicant, require the applicant to apply to the EPA for an assessment of technology under section 296N if the authority considers it necessary to properly assess the application.

Division 5 Forfeiture of chemicals

296P Forfeiture of substances and containers by order of court

- (1) The Land and Environment Court may order the forfeiture of the following if a person is convicted of an offence against this part—
- (a) all or part of the chemical or a container of the chemical in relation to which the offence was committed,
 - (b) a substance or container of a substance seized in connection with the offence.
- (2) On the making of the order, the chemical or container becomes the property of the Crown.

296Q Retention and disposal of seized property

- (1) During the prescribed period, the EPA may do one or more of the following in relation to a substance or container seized under section 198 (a *seized substance or container*)—
- (a) keep the seized substance or container,
 - (b) return the seized substance or container to the person—
 - (i) from whom it was seized, or
 - (ii) who appears to the EPA to be its owner,

- (c) by written notice published on the EPA’s website, advertise that an application will be made on a specified day for forfeiture to the Crown of the seized substance or container.
- (2) The Land and Environment Court may, after determining the application, order—
 - (a) the return of the seized substance or container to a specified person, or
 - (b) the forfeiture to the Crown of the seized substance or container.
- (3) If not sooner forfeited or returned, a seized substance or container must, after the expiry of the prescribed period, be returned to the person—
 - (a) from whom it was seized, or
 - (b) who appears to the EPA to be its owner.
- (4) In this section—

prescribed period means—

 - (a) a period of 6 months commencing from the day of the seizure of the substance or container, or
 - (b) a longer period specified by the Land and Environment Court on the application of the EPA.

296R Disposal of forfeited property

- (1) A substance or container forfeited to the Crown must be disposed of in accordance with the direction of the EPA.
- (2) If a substance or container is disposed of by selling, the proceeds must be paid into the Consolidated Fund.

[12] Sections 297A and 297B

Re-number sections 296 and 297 as sections 297A and 297B, respectively.

[13] Section 308 Public register

Insert after section 308(2)(i)—

- (i1) for the EPA—details of each chemical use notice published under Part 9.3E, Division 2,
- (i2) for the EPA—details of each chemical control order published under Part 9.3E, Division 3,

[14] Section 319 Disclosure of information

Insert “or the management of chemicals” after “environment” in section 319(1)(e).

[15] Schedule 1 Scheduled activities

Insert after clause 18—

18A Environmentally hazardous chemicals

- (1) This clause applies to the following (each an *environmentally hazardous activity*)—
 - (a) an activity regulated by a chemical control order in relation to a chemical,
 - (b) an activity—
 - (i) described in this schedule, whether or not the activity is also declared to be a scheduled activity, and

- (ii) involving the use or manufacture of a Schedule 6 or 7 chemical that is subject to a restriction or risk management measure in the NSW IChEMS register.
- (2) An environmentally hazardous activity to which this clause applies is declared to be a scheduled activity.

[16] Schedule 1, clause 46

Insert after clause 45—

46 Environmentally hazardous chemicals—non-premises based

- (1) This clause applies to the following (each an *environmentally hazardous activity*)—
 - (a) an activity regulated by a chemical control order in relation to a chemical,
 - (b) an activity—
 - (i) described in this schedule, whether or not the activity is also declared to be a scheduled activity, and
 - (ii) involving the use of a Schedule 6 or 7 chemical that is subject to a restriction or risk management measure in the NSW IChEMS register.
- (2) An environmentally hazardous activity to which this clause applies is declared to be a scheduled activity.

[17] Schedule 1, clause 50(1)

Insert in alphabetical order—

Schedule 6 or 7 chemical means a chemical listed as a Schedule 6 or Schedule 7 chemical in the NSW IChEMS register.

[18] Schedule 2 Regulation-making powers

Insert “or volatile organic liquids” after “fuels” wherever occurring in clause 6A(2) and (3).

[19] Schedule 2

Insert at the end of the schedule, with appropriate clause numbering—

Chemicals

- (1) Prohibiting or regulating the use or manufacture of chemicals, including products or articles containing industrial chemicals.
- (2) In this clause—
 - article* has the same meaning as in the *Industrial Chemicals Act 2019* of the Commonwealth.
 - manufacture*—see section 296.
 - use*—see section 296.

[20] Schedule 5 Savings, transitional and other provisions

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Provisions consequent on enactment of Environmental Legislation Amendment (Hazardous Chemicals) Act 2024

Definitions

In this part—

environmentally hazardous chemical licence means a licence within the meaning of the *Environmentally Hazardous Chemicals Act 1985*, as in force immediately before its repeal.

repealed Act means the *Environmentally Hazardous Chemicals Act 1985*.

Continuation of chemical control orders and declarations of chemical waste

- (1) The repeal of the repealed Act does not affect the continued operation of a chemical control order.
- (2) On the repeal of the repealed Act, each declared chemical waste is taken to be an environmentally hazardous chemical under this Act.
- (3) In this clause—

chemical control order means an order in force under the repealed Act, section 22 or 23, immediately before its repeal.

declared chemical waste means a substance the subject of an order in force under the repealed Act, section 10, immediately before its repeal.

Determination of pending applications relating to environmentally hazardous chemical licences

- (1) An application for an environmentally hazardous chemical licence made under the repealed Act, but not yet determined on the commencement of this clause, must be determined as if it were an application for an environment protection licence under section 53.
- (2) An application for the transfer of an environmentally hazardous chemical licence made under the repealed Act, but not yet determined on the commencement of this clause, must be determined as if it were an application for the transfer of an environment protection licence under section 54.
- (3) A fee paid in relation to an application referred to in subsections (1) and (2) is taken to be a fee paid in relation to the application under this Act.

Conversion of environmentally hazardous chemical licences

- (1) An environmentally hazardous chemical licence in force immediately before the repeal of the repealed Act is taken to be an environment protection licence issued under this Act (a **converted licence**).
- (2) A converted licence is subject to the same conditions, and authorises the same activities, as the environmentally hazardous chemical licence.
- (3) The appropriate regulatory authority may reissue a converted licence to vary the conditions of the licence in accordance with section 58.
- (4) A converted licence remains in force, unless sooner surrendered, suspended or revoked, until the end of the period that the environmentally hazardous chemical licence would have remained in force if the licence had not been converted under this clause.
- (5) The holder of a converted licence does not commit an offence under section 153A if, no later than 3 months after the commencement of this clause, the

holder prepares a pollution incident response management plan that complies with Part 5.7A in relation to the activity to which the licence relates.

- (6) Section 57 does not apply to a converted licence.

Determination of pending applications for technology assessments

- (1) An application for an assessment of technology made under the repealed Act, but not yet determined on the commencement of this clause, must be determined as if it were an application for an assessment of technology under section 296N.
- (2) A fee paid in relation to an application referred to in subsection (1) is taken to be a fee paid in relation to the application under this Act.

[21] Dictionary

Omit the definition of *clean-up action*.

Insert in alphabetical order—

chemical control order has the same meaning as in section 296I(1).

chemical use notice has the same meaning as in section 296F(1).

clean-up action, in relation to a pollution incident, includes the following—

- (a) action to prevent, minimise, remove, disperse, destroy or mitigate pollution resulting or likely to result from the incident,
- (b) ascertaining the nature and extent of the pollution incident and of the actual or likely resulting pollution,
- (c) preparing and carrying out a remedial plan of action,
- (d) action to remove or store the following—
 - (i) waste disposed of on land unlawfully,
 - (ii) chemicals,
 - (iii) products or articles containing chemicals.

Commonwealth register, for Part 9.3E, Division 1—see section 296.

environmentally hazardous chemical means a chemical the subject of a chemical control order.

industrial chemical, for Part 9.3E, Division 1—see section 296.

manufacture, for Part 9.3E, Division 1—see section 296.

NSW IChEMS register has the same meaning as in section 296A(1).

use, for Part 9.3E, Division 1—see section 296.

Schedule 2 Other amendments

2.1 Fair Trading Act 1987 No 68

Schedule 1 Paramount legislation

Omit “*Environmentally Hazardous Chemicals Act 1985*”.

2.2 Land and Environment Court Act 1979 No 204

Section 17 Class 1—environmental planning and protection appeals

Omit section 17(f).

2.3 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Schedule 2 Search warrants under other Acts

Omit “*Environmentally Hazardous Chemicals Act 1985*, section 46”.

2.4 Protection of the Environment Administration Act 1991 No 60

[1] Section 3 Definitions

Omit section 3(1), definition of *environment protection legislation*, paragraph (e).

[2] Section 34A Environment Protection Authority Fund

Omit section 34A(3)(b)(iv).

2.5 Protection of the Environment Operations (General) Regulation 2022

[1] Section 73

Omit the section. Insert instead—

73 Additional matters to be included in PIRM plan—the Act, s 153C

- (1) For the Act, section 153C(d), the following must be included in a PIRM plan for a relevant licence—
 - (a) the names, positions and 24-hour contact details of each individual who is—
 - (i) responsible for activating the PIRM plan, or
 - (ii) authorised to notify relevant authorities under the Act, section 148, or
 - (iii) responsible for managing the response to a pollution incident,
 - (b) the contact details of each relevant authority referred to in the Act, section 148,
 - (c) a community engagement protocol that includes procedures for notifying people living or working near a pollution incident and keeping them informed of relevant matters,
 - (d) details of pre-emptive action required to minimise or prevent a risk of harm to human health or the environment arising out of the activity, including, as a minimum, action that complies with the requirements set out in the *Protection of the Environment Operations (Waste) Regulation 2014*, clauses 70, 72 and 73,

- (e) the nature and objectives of a staff training program in relation to the PIRM plan,
 - (f) the date on which the PIRM plan is tested and the name of the person who carried out the test,
 - (g) the method for testing and maintaining the PIRM plan.
- (2) Section 72 does not apply to a PIRM plan for a relevant licence.
- (3) In this section—
relevant licence means a licence authorising the following—
- (a) an environmentally hazardous activity within the meaning of the Act, Schedule 1, clause 46,
 - (b) an activity to which the Act, Schedule 1, clause 48 applies.

[2] Section 154A

Insert after section 154—

154A Application fee for assessment of technology—the Act, s 296N

The following amounts are prescribed as the fee payable under the Act, section 296N in relation to an application made during the following periods—

- (a) in the financial year 2023–24—\$10,755,
- (b) in the financial year 2024–25—\$11,150,
- (c) in the financial year 2025–26—\$11,570,
- (d) in the financial year 2026–27—\$11,990,
- (e) for each subsequent financial year—the amount calculated using the formula and method specified in section 18(1)(f), (2) and (3).

[3] Schedule 1 Licensing fees

Insert before the matter relating to **EXTRACTIVE ACTIVITIES**—

ENVIRONMENTALLY HAZARDOUS CHEMICALS

Administrative fee	Administrative fee units
Environmentally hazardous activities—premises based	5

[4] Schedule 1

Insert after the matter relating to **WOOD PRESERVATION**—

ENVIRONMENTALLY HAZARDOUS CHEMICALS

Administrative fee	Administrative fee units
Environmentally hazardous activities—not premises based	4

[5] Schedule 6 Penalty notice offences

Omit the matter relating to **Environmentally Hazardous Chemicals Act 1985** from the table.

[6] Schedule 6, table

Insert in appropriate order under the heading **Protection of the Environment Operations Act 1997**—

Section 296F(7)	2	\$7,500	\$15,000
Section 296L(1)	2	\$7,500	\$15,000

2.6 Water NSW Regulation 2020

Clause 3 Definitions

Omit “*Environmentally Hazardous Chemicals Act 1985*” from clause 3(1), definition of *environmentally hazardous chemical*.

Insert instead “*Protection of the Environment Operations Act 1997*”.