

[Act 1997 No 146]



New South Wales

Pollution Control Amendment (Load-based Licensing) Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The object of this Bill is to amend the *Pollution Control Act 1970*. Under that Act the Environment Protection Authority may issue a licence in respect of any one or more of the following:

- (a) scheduled premises or scheduled equipment within the meaning of the *Clean Air Act 1961*,
- (b) the pollution of waters within the meaning of the *Clean Waters Act 1970*,
- (c) a drain which discharges or is likely to be used for discharging any pollutants into any classified waters within the meaning of the *Clean Waters Act 1970*,
- (d) scheduled premises within the meaning of the *Noise Control Act 1975*.

* Amended in committee—see table at end of volume.

The amendments made by the Bill will enable the introduction of a new basis for calculating licence fees under the *Pollution Control Act 1970*, the details of which are proposed to be included in regulations made under that Act.

Current licence fees are generally based on the type and scale of the activity in respect of which the licence is issued. The amendments made by the Bill will enable the introduction of a load-based fee structure based on the quantity or harm caused by emissions from the activity as well as the regulation of various matters related to the load-based fee structure.

The Bill also makes associated amendments to the *Waste Minimisation and Management Act 1995*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Pollution Control Act 1970* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Waste Minimisation and Management Act 1995* set out in Schedule 2.

Schedule 1 Amendment of Pollution Control Act 1970

Schedule 1 [1] and [6] will enable licence applications, and applications for pollution control approvals, to be made in accordance with the form determined by the Environment Protection Authority rather than the form prescribed by the regulations.

Schedule 1 [3] will enable the regulations to provide a common licensing period for all licences.

Schedule 1 [4] will enable the making of regulations to implement and administer the load-based scheme. Regulations may be made with respect to a range of matters, including:

- the types and structure of fees
- the factors to be taken into consideration in calculating the amount of a fee

- the provision of economic incentives to licensees to avoid or reduce harm to the environment from their activities
- the payment and recovery of fees
- the refund and waiver of fees
- the introduction of discount schemes and rebate schemes.

Schedule 1 [2] makes a consequential amendment.

Schedule 1 [5] will enable the Authority, through the imposition of licence conditions, to require the provision and certification of particulars from licensees, or persons approved by the Authority, relating to the calculation and verification of licence fees. **Schedule 1 [7]** provides that the approval of a person by the Authority in relation to a licence, a pollution control approval or a licence under the *Waste Minimisation and Management Act 1995* will serve as a composite approval for all of those licences and approvals, unless the Authority otherwise determines. **Schedule 1 [10]** will permit certificate evidence to be given on behalf of the Authority as to whether a person is, or was at a particular time, an approved person.

Schedule 1 [8] will make it an offence for the holder of a licence or a pollution control approval, or an approved person, to supply to the Authority particulars that are false or misleading in a material respect,

Schedule 1 [9] will enable the Authority, or a person authorised by the Authority, to require a licensee (or former licensee) to produce information relevant to the calculation of a licence fee.

Schedule 1 [11] will enable the making of regulations of a savings or transitional nature relating to the introduction of the load-based scheme.

Schedule 2 Amendment of Waste Minimisation and Management Act 1995

The amendments made by Schedule 2 mirror the amendments made to the *Pollution Control Act 1970* by Schedule 1 in respect of:

- the use of forms approved by the Authority for licence applications
- the power of the Authority to refuse a licence application if a licence fee is unpaid
- the provision of a common licensing period for all licences

- the imposition of licence conditions requiring the provision and certification of particulars by licensees or persons approved by the Authority
- the approval of persons by the Authority
- offences by licensees and approved persons in supplying to the Authority particulars that are false or misleading in a material respect
- certificate evidence on behalf of the Authority as to whether a person is, or was at a particular time, an approved person.