

Protection of the Environment Operations (Penalty Notices) Regulation 1999

[1999-200]



New South Wales

Status Information

Currency of version

Historical version for 24 November 2003 to 30 June 2004 (accessed 18 July 2024 at 13:26)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

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File last modified 24 November 2003

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New South Wales

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Protection of the Environment Operations (Penalty Notices) Regulation 1999



New South Wales

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Penalty Notices) Regulation 1999*.

2 Commencement

This Regulation commences on 1 July 1999.

3 Definitions

In this Regulation:

penalty notice offence means an offence prescribed by clause 5.

the Act means the *Protection of the Environment Operations Act 1997*.

4 Notes

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

5 Penalty notice offences: section 222

- (1) Each offence created by a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence for the purposes of Division 3 of Part 8.2 of the Act.
- (2) If the reference to a provision in Column 1 of Schedule 1 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or is committed in the circumstances so specified.

6 Enforcement officers: section 226

- (1) The officers or employees of the class specified in Column 2 of Schedule 1 are, subject to this clause, prescribed as enforcement officers in relation to the penalty notice

offences concerned.

- (2) Any such officer or employee of an authority is an enforcement officer only if that authority has duly authorised that officer or employee to exercise the functions of an enforcement officer under Division 3 of Part 8.2 of the Act.
- (3) An officer or employee of an authority that is a local council is an enforcement officer in respect of another local council only if that other local council has also duly authorised that officer or employee to exercise the functions of an enforcement officer under Division 3 of Part 8.2 of the Act.
- (3A) An officer or employee is not an enforcement officer in relation to a penalty notice offence alleged to have been committed by the authority that has authorised the officer or employee as an enforcement officer.
- (4) In Schedule 1, a number included in Column 2 of Schedule 1 is a reference to an officer or employee of a class identified by that number.
- (5) The class of officers or employees in Schedule 1 are as follows:
 - (a) class 1—an officer or employee of:
 - (i) a local authority, or
 - (ii) the National Parks and Wildlife Service in relation to a penalty notice offence alleged to have been committed in Kosciuszko National Park,
 - (b) class 2—an officer or employee of the EPA,
 - (c) class 3—an officer or employee of the National Parks and Wildlife Service,
 - (d) class 4—an officer or employee of a Port Corporation within the meaning of the *Ports Corporatisation and Waterways Management Act 1995*,
 - (e) class 5—a police officer,
 - (f) class 6—an officer or employee of the Sydney Water Corporation, of the Hunter Water Corporation or of a Water Supply Authority within the meaning of the *Water Management Act 2000* (other than a Water Supply Authority that is also the council of a local government area),
 - (g) class 7—an officer or employee of the Forestry Commission,
 - (h) class 8—an officer or employee of the Sydney Harbour Foreshore Authority,
 - (i) class 9—an officer or employee of the Centennial Park and Moore Park Trust, of the Parramatta Stadium Trust, of the Parramatta Park Trust or of the Royal Botanic Gardens and Domain Trust,

- (j) class 10—an officer or employee of an Australian university within the meaning of the *Higher Education Act 2001*,
 - (k) class 11—an officer or employee of the Sydney Olympic Park Authority,
 - (l) class 12—an officer or employee who is a marine park ranger within the meaning of the *Marine Parks Act 1997*,
 - (m) class 13—an officer or employee of NSW Fisheries,
 - (n) class 14—an officer or employee of the Sydney Catchment Authority,
 - (o) class 15—an officer or employee of the Waterways Authority.
- (6) A reference in subclause (5) to an officer or employee of the following authorities is taken to include a reference to an officer or employee of a body corporate providing services under an arrangement with that authority whereby the officer or employee is acting under the direction and control of the authority:
- (a) Sydney Harbour Foreshore Authority,
 - (b), (c) (Repealed)
 - (d) Sydney Olympic Park Authority.
- (7) A person who, immediately before the amendment of this clause by the *Environment Protection Legislation Amendment Act 2002*, was duly authorised by an authority as an authorised officer is taken to be so authorised as an enforcement officer.

7 Amounts of penalty payable: section 227

The prescribed penalty payable under a penalty notice in relation to a penalty notice offence is:

- (a) the amount specified in Column 3 of Schedule 1, or
- (b) if the person alleged to have committed the offence is a corporation, and if a greater amount is specified in Column 4 of Schedule 1, the amount specified in Column 4 of Schedule 1.

8 Service of penalty notices on owners of vehicles or vessels: section 224 (3)

- (1) This clause applies to offences under the Act or the regulations that apply specifically to the owner of a vehicle or vessel.
- (2) A penalty notice may, if it relates to an offence to which this clause applies, be served by leaving it on, or attaching it to, the vehicle or vessel.
- (3) A penalty notice may, if it relates to an offence to which this clause applies, be addressed to the owner of a vehicle or vessel without naming the owner or stating his

or her address.

9 (Repealed)

10 Savings provision

An officer or employee duly authorised as referred to in clause 6 (2) by the Waterways Authority in relation to class 4 under clause 6 (5) immediately before the commencement of the *Protection of the Environment Operations Amendment (Waterways Authority) Regulation 2001* is taken to be duly authorised by the Waterways Authority in relation to class 15 under clause 6 (5).

Schedule 1 Penalty notice offences

(Clauses 5-8)

Protection of the Environment Operations Act 1997

Column 1	Column 2	Column 3	Column 4
Provision of the Act	Officer	Penalty (individuals)	Penalty (corporations)
Section 47	2	\$750	\$1500
Section 48	2	\$750	\$1500
Section 49	2	\$750	\$1500
Section 64	2	\$750	\$1500
Section 66 (2)	2	\$750	\$1500
Section 66 (4)	2	\$750	\$1500
Section 86	2	\$750	\$1500
Section 88	2	\$750	\$1500
Section 91	1, 2, 12, 14, 15	\$750	\$1500
Section 94	1, 2, 12, 14, 15	\$500	\$1000
Section 97	1, 2, 12, 14, 15	\$750	\$1500
Section 100	1, 2, 12, 14, 15	\$500	\$1000
Section 120	1, 2, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15	\$750	\$1500
Section 124	1, 2	\$750	\$1500
Section 125	1, 2	\$750	\$1500
Section 126	1, 2	\$750	\$1500
Section 128	1, 2	\$750	\$1500

Section 129	2	\$750	\$1500
Section 135	1, 2	\$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	2	\$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	2	\$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	2	\$300	\$600
Section 137	1, 2	\$200	\$400
Section 139	1, 2	\$200	\$400
Section 140	1, 2	\$200	\$400
Section 143:			
Transport waste, being waste comprising asbestos waste or hazardous waste, 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, 14	\$1500	\$5000
Section 143:			
Transport waste to a place that cannot lawfully be used as a waste facility for that waste	1, 2, 14	\$750	\$1500
Section 144	1, 2, 14	\$1500	\$5000

Section 145:			
Deposit litter, being a small item including confectionary wrapper, cigarette packet, ATM statement, or bus or train ticket (excluding cigarette, and excluding litter deposited from vehicle)	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$60	—
Section 145:			
Deposit litter (excluding cigarette, and excluding litter deposited from vehicle)	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	\$400
Section 145:			
Deposit litter, being unlit or extinguished cigarette (excluding litter deposited from vehicle)	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$60	—
Section 145:			
Deposit litter, being lit cigarette (excluding litter deposited from vehicle)	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	—
Section 145:			
Deposit litter from vehicle	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	\$400
Section 145A:			
Deposit litter, for example syringe, or lit cigarette in dangerous circumstances	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$375	\$750
Section 146A	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	\$400
Section 146B	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	\$400
Section 146C	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	\$400
Section 146E (1)	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	\$400
Section 146E (2)	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$200	\$400
Section 146E (3)	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15	\$375	\$750

Section 152	1, 2	\$750	\$1500
Section 155	2	\$750	\$1500
Section 156	2	\$750	\$1500
Section 157 (1)	2	\$750	\$1500
Section 157 (2)	2	\$750	\$1500
Section 161 (4)	2	\$300	\$600
Section 161 (7)	2	\$300	\$600
Section 167	2	\$750	\$1500
Section 211 (1)	1, 2, 4, 5, 14, 15	\$300	\$600
Section 265	1, 2, 4, 15	\$200	\$400
Section 277 (1) (a)	1, 2, 4, 5, 8, 15	\$200	\$400
Section 277 (1) (b)	1, 2, 4, 5, 8, 15	\$200	\$400
Section 277 (2) (a)	1, 2, 4, 5, 8, 15	\$200	\$400
Section 277 (2) (b)	1, 2, 4, 5, 8, 15	\$200	\$400

Protection of the Environment Operations (General) Regulation 1998

Column 1	Column 2	Column 3	
Provision of Regulation	Officer	Penalty	
Clause 47 (1)	2	\$1500	
Clause 51 (1)	2	\$500	
Clause 57D (2) (a)	2	\$500	\$1,000
Clause 57D (2) (b)	2	\$500	\$1,000
Clause 57E (1)	2	\$500	\$1,000
Clause 57E (2)	2	\$500	\$1,000
Clause 57M	2	\$1500	\$750
Clause 57N (4)	2	\$1500	\$750
Clause 57P (1)	2	\$1500	\$750

Protection of the Environment Operations (Control of Burning) Regulation 2000

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty (individuals)	Penalty (corporations)
Clause 5 (1)	1, 2, 3	\$500	\$1,000

Clause 6 (1)	1, 2, 3	\$500	\$1,000
Clause 7 (1)	1, 2, 3	\$500	\$1,000
Clause 7 (2)	1, 2, 3	\$500	\$1,000
Clause 7 (3)	1, 2, 3	\$500	\$1,000

Protection of the Environment Operations (Clean Air) Regulation 2002

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty for individuals (and corporations where no penalty in Column 4)	Penalty for corporations
Clause 9 (1)	2	\$200	\$400
Clause 15 (1): in relation to a failure to have a vertical exhaust pipe fitted so that the exhaust vent is directed away from the nearside of the vehicle	2	\$200	
Clause 15 (1): in any other case	2	\$300	
Clause 16 (1)	2	\$300	
Clause 17 (1)	2	\$300	
Clause 19 (2)	2	\$300	
Clause 19 (3)	2	\$300	

Clean Air (Plant and Equipment) Regulation 1997

Column 1	Column 2	Column 3
Provision of Regulation	Officer	Penalty
Clause 8 (1)	2	\$600
Clause 8 (2)	2	\$600
Clause 20A (1)	2	\$600
Clause 20A (2)	2	\$600
Clause 24 (2)	2	\$600
Clause 25 (2)	2	\$600
Clause 25 (3)	2	\$600
Clause 25 (4)	2	\$600

Protection of the Environment Operations (Noise Control) Regulation 2000

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty (individuals)	Penalty (corporations)
Clause 6 (1)	2	\$300	\$600
Clause 11	2	\$300	\$600
Clause 12 (1)	2	\$300	\$600
Clause 13 (1): Cause/permit use of vehicle capable of emitting noise exceeding maximum level by up to 5 dB(A)	2	\$150	\$300
Clause 13 (1): Cause/permit use of vehicle capable of emitting noise exceeding maximum level by between 5 and 15 dB(A)	2	\$250	\$500
Clause 13 (1): Cause/permit use of vehicle capable of emitting noise exceeding maximum level by more than 15 dB(A)	2	\$500	\$1,000
Clause 14	1, 2, 5	\$200	\$400
Clause 15 (1)	1, 2, 5	\$200	\$400
Clause 16 (1)	1, 2, 5	\$200	\$400
Clause 17	1, 2, 5	\$150	\$200
Clause 17A (1)	2, 5	\$150	
Clause 18 (1)	2, 5	\$200	\$400
Clause 18 (2) (a)	2, 5	\$200	\$400
Clause 18 (2) (b)	2, 5	\$200	\$400
Clause 19 (1)	2, 5	\$200	\$400
Clause 20	2	\$200	\$400
Clause 21 (1) (a)	2	\$200	\$400
Clause 21 (1) (b)	2	\$200	\$400
Clause 21 (2) (a)	2	\$200	\$400
Clause 21 (2) (b)	2	\$200	\$400
Clause 23	1, 2, 5	\$200	\$400
Clause 24 (1): Cause/permit use of noisy alarm (for up to 24 hours)	1, 2, 5, 8	\$200	\$400

Clause 24 (1): Cause/permit use of noisy alarm (for 24 to 48 hours)	1, 2, 5, 8	\$400	\$800
Clause 24 (1): Cause/permit use of noisy alarm (for more than 48 hours)	1, 2, 5, 8	\$600	\$1,200
Clause 25 (1)	2	\$200	\$400
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, 15	\$200	\$400
Clause 30	1, 4, 5, 15	\$300	\$600
Clause 31 (1)	4, 5, 15	\$200	\$400
Clause 31 (2) (a)	4, 5, 15	\$200	\$400
Clause 31 (2) (b)	4, 5, 15	\$200	\$400
Clause 32 (1)	1, 4, 5, 15	\$300	\$600
Clause 33 (5)	4, 5, 15	\$300	\$600
Clause 34 (4)	4, 5, 15	\$300	\$600
Clause 34 (5)	4, 5, 15	\$300	\$600
Clause 50 (1)	1, 5	\$200	\$400
Clause 51 (1)	1, 5	\$200	\$400
Clause 52 (1)	1, 5	\$200	\$400
Clause 53 (1): Cause/permit use of noisy intruder alarm (for up to 24 hours)	1, 2, 5	\$200	\$400
Clause 53 (1): Cause/permit use of noisy intruder alarm (for 24 to 48 hours)	1, 2, 5	\$400	\$800
Clause 53 (1): Cause/permit use of noisy intruder alarm (for more than 48 hours)	1, 2, 5	\$600	\$1,200

Ozone Protection Act 1989

Column 1	Column 2	Column 3
Provision of the Act	Officer	Penalty
Section 14 (3)	2	\$300

Ozone Protection Regulation 1997

Column 1	Column 2	Column 3
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Provision of Regulation	Officer	Penalty
Clause 9 (1)	2	\$300
Clause 9 (5)	2	\$300
Clause 10 (1)	2	\$300
Clause 10 (2)	2	\$300
Clause 12 (1)	2	\$300
Clause 12 (5)	2	\$300
Clause 22	2	\$300
Clause 24 (1)	2	\$300
Clause 25 (1)	2	\$300
Clause 31 (1)	2	\$300
Clause 39 (1) (a)	2	\$300
Clause 39 (1) (b)	2	\$300
Clause 40 (1)	2	\$300

Waste Minimisation and Management Act 1995

Column 1	Column 2	Column 3	Column 4
Provision of the Act	Officer	Penalty (individuals)	Penalty (corporations)
Section 39 (4)	2	\$300	\$600

Protection of the Environment Operations (Waste) Regulation 1996

Column 1	Column 2	Column 3
Provision of Regulation	Officer	Penalty
Clause 15 (3)	2	\$500
Clause 15 (4)	2	\$500
Clause 15 (5)	2	\$500
Clause 16 (2) (a)	1, 2	\$500
Clause 16 (2) (b)	1, 2	\$500
Clause 16 (2) (c)	1, 2	\$500
Clause 16 (2) (d) (i)	1, 2	\$500
Clause 16 (2) (d) (ii)	1, 2	\$500

Clause 16 (2) (e) (i)	1, 2	\$500
Clause 16 (2) (e) (ii)	1, 2	\$500
Clause 16 (2) (e) (iii)	1, 2	\$500
Clause 16 (2) (f)	1, 2	\$500
Clause 16 (2) (g)	1, 2	\$500
Clause 16 (2) (h)	1, 2	\$500
Clause 16 (2) (i)	1, 2	\$500
Clause 16 (2) (j)	1, 2	\$500
Clause 16 (4) (a) (i)	1, 2	\$500
Clause 16 (4) (a) (ii)	1, 2	\$500
Clause 16 (4) (a) (iii)	1, 2	\$500
Clause 16 (4) (b) (i)	1, 2	\$500
Clause 16 (4) (b) (ii)	1, 2	\$500
Clause 16 (4) (b) (iii)	1, 2	\$500
Clause 16 (4) (b) (iv)	1, 2	\$500
Clause 17 (2) (a) (i)	1, 2	\$500
Clause 17 (2) (a) (ii)	1, 2	\$500
Clause 17 (2) (b)	1, 2	\$500
Clause 17 (2) (c)	1, 2	\$500
Clause 17 (2) (d)	1, 2	\$500
Clause 17 (2) (e)	1, 2	\$500
Clause 17 (2) (f)	1, 2	\$500
Clause 17 (2) (g) (i)	1, 2	\$500
Clause 17 (2) (g) (ii)	1, 2	\$500
Clause 17 (2) (g) (iii)	1, 2	\$500
Clause 17 (2) (g) (iv)	1, 2	\$500
Clause 17 (2) (g) (v)	1, 2	\$500
Clause 17 (2) (h)	1, 2	\$500
Clause 17 (2) (i)	1, 2	\$500
Clause 17 (2) (j)	1, 2	\$500

Clause 17 (2) (k)	1, 2	\$500
Clause 21 (2)	2	\$500
Clause 21 (3) (a) (i)	2	\$500
Clause 21 (3) (a) (ii)	2	\$500
Clause 21 (3) (b)	2	\$500
Clause 22 (4) (a)	2	\$500
Clause 22 (4) (b)	2	\$500
Clause 22 (4) (c)	2	\$500
Clause 22 (4) (d) (i)	2	\$500
Clause 22 (4) (d) (ii)	2	\$500
Clause 22 (4) (e)	2	\$500
Clause 23 (1)	2	\$500
Clause 23 (2)	2	\$500
Clause 23 (3) (a)	2	\$500
Clause 23 (3) (b)	2	\$500
Clause 23A	2	\$500
Clause 24 (1) (a)	2	\$500
Clause 24 (1) (b)	2	\$500
Clause 24 (1A) (a)	2	\$500
Clause 24 (1A) (b)	2	\$500
Clause 25 (1)	2	\$500
Clause 25 (2) (a)	2	\$500
Clause 25 (2) (a1)	2	\$500
Clause 25 (2) (b)	2	\$500
Clause 25 (2) (c)	2	\$500
Clause 25 (2) (d)	2	\$500
Clause 25 (2) (d1)	2	\$500
Clause 25 (2) (e)	2	\$500
Clause 25 (2) (f)	2	\$500
Clause 25 (2) (g)	2	\$500

Clause 26 (2) (a)	2	\$500
Clause 26 (2) (b)	2	\$500
Clause 26 (2) (c)	2	\$500
Clause 27	2	\$500
Clause 28 (11)	2	\$500
Clause 29 (2)	1, 2	\$500
Clause 29 (6)	1, 2	\$500
Clause 30 (a)	1, 2	\$500
Clause 30 (b)	1, 2	\$500
Clause 30 (c)	1, 2	\$500
Clause 30 (d)	1, 2	\$500
Clause 30 (e)	1, 2	\$500
Clause 30 (f)	1, 2	\$500
Clause 30 (g)	1, 2	\$500

Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty (individuals)	Penalty (corporations)
Clause 61	2	750	1500