

# Protection of the Environment Operations (Waste) Regulation 1996

[1996-541]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

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

### Notes—

- **Previously named**  
Waste Minimisation and Management Regulation 1996
- **Note**  
The *Protection of the Environment Operations (Waste) Regulation 1996* (formerly *Waste Minimisation and Management Regulation 1996*) made under the *Waste Minimisation and Management Act 1995* is on and from 1.7.1999 taken to be a regulation made under the *Protection of the Environment Operations Act 1997*. See clause 11 of Schedule 5 to the *Protection of the Environment Operations Act 1997* No 156.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Protection of the Environment Operations (Waste) Regulation 1996



New South Wales

## Contents

|  |    |
|--|----|
| <b>Part 1 Preliminary</b> .....  | 4  |
| 1 Name of Regulation .....   | 4  |
| 2 Commencement .....   | 4  |
| 3 Definitions .....  | 4  |
| 3A (Repealed) .....  | 4  |
| <b>Parts 2-4 (Repealed)</b> .....  | 4  |
| <b>Part 5 Requirements relating to non-licensed waste facilities, waste activities and transporters</b><br>..... | 4  |
| 14A Definitions .....  | 4  |
| 15 Reporting requirements for non-licensed landfill sites.....   | 5  |
| 16 Requirements relating to non-licensed waste activities.....   | 6  |
| 16A Exemptions relating to certain types of waste .....  | 8  |
| 16B Exemptions relating to certain waste transported between premises occupied by the same person<br>.....       | 10 |
| 16C Exemptions relating to other types of waste .....  | 11 |
| 17 Requirements relating to non-licensed waste transporting .....  | 11 |
| <b>Part 6 Contributions by occupiers of scheduled waste facilities and monitoring requirements</b><br>.....      | 13 |

|   |    |
|---|----|
| 18A Definitions .....   | 13 |
| 18 Payment of contributions.....  | 13 |
| 19 Interest on unpaid contributions.....  | 17 |
| 20 Exemption of certain occupiers from requirement to pay contributions.....                    | 17 |
| 21 Certain types of waste exempted from calculation of contributions.....                       | 17 |
| 22 Contribution rebates.....  | 19 |
| 23 Records relating to vehicles.....  | 21 |
| 23A Returns .....   | 22 |
| 24 Volumetric surveys .....   | 22 |
| 25 Weighbridges.....  | 23 |
| 26 Video monitoring systems .....   | 24 |
| <b>Part 6A Special provisions relating to interstate transport of controlled waste</b>          |    |
| .....   | 24 |
| 26A Definitions .....   | 25 |
| 26B Requirements relating to transportation of controlled waste to interstate destination ..... | 25 |
| 26BA Requirements relating to interstate transportation of controlled waste .....               | 26 |
| 26BB Requirements relating to receiving controlled waste transported into New South Wales ..... | 26 |
| 26BC Controlled waste exemptions .....  | 27 |
| 26BD Administration of controlled waste exemptions .....  | 27 |
| 26C Exemption relating to authorised interstate transporters of controlled waste .....          | 28 |
| 26D Offence relating to controlled waste consignment authorisation .....                        | 29 |
| <b>Part 7 Miscellaneous</b> .....   | 29 |
| 27 Offence of providing false information .....   | 29 |
| 28 Immobilisation of contaminants in waste .....  | 29 |
| 29 Special requirements relating to asbestos waste .....  | 30 |
| 30 Special requirements relating to clinical waste .....  | 32 |
| <b>Schedule 1 (Repealed)</b> .....  | 33 |

# Protection of the Environment Operations (Waste) Regulation 1996



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Waste) Regulation 1996*.

### 2 Commencement

- (1) This Regulation commences on 1 November 1996, except as provided by subclause (2).
- (2) Clauses 4, 6, 7, 9, 16 and 17 commence on 30 June 1997.

### 3 Definitions

- (1) In this Regulation:

**approved** means approved by the EPA from time to time.

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

- (2) Expressions used in this Regulation that are defined in Part 3 (Interpretative provisions) of Schedule 1 to the Act have the same meanings as specified in that Part.

### 3A (Repealed)

## Parts 2-4

### 4-14 (Repealed)

## Part 5 Requirements relating to non-licensed waste facilities, waste activities and transporters

### 14A Definitions

In this Part:

**consignee** of waste means the occupier of the premises to which, or the person carrying

on mobile waste processing to whom, the waste is transported.

**consignor** of waste means the occupier of the premises from which the waste is transported.

**licensed waste activity** means an activity that:

- (a) is carried on for business or other commercial purposes, and
- (b) involves the generating or storage of any one or more of the following types of waste:
  - (i) hazardous waste,
  - (ii) industrial waste,
  - (iii) Group A waste, and
- (c) is licensed under the Act.

**non-licensed waste activity** means an activity that:

- (a) is carried on for business or other commercial purposes, and
- (b) involves the generating or storage of any one or more of the following types of waste:
  - (i) hazardous waste,
  - (ii) industrial waste,
  - (iii) Group A waste, and
- (c) is not licensed under the Act.

**transporter** of waste means the person transporting waste from the consignor of the waste to the consignee.

## **15 Reporting requirements for non-licensed landfill sites**

- (1) This clause applies to any landfill site that is not licensed under the Act.
- (2) However, this clause does not apply to:
  - (a) any premises where waste disposal is carried out otherwise than for business or other commercial purposes, or
  - (b) landfill sites that receive virgin excavated natural material only (and not any other type of waste).
- (3) The occupier of a landfill site to which this clause applies must provide the EPA with the following details before 1 December 1996 or, in the case of any such landfill site that is established on or after 1 November 1996, within 30 days of being so

established:

- (a) the location of the landfill site,
- (b) the name and address of the occupier of the landfill site.

- (4) The EPA may, by notice in writing given to the occupier of a landfill site to which this clause applies, require the occupier to complete the approved form relating to the landfill site. The occupier must return the completed form to the EPA within 30 days of receiving the notice.
- (5) Within 30 days of the end of each subsequent financial year, the occupier of a landfill site to which this clause applies must provide, in the approved form, the EPA with such information as the EPA requires in respect of the landfill site.

Maximum penalty (subclauses (3)–(5)): 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

#### **16 Requirements relating to non-licensed waste activities**

- (1) In this clause:

***authorised contractor*** means a person who:

- (a) is licensed under the Act to transport waste, and
- (b) is specifically authorised under that licence:
  - (i) to transport waste from premises on which non-licensed waste activities are carried on, and
  - (ii) to perform the requirements set out in subclause (2) (d) on behalf of the person carrying on the non-licensed waste activity concerned.

- (2) A person who carries on a non-licensed waste activity must comply with the following requirements:

- (a) the waste must be stored in an environmentally safe manner,
- (b) the waste must not be stored, or come into contact with, any incompatible waste,
- (c) the EPA (or such other person or body as may be approved for the purposes of this clause) must be provided with such information as the EPA (or the other person or body) may require from time to time in relation to the generation, storage, treatment or disposal of the waste, and such information must be retained by the person for a period of at least 3 years from when it was provided,
- (d) if the waste is transported from the premises on which the non-licensed waste activity is carried on, the person must (except as provided by subclause (3) or clause 16A or 16B or under clause 16C):

- (i) obtain a consignment authorisation number for the waste from the person to whom the waste is to be delivered, and
  - (ii) complete, to the required extent, an approved waste data form in relation to the consigned waste and give a copy of the form to the person transporting the waste,
- (e) the person must, if the person is required to comply with paragraph (d), ensure that the waste data form:
  - (i) is completed accurately, and
  - (ii) is retained for a period of not less than 3 years from the time the form was completed, and
  - (iii) is made available for inspection by an authorised officer on request,
- (f) if the waste is transported from the premises and it is of such an amount as to require the person transporting it to be licensed, the person must ensure that the person transporting the waste is licensed,
- (g) (Repealed)
- (h) if the waste is transported from the premises, the person must (except as provided by clause 16A or 16B or under clause 16C) ensure that the waste is transported:
  - (i) to a waste facility that is licensed under the Act to receive waste of that type, or
  - (ii) to a person carrying on mobile waste processing that is licensed under the Act, or
  - (iii) to a place that can otherwise lawfully be used as a waste facility for that waste,
- (i) if the waste is transported from the premises, the person must accurately identify the waste (including identification in accordance with the relevant description set out in Technical Appendix 4 to the Waste Guidelines) and advise the transporter accordingly,
- (j) the person must inform the EPA (or such other person or body as may be approved for the purposes of this clause) of any suspected breach of the Act or this Regulation in connection with the transportation of the waste from the premises.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

- (3) If a person carries on a non-licensed waste activity and the waste is transported from the premises on which the activity is carried on, the person is not required to comply with subclause (2) (d) if:
- (a) the waste is asbestos waste or clinical waste (excluding recognisable body parts), or
  - (b) in any other case—the person has entered into a written agreement with an authorised contractor for the transportation of the waste from the premises.
- (4) If the person enters into such an agreement, the person must:
- (a) before any waste is transported under the agreement:
    - (i) make a record of the name, address and licence number of the authorised contractor, and
    - (ii) retain that record and a copy of the agreement for a period of at least 3 years from the date the agreement was made, and
    - (iii) make the record and copy of the agreement available for inspection by an authorised officer on request, and
  - (b) in relation to each load of waste that is transported by the authorised contractor under the agreement:
    - (i) accurately identify the waste and advise the authorised contractor accordingly, and
    - (ii) inform the EPA (or such other person or body as may be approved for the purposes of this clause) if the person does not, within 21 days of the waste being collected by the authorised contractor, receive a receipt from the authorised contractor detailing the name and address of the person to whom the waste was delivered, and
    - (iii) keep each receipt that is received by the person for a period of at least 3 years from the date of the collection of the waste, and
    - (iv) make each such receipt available for inspection by an authorised officer on request.

Maximum penalty (subclause (4)): 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

- (5) (Repealed)

#### **16A Exemptions relating to certain types of waste**

- (1) This clause applies to the following types of waste arising from the carrying on of a



licensed or non-licensed waste activity:

- (a) non-hazardous waste hydrocarbon oil that constitutes Group A waste,
- (b) waste batteries that constitute hazardous or industrial waste.

(2) In relation to the transport of waste to which this clause applies:

- (a) a person carrying on a non-licensed waste activity is not required to comply with clause 16 (2) (d) or (h), and
- (b) a person carrying on a licensed waste activity is exempt from the operation of section 64 (1) of the Act in respect of any condition of the licence that is substantially to the same effect as clause 16 (2) (d) or (h).

(3) However, subclause (2) applies only if the person concerned has a reasonable belief that the waste is to be transported, for the purpose of recycling, reprocessing or reusing the waste (or, if the waste is non-hazardous waste hydrocarbon oil that constitutes Group A waste, for the use of that oil as fuel):

- (a) to a waste facility that is licensed under the Act to receive waste of that type, or
- (b) to a person carrying on mobile waste processing that is licensed under the Act to receive waste of that type, or
- (c) to a place that can otherwise lawfully receive waste of that type.

(4) A transporter of waste to which this clause applies:

- (a) is not required to comply with clause 17 (2) (g), or
- (b) if licensed under the Act, is exempt from the operation of section 64 (1) of the Act in respect of any condition of the licence that is substantially to the same effect as clause 17 (2) (g),

in relation to the waste concerned.

(5) However, the transporter of the waste must make a record of the following:

- (a) the name and address of the transporter,
- (b) if the transporter is required to be licensed under the Act—the transporter's environment protection licence number,
- (c) the registration number of the vehicle used to transport the waste,
- (d) the type and quantity of the waste transported,
- (e) the date on which the waste is delivered to the consignee,
- (f) the name and address of the consignee.

(6) The transporter must:

- (a) retain the record for a period of not less than 3 years after the time the record was made, and
- (b) make the record available for inspection by an authorised officer on request, and
- (c) give a copy of the record to the consignee.

Maximum penalty: 200 penalty units in the case of a corporation and 100 penalty units in the case of an individual.

(7) The consignee must:

- (a) retain the copy of the record for a period of not less than 3 years after the time the record was made, and
- (b) make the copy of the record available for inspection by an authorised officer on request.

Maximum penalty: 200 penalty units in the case of a corporation and 100 penalty units in the case of an individual.

**16B Exemptions relating to certain waste transported between premises occupied by the same person**

(1) This clause applies to hazardous waste, industrial waste or Group A waste that:

- (a) arises from the carrying on of a waste activity (regardless of whether the waste activity is required to be licensed under the Act), and
- (b) is transported, for the purpose of storage or treatment (or both storage and treatment), between premises occupied by the same person.

(2) In relation to the transport of waste to which this clause applies:

- (a) a person carrying on a non-licensed waste activity is not required to comply with clause 16 (2) (d) (i) or (h) (but must still comply with clause 16 (2) (e)), and
- (b) a person carrying on a licensed waste activity is exempt from the operation of section 64 (1) of the Act in respect of any condition of the licence that is substantially to the same effect as clause 16 (2) (d) (i) or (h) (but is not so exempt in relation to any condition of the licence that is substantially to the same effect as clause 16 (2) (e)), and
- (c) the transporter of the waste:
  - (i) is not required to comply with clause 17 (2) (g) (iv), or
  - (ii) if licensed under the Act, is exempt from the operation of section 64 (1) of the

Act in respect of any condition of the licence that is substantially to the same effect as clause 17 (2) (g) (iv).

- (3) The transporter of the waste must make the copy of the waste data form given to the transporter by the consignor of the waste available for inspection by an authorised officer on request.

Maximum penalty: 200 penalty units in the case of a corporation and 100 penalty units in the case of an individual.

### **16C Exemptions relating to other types of waste**

- (1) The EPA may, from time to time, by notice published in the Gazette, exempt:
- (a) a person carrying out a non-licensed waste activity from the requirements of clause 16 (2) (d) and (h), and
  - (b) a person carrying on a licensed waste activity from the operation of section 64 (1) of the Act in relation to any condition of the licence that is substantially to the same effect as clause 16 (2) (d) or (h), and
  - (c) a transporter of waste from the requirements of clause 17 (2) (g) or, in the case of a transporter who is licensed under the Act, from the operation of section 64 (1) of the Act in relation to any condition of the licence that is substantially to the same effect as clause 17 (2) (g), and
  - (d) any other licensee from the operation of section 64 (1) of the Act in relation to any condition of the licence that is specified in the notice,
- in relation to the transport of waste of a type specified in the notice.
- (2) An exemption under this clause:
- (a) is subject to the conditions (if any) specified in the notice, and
  - (b) has effect only if the exempted person complies with such of the provisions of clause 16A as are relevant to that person, and
  - (c) may be revoked by the EPA at any time by a further notice published in the Gazette.

### **17 Requirements relating to non-licensed waste transporting**

- (1) In this clause:

***non-licensed waste transporting*** means the activities of any person who, for fee or reward, transports waste but who is not licensed under the Act in respect of those activities.

- (2) A person who carries on non-licensed waste transporting must comply with the

following requirements:

- (a) any vehicle used by the person to transport waste must:
  - (i) be kept in a clean condition, and
  - (ii) be constructed and maintained so as to prevent spillage of waste,
- (b) any container used by the person to transport waste must be safely secured on the vehicle carrying the container,
- (c) any vehicle used by the person to transport waste must be covered when loaded so as to prevent spillage and loss of waste and the emission of odours,
- (d) incompatible wastes must not be mixed or transported together on any vehicle used by the person to transport waste,
- (e) any hazardous waste or industrial waste transported by the person must not be mixed with any other type of waste or with any other material,
- (f) any material segregated for recycling that is transported by the person must not be mixed with other waste,
- (g) if any hazardous waste, industrial waste or Group A waste (not being asbestos waste or clinical waste, but including recognisable body parts) is transported, the person must (except as provided by clause 16A or 16B or under clause 16C):
  - (i) obtain a copy of the waste data form from the occupier of the premises from which the waste is being transported (being the approved waste data form required under the occupier's licence or by this Regulation and that has been completed by the occupier to the required extent), and
  - (ii) ensure that a copy of the form is kept in the vehicle transporting the waste while it is being transported, and
  - (iii) complete the waste data form to the required extent, and
  - (iv) give a copy of the form to the occupier of the waste facility, or the person operating the mobile plant, to which the waste is transported,
  - (v) retain a copy of the form for a period of not less than 3 years from the time the form was completed,
- (h) any waste transported by the person must be transported:
  - (i) to a waste facility that is licensed under the Act to receive waste of that type, or
  - (ii) to a person carrying on mobile waste processing that is licensed under the Act,

or

(iii) to a place that can otherwise lawfully be used as a waste facility for that waste,

- (i) the occupier of the waste facility, or the person operating the mobile plant, to which the waste is transported must be advised of the type of waste before it is unloaded,
- (j) the person must provide the EPA (or such other person or body as may be approved for the purposes of this clause) with such information as the EPA (or the other person or body) may require from time to time in relation to the transportation of waste by the person, and such information must be retained by the person for a period of at least 3 years from the time it was provided,
- (k) the person must inform the EPA (or such other person or body as may be approved for the purposes of this clause) of any suspected breach of the Act or this Regulation in connection with the transportation of waste by the person.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

(3) (Repealed)

## **Part 6 Contributions by occupiers of scheduled waste facilities and monitoring requirements**

### **18A Definitions**

In this Part:

**motor car** means:

- (a) a motor vehicle constructed primarily for the carriage of persons, or
- (b) a motor vehicle that is of the kind known as a utility, station wagon or panel van.

**scheduled waste facility** means a waste facility that is required to be licensed under the Act.

### **18 Payment of contributions**

(1A) In this clause:

**CPI** means the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

**ERA** means extended regulated area.

**SMA** means Sydney metropolitan area.

**year** means a year beginning on 1 July and ending on 30 June.

- (1) For the purposes of section 88 (2) of the Act, the following contributions are prescribed as the contributions required to be paid by the occupiers of scheduled waste facilities:
- (a) the SMA amount for the year in which the waste is received for each tonne of waste that is received in that year at a scheduled waste facility located in the Sydney metropolitan area,
  - (b) the ERA amount for the year in which the waste is received for each tonne of waste:
    - (i) that is received in that year at a scheduled waste facility located in the extended regulated area, and
    - (ii) that has been generated in that area,
  - (c) the SMA amount for the year in which the waste is received for each tonne of waste:
    - (i) that is received in that year at a scheduled waste facility located in the extended regulated area, and
    - (ii) that has been generated in the Sydney metropolitan area,
  - (d) the SMA amount for the year in which the waste is received for each tonne of waste:
    - (i) that is received in that year at a scheduled waste facility located outside the Sydney metropolitan area and the extended regulated area, and
    - (ii) that has been generated in the Sydney metropolitan area,
  - (e) the ERA amount for the year in which the waste is received for each tonne of waste:
    - (i) that is received in that year at a scheduled waste facility located outside the Sydney metropolitan area and the extended regulated area, and
    - (ii) that has been generated in the extended regulated area.
- (2) In the case of a scheduled waste facility that is the subject of a supervisory licence as referred to in section 87 of the Act, the occupier who is not the holder of the supervisory licence is required to pay the contributions in respect of the waste facility unless that occupier and the public authority concerned have made an arrangement for the contributions to be paid by the public authority and have informed the EPA of

any such arrangement.

(3) The SMA amount is as follows:

- (a) for the year beginning 1 July 2002—\$18.20,
- (b) for a year, beginning on or after 1 July 2003 and ending on or before 30 June 2010—the lower of:
  - (i) the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (5), or
  - (ii) the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (7),
- (c) for a year, beginning on or after 1 July 2010—the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (8).

(4) The ERA amount is as follows:

- (a) for the year beginning 1 July 2002—\$9.60,
- (b) for a year, beginning on or after 1 July 2003 and ending on or before 30 June 2013—the lower of:
  - (i) the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (6), or
  - (ii) the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (7),
- (c) for a year, beginning on or after 1 July 2013—the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (9).

(5) The formula is:

$$G = (P + \$1.00) \times \left( 1 + \left( \frac{A - B}{B} \right) \right)$$

where:

**G** is the amount, in dollars and cents, being calculated.

**P** is the SMA amount, in dollars and cents, for the year previous to the year for which the calculation is being made.

**A** is the CPI number for the March quarter of the year previous to the year for which the calculation is being made.

**B** is the CPI number for the March quarter of the year 2 years previous to the year for

which the calculation is being made.

(6) The formula is:

$$H = (M + \$1.50) \times \left(1 + \left(\frac{A - B}{B}\right)\right)$$

where:

**H** is the amount, in dollars and cents, being calculated.

**M** is the ERA amount, in dollars and cents, for the year previous to the year for which the calculation is being made.

**A** is the CPI number for the March quarter of the year previous to the year for which the calculation is being made.

**B** is the CPI number for the March quarter of the year 2 years previous to the year for which the calculation is being made.

(7) The formula is:

$$M = \$25.00 \times \left(1 + \left(\frac{C - D}{D}\right)\right)$$

where:

**M** is the amount, in dollars and cents, being calculated.

**C** is the CPI number for the March quarter of the year previous to the year for which the calculation is being made.

**D** is the CPI number for the December quarter of the year beginning 1 July 2001.

(8) The formula is:

$$S = T \times \left(1 + \left(\frac{X - Y}{Y}\right)\right)$$

where:

**S** is the amount, in dollars and cents, being calculated.

**T** is the SMA amount, in dollars and cents, for the year beginning 1 July 2009.

**X** is the CPI number for the March quarter of the year previous to the year for which the calculation is being made.

**Y** is the CPI number for the March quarter of the year beginning 1 July 2008.

(9) The formula is:



$$E = F \times \left( 1 + \left( \frac{X - Z}{Z} \right) \right)$$

where:

**E** is the amount, in dollars and cents, being calculated.

**F** is the ERA amount, in dollars and cents, for the year beginning 1 July 2012.

**X** is the CPI number for the March quarter of the year previous to the year for which the calculation is being made.

**Z** is the CPI number for the March quarter of the year beginning 1 July 2011.

- (10) The SMA amount and the ERA amount are to be rounded to the nearest 10 cents, and if the amount to be rounded is 5 cents, rounded up.
- (11) If, at any time, the Australian Statistician issues a CPI number in substitution for a CPI number previously issued, the issue of the later CPI number is to be disregarded for the purposes of this clause.

#### **19 Interest on unpaid contributions**

- (1) If a contribution under section 88 of the Act is not paid by the date as specified by the EPA, 10% of the due amount is payable as interest.
- (2) An additional 20% of the original due amount also accrues at the end of each period of 30 days following the due date for payment for such time as the contribution remains unpaid.

#### **20 Exemption of certain occupiers from requirement to pay contributions**

The occupier of any of the following types of scheduled waste facility is exempt from the requirement to pay a contribution to the EPA under section 88 of the Act:

- (a) premises used as a waste storage facility, transfer facility (except where the waste received is to be transported interstate or overseas for disposal) or waste treatment facility (not being an incinerator), or for a combination of any of those uses,
- (b) premises used to dispose of only coal washery rejects, slags or virgin excavated natural material (or any combination of those types of waste).

#### **21 Certain types of waste exempted from calculation of contributions**

- (1) The following types of waste received at a scheduled waste facility are exempted from the calculation of the contribution payable for each tonne of waste received at the waste facility:
- (a) any waste lawfully discharged at the waste facility into waters (in accordance with

- a licence under the Act) or into a sewer,
  - (b) any ash residue generated at a scheduled waste facility that is an incinerator,
  - (b1) any spoil generated by dredging activities,
  - (c) any waste that has been collected in accordance with a community service or activity and that is approved for the purposes of this clause,
  - (d) any waste that, before it is received at the waste facility, has been segregated for the purposes of being reprocessed or recycled at the facility or for transporting to a reprocessing or recycling facility,
  - (e) any virgin excavated natural material (the exemption available in respect of any such waste is a 10% reduction in the amount of the contribution that would otherwise be payable for the waste).
- (2) If the occupier of a scheduled waste facility claims an exemption in respect of any type of waste referred to in subclause (1), the occupier must record the following details:
- (a) the date on which the waste was received at the waste facility,
  - (b) the type and amount of waste received at the waste facility,
  - (c) particulars of the approved community service or activity (if any) in respect of which the waste has been collected, including the date and number of the approval,
  - (d) if the waste remains at the waste facility:
    - (i) particulars of what has happened to the waste (eg whether it has been used for a specific purpose at the waste facility or whether it has been disposed of, treated, or recycled or reprocessed at the waste facility), and
    - (ii) particulars of the type of any such reprocessing or recycling, and
    - (iii) the date on which the waste was so used, disposed of, treated or recycled or reprocessed, and
    - (iv) the amount and type of waste concerned,
  - (e) if the waste is transported to other premises:
    - (i) the name and address of the other premises, and
    - (ii) if the waste is transported to a reprocessing or recycling facility—the type of reprocessing or recycling waste facility concerned, and
    - (iii) the date of transportation, and

(iv) the amount and type of waste transported.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

(3) The occupier must:

(a) ensure that the records required to be made under subclause (2):

(i) are accurate, and

(ii) are retained for a period of at least 3 years from the date on which the exemption is claimed, and

(b) make any such record available for inspection by an authorised officer on request.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

(4) If the occupier fails to comply with any requirement under subclause (2) or (3), the occupier is not entitled to exempt the waste from the calculation of the contribution payable by the occupier.

## **22 Contribution rebates**

(1) The occupier of a scheduled waste facility who is required to pay contributions under section 88 of the Act may claim a rebate in respect of any one or more of the following types of waste:

(a) any waste received at the waste facility that:

(i) is reprocessed or recycled at that facility, or

(ii) is transported to a reprocessing or recycling facility,

(b) any virgin excavated natural material received at the waste facility, being material that:

(i) is intended to be used for an approved operational purpose, and

(ii) is identified in an environmental waste management plan (as referred to in section 75 (2) of the Act) for the waste facility,

(c) any waste received at the waste facility that is intended to be used:

(i) for an approved operational purpose, or

(ii) for an approved operational purpose identified in an environmental waste management plan (as referred to in section 75 (2) of the Act) for the waste facility.

- (1A) An occupier is not entitled to any rebate in respect of any waste that has already been exempted, in accordance with clause 21, from the calculation of the contribution otherwise payable by the occupier.
- (2) A claim for a rebate must:
- (a) be in the approved form, and
  - (b) be accompanied by such evidence as may be required by the EPA in relation to the claim, and
  - (c) except in the case of a claim as referred to in subclause (3A), be submitted to the EPA along with the full amount of the required contribution for the period concerned.
- (3) The EPA may determine a claim for a rebate:
- (a) by refusing the claim, or
  - (b) by allowing the claim:
    - (i) by refunding to the occupier such amount as the EPA determines, or
    - (ii) by allowing the occupier to deduct the amount determined by the EPA from the next contribution payable by the occupier, or
    - (iii) in accordance with subclause (3A).
- (3A) In the case of a claim for a rebate in respect of waste that is intended to be used for an approved operational purpose as referred to in subclause (1) (b) or (c), the EPA may, once the EPA has approved the extent of the operational purpose, allow the occupier to automatically deduct a rebate, from the contribution otherwise payable by the occupier, in respect of any waste received at the waste facility that is to be used for that operational purpose. The amount to be so deducted from the occupier's contribution is to be determined by the EPA.
- (4) An occupier who is allowed a rebate for any waste must:
- (a) if the rebate is allowed in relation to waste referred to in subclause (1) (a)
    - (i)—record the following details:
      - (i) the amount and type of waste received,
      - (ii) the date the waste was reprocessed or recycled,
      - (iii) the type of reprocessing or recycling used, and
  - (b) if the rebate is allowed in relation to waste referred to in subclause (1) (a)
    - (ii)—record the following details:

- (i) the amount and type of waste received,
  - (ii) the date the waste was transported,
  - (iii) the name and address of the reprocessing or recycling facility,
  - (iv) the type of reprocessing or recycling facility, and
- (c) if the rebate is allowed in relation to waste referred to in subclause (1) (b) or (c)—record the following details:
- (i) the amount and type of waste received,
  - (ii) the date the waste was received,
  - (iii) particulars of the approved operational purpose for which the waste is intended to be used,
  - (iv) the amount and type of waste used,
  - (v) the date the waste was used,
  - (vi) particulars of the operational purpose for which the waste was used, and
- (d) ensure that the records required to be made under paragraphs (a)–(c):
- (i) are accurate, and
  - (ii) are retained for a period of at least 3 years from the date on which the rebate is claimed, and
- (e) make any such record available for inspection by an authorised officer on request.

Maximum penalty (subclause (4)): 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

### **23 Records relating to vehicles**

- (1) The occupier of a scheduled waste facility who is required to pay contributions under section 88 of the Act must accurately record the following details in respect of each vehicle (other than a motor car or a car trailer) that transports waste to or from the waste facility:
- (a) the registration number of the vehicle,
  - (b) the time and date of entry to the waste facility,
  - (c) the time and date of exit from the waste facility,
  - (d) the type of waste carried by the vehicle,

- (e) the quantity (in tonnes) of each type of waste carried by the vehicle,
  - (f) the final destination (whether at that waste facility or otherwise) of the waste.
- (2) The occupier of a scheduled waste facility who is required to pay contributions under section 88 of the Act must accurately record, on a daily basis, the following details in respect of the motor cars or car trailers that transport waste to the waste facility:
- (a) the total number of motor cars and car trailers that, on each particular day, transport waste to the waste facility,
  - (b) the type of waste transported by each such motor car or car trailer.
- (3) A record required to be made under subclause (1) or (2) must:
- (a) be kept for at least 3 years from the date on which the waste was received at the waste facility, and
  - (b) be made available for inspection by an authorised officer on request.

Maximum penalty (subclauses (1)–(3)): 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

### **23A Returns**

The occupier of a scheduled waste facility who is required to pay contributions under section 88 of the Act must provide the EPA with the following information in such manner and at such times as is required by the EPA:

- (a) the quantity of waste received at the waste facility over any specified period,
- (b) the types of waste received at the waste facility over that period,
- (c) such other information as may be specified by the EPA.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

### **24 Volumetric surveys**

- (1) Subject to subclause (2), the occupier of a scheduled landfill site who is required to pay contributions under section 88 of the Act must cause a volumetric survey of the landfill site to be carried out by a registered or qualified surveyor:
- (a) during June in each year and provide the results to the EPA in the approved form and manner by no later than 31 July in that year, and
  - (b) during December in each year and provide the results to the EPA in the approved form and manner by no later than the following 31 January.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

(1A) The occupier must:

- (a) keep a copy of the results of each survey, and
- (b) make those results available for inspection by an authorised officer on request.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

(2) The EPA may, by notice in writing given to the occupier of a landfill site:

- (a) exempt the occupier from any requirement under subclause (1) until such time as the EPA decides to revoke the exemption by further written notice given to the occupier, or
- (b) defer the application of any such requirement in respect of the occupier until such time as is specified in the notice.

## **25 Weighbridges**

(1) Subject to subclause (3), the occupier of a landfill site who is required to pay contributions under section 88 of the Act must, if the waste facility receives over 20,000 tonnes of waste per year, install an approved weighbridge.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

(2) Subject to subclause (3), the occupier of a landfill site on which any such weighbridge is installed must:

- (a) submit to the EPA, within 30 days of installing the weighbridge, a plan of the landfill site indicating the proposed vehicle flow controls (including the entry and exits points where waste is transported into and out of the landfill site), and
  - (a1) if any change occurs in relation to those vehicle flow controls, submit a revised plan to the EPA no later than 30 days after the relevant change occurs, and
- (b) ensure that each vehicle (not being a motor car or a car trailer) transporting waste into or out of the landfill site uses the weighbridge so that the quantity of waste being transported is correctly recorded, and
- (c) ensure that any such weighbridge is maintained in proper working order, and
- (d) ensure that any such weighbridge is certified at least once a year in accordance with the [Trade Measurement Act 1989](#), and

- (d1) keep a copy of the latest vehicle flow control plan, and the latest weighbridge certificate as referred to in paragraph (d), on the premises and make the plan and the certificate available for inspection by an authorised officer on request, and
- (e) notify the EPA of any incident that results in the weighbridge being out of operation for any period of more than 7 days, and
- (f) ensure that an approved alternative method of recording the quantity of waste that is transported into or out of the landfill is used during any period that the weighbridge is out of operation, and
- (g) comply with any other requirement relating to the installation or operation of the weighbridge as the EPA may specify by notice in writing.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

- (3) The EPA may, by notice in writing given to the occupier of a landfill site:
  - (a) exempt the occupier from any requirement under subclause (1) or (2) until such time as the EPA decides to revoke the exemption by further written notice given to the occupier, or
  - (b) defer the application of any such requirement in respect of the occupier until such time as is specified in the notice.

## **26 Video monitoring systems**

- (1) The EPA may, by notice in writing, require the occupier of a landfill site who is required to pay contributions under section 88 of the Act to install an approved video monitoring system in the manner and location specified in the notice. The EPA must not make any such requirement unless it is of the opinion that the occupier has failed to pay the required contributions under the Act.
- (2) The occupier must:
  - (a) comply with any such requirement within the time specified in the notice, and
  - (b) ensure that video monitoring records are kept for at least one year from the time of the recording, and
  - (c) make such recordings available for inspection by an authorised officer on request.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

## **Part 6A Special provisions relating to interstate transport of controlled waste**



## 26A Definitions

In this Part:

**consignment authorisation** has the same meaning as in the Controlled Waste Transport Measure.

**controlled waste** has the same meaning as in the Controlled Waste Transport Measure.

**Controlled Waste Transport Measure** means the *National Environment Protection (Movement of Controlled Waste between States and Territories) Measure* made under the [National Environment Protection Council Act 1994](#) of the Commonwealth on 26 June 1998 (and notified in Commonwealth Gazette No GN 27 on 8 July 1998 at page 2212).

**direct reuse controlled waste** means controlled waste referred to in clause 9 (b) of the Controlled Waste Transport Measure.

**jurisdiction of destination** means, in respect of the transport of controlled waste to a participating State, the participating State that is the ultimate destination of the transport.

**participating State** means a participating State, or a participating Territory, within the meaning of the Controlled Waste Transport Measure.

**waste transport certificate** means a form containing the information referred to in Part 1 of Schedule B to the Controlled Waste Transport Measure.

## 26B Requirements relating to transportation of controlled waste to interstate destination

- (1) This clause applies to the transport of controlled waste, in the course of any activity carried on for business or other commercial purposes, from premises in New South Wales on which the waste is generated, used, stored or in any other way dealt with, in the course of any activity carried on for business or other commercial purposes, to a destination in a participating State other than New South Wales.
- (2) The occupier of the premises must:
  - (a) obtain a consignment authorisation in respect of the waste from the relevant agency in the jurisdiction of destination, and
  - (b) complete a waste transport certificate (in the form approved by the relevant authority in the jurisdiction of destination) in respect of the waste, and
  - (c) before the controlled waste is transported from the premises, ensure that the consignment authorisation and the waste transport certificate have been given to the person transporting the waste, and
  - (d) retain a copy of the consignment authorisation, and a copy of the waste transport certificate, for a period of not less than 3 years after the day on which the consignment authorisation is obtained, and

- (e) must make each such document retained under paragraph (d) available for inspection by an authorised officer on request.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

**26BA Requirements relating to interstate transportation of controlled waste**

- (1) This clause applies to a person (the **transporter**) who, in the course of any activity carried on for business or other commercial purposes, transports controlled waste:
  - (a) from New South Wales and through New South Wales in the course of transporting the waste to a destination in another participating State, or
  - (b) from another participating State into New South Wales and through New South Wales in the course of transporting the waste to a destination in New South Wales, or
  - (c) from another participating State into New South Wales and through New South Wales in the course of transporting the waste to a destination in another participating State.
- (2) The transporter:
  - (a) must carry, in the vehicle transporting the waste, the consignment authorisation and the waste transport certificate in respect of the waste, and
  - (b) must, at any time the transporter is in or in the vicinity of the vehicle transporting the waste, make the consignment authorisation and the waste transport certificate available for inspection by an authorised officer on request, and
  - (c) must not remove the waste, or cause the waste to be removed, from the vehicle transporting the waste unless:
    - (i) the occupier of the premises to which the waste is to be removed has obtained, in accordance with clause 26BB (a), the consignment authorisation and the waste transport certificate in respect of the waste, or
    - (ii) an authorised officer has requested the transporter to do so.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

**26BB Requirements relating to receiving controlled waste transported into New South Wales**

The occupier of premises in New South Wales at which controlled waste is received, in the course of any activity carried on for business or other commercial purposes, after being transported, in the course of any activity carried on for business or other commercial

purposes, from a participating State other than New South Wales:

- (a) must not remove the waste, or cause the waste to be removed, from the vehicle that transported the waste unless he or she has obtained the consignment authorisation and the waste transport certificate in respect of the waste, and
- (b) must forward the waste transport certificate to the EPA within 14 days after receiving the waste, and
- (c) must retain the consignment authorisation, and a copy of the waste transport certificate, for a period of not less than 3 years after the day on which the consignment authorisation is obtained, and
- (d) must make each such document retained under paragraph (c) available for inspection by an authorised officer on request.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

#### **26BC Controlled waste exemptions**

The EPA may, by order in writing served on the person specified in the order as the consignor of the waste, exempt a person from any provision or provisions of the Act or the regulations specified in the order to the extent that the provision or provisions apply to the person in respect of:

- (a) the transport of a consignment, or a class of consignments, specified in the order of controlled waste between a specified geographical area in New South Wales and a specified geographical area in another participating State and the carrying out of any activity incidental to such transport, or
- (b) the transport of a consignment, or a class of consignments, specified in the order of direct reuse controlled waste in the circumstances referred to in clause 26BA (1) (a)-(c) and the carrying out of any activity incidental to such transport.

#### **26BD Administration of controlled waste exemptions**

- (1) An exemption of a person by an order under clause 26BC (a) or (b):
  - (a) has effect in such circumstances (if any), and subject to such conditions (if any), as are specified in the order, and
  - (b) has effect on and from service of the order, and
  - (c) has effect only if a copy of the order is carried by the person transporting the consignment, or a consignment of the class of consignments, specified in the order, and
  - (d) has effect in respect of an exempted person so long as the exempted person

complies with the other provisions of the Act or the regulations that apply to the person, and

(e) may be revoked by the EPA at any time by order in writing served on the person who was served with the exemption order.

(2) A person who contravenes a condition of an exemption under clause 26BC is guilty of an offence.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

### **26C Exemption relating to authorised interstate transporters of controlled waste**

(1) This clause applies to any person:

(a) who holds a licence or other similar authority that:

(i) has been issued by a participating State other than New South Wales, and

(ii) corresponds (or is similar) to an environmental protection licence authorising the carrying out of the scheduled activity of transporting of waste, and

(b) who transports controlled waste into or through New South Wales or from New South Wales to another participating State.

(2) A person to whom this clause applies is, to the extent that the person transports controlled waste into, through or from New South Wales, exempt from the following provisions:

(a) section 49 (2) of the Act,

(b) clause 17 (2) (g) of this Regulation.

(3) Any such exemption is subject to the following:

(a) the person must ensure that the consignment authorisation in respect of the controlled waste that is transported is carried in the vehicle transporting the waste,

(b) the person must ensure that the conditions (if any) to which the consignment authorisation is subject are complied with to the extent that those conditions apply to the transporting of the controlled waste concerned,

(c) the person must comply with the conditions of the person's licence or other authority (as issued by the participating State concerned) to the extent that those conditions apply to the transporting of controlled waste.

## **26D Offence relating to controlled waste consignment authorisation**

A person must not, in connection with an application to the EPA for a consignment authorisation, provide any information that the person knows is false or misleading in a material respect.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

## **Part 7 Miscellaneous**

### **27 Offence of providing false information**

A person must not, in or in connection with any application, claim or requirement under this Regulation, provide any information, or make any statement or record, that is false or misleading in a material respect.

Maximum penalty: \$20,000 in the case of a corporation, \$10,000 in the case of an individual.

### **28 Immobilisation of contaminants in waste**

- (1) The EPA may from time to time approve the immobilisation of contaminants in waste.
- (2) Such an approval has the effect of enabling the waste to which the approval relates to be assessed and classified in accordance with the procedures set out in the Waste Guidelines relating to immobilisation.
- (3) An approval under this clause may be a **general approval** or a **specific approval**.
- (4) A general approval may be given by way of notice published in the Gazette. A specific approval may be given after an application is made to the EPA.
- (5) An application for a specific approval must:
  - (a) be in the approved form, and
  - (b) be accompanied by such fee (if any) as the EPA may determine, and
  - (c) identify the contaminants to be immobilised, and
  - (d) be accompanied by such evidence as may be required by the EPA for the purposes of ascertaining whether the identified contaminants in the waste will be immobilised and will remain immobilised after disposal of the waste.
- (6) An approval is subject to such conditions as may be imposed by the EPA.
- (7) Without limiting the conditions to which an approval is subject, the EPA may impose conditions for or with respect to the following:

- (a) disposal of the waste to which the approval relates,
  - (b) notification of certain matters to the EPA,
  - (c) record keeping requirements,
  - (d) the immobilisation of the contaminants concerned.
- (8) In giving an approval under this clause, the EPA is required to identify a person (or class of persons) to whom the approval relates (the **responsible person**).
- (9) A general approval may be amended or revoked by the EPA by way of notice published in the Gazette.
- (10) A specific approval may be amended or revoked by the EPA by way of written notice given to the responsible person.
- (11) If an approval is given under this clause, the responsible person must comply with the conditions to which the approval is subject.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

## **29 Special requirements relating to asbestos waste**

- (1) This clause applies to any activity that involves the transportation, collection, storage, or disposal of any type of asbestos waste, regardless of whether the activity is required to be licensed.
- (2) A person who carries on an activity to which this clause applies must comply with the requirements specified in this clause in relation to the activity concerned.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

- (3) The requirements relating to the transportation of asbestos waste are as follows:
- (a) any type of asbestos waste must not be transported unless it is conveyed in a covered leak-proof vehicle so as to prevent any spillage or dispersal of the waste,
  - (b) if asbestos waste that is in the form of stabilised asbestos waste in bonded matrix is to be transported and the waste is not stored in a bag in accordance with subclause (4) (c), the waste must be wetted before it is transported,
  - (c) any vehicle used to transport any type of asbestos waste must be cleaned before leaving the landfill site at which the waste is disposed of so as to ensure that all residual asbestos waste is removed from the vehicle.
- (4) The requirements relating to the collection and storage of asbestos waste are as

follows:

- (a) asbestos waste that is in the form of asbestos fibre and dust waste must be covered in such a manner as to prevent the emission of any dust,
- (b) asbestos waste that is in the form of asbestos fibre and dust waste must not be collected and stored except in accordance with the following procedures:
  - (i) the waste must be collected and stored in impermeable bags,
  - (ii) each bag must be made of heavy duty low density polyethylene of at least 0.2 mm thickness, and have dimensions of no more than 1.2 m in height and 0.9 m in width,
  - (iii) each bag must be sealed by a wire tie, and contain no more than 25 kg of waste,
  - (iv) each bag must be marked with the words “CAUTION ASBESTOS” in letters of not less than 40 mm and which comply with Australian Standard AS 1319—*Safety Signs for the Occupational Environment*,
- (c) if asbestos waste in any form is stored in a bag, the following procedures must be followed:
  - (i) the bag must be placed in a leak-proof container that is used only for the purposes of storing asbestos waste, and
  - (ii) the container must be marked with the words “DANGER—ASBESTOS WASTE ONLY—AVOID CREATING DUST” in letters of not less than 50 mm and which comply with Australian Standard referred to in paragraph (b) (iv), and
  - (iii) the container must have a close-fitting sealed cover so as to prevent any spillage or dispersal of the waste,
- (d) asbestos waste in any form must not be stored except in accordance with the following procedures:
  - (i) the waste must be stored in a secure area so as to prevent entry by unauthorised persons and to prevent the risk of environmental harm,
  - (ii) the waste must, if it is practicable to do so, be stored separately from other types of waste,
- (e) if asbestos waste that is in the form of stabilised asbestos waste in bonded matrix is stored otherwise than in a bag in accordance with paragraph (c), the following procedures must be followed:
  - (i) if it is practicable to do so, the waste must be wetted so as to prevent the emission of any dust,

- (ii) in wetting the asbestos waste, care must be taken to ensure that the wetting process does not cause any emission of dust or lead to any discharge of polluted water,
  - (iii) the waste must be kept covered at all times.
- (5) The requirements relating to the disposal of asbestos waste are as follows:
- (a) asbestos waste in any form must be disposed of only at a landfill site that may lawfully receive the waste,
  - (b) disposal of asbestos waste in any form must be by way of burial,
  - (c) before disposal of the asbestos waste, arrangements must be made with the occupier of the landfill site for the purposes of ensuring that the asbestos waste will be covered:
    - (i) initially to a depth of at least 0.5 m, and
    - (ii) finally to a depth of at least 1 m (in the case of stabilised asbestos waste in bonded matrix) or 3 m (in the case of asbestos fibre and dust waste) beneath the planned final land surface of the landfill site,
  - (d) the asbestos waste must:
    - (i) be disposed of in accordance with the arrangements under paragraph (c), and
    - (ii) be buried to the initial depth on the same day it is received at the landfill site,
  - (e) in disposing of asbestos waste in any form at a landfill site, the waste must:
    - (i) be unloaded in such a manner as to avoid the creation of dust, and
    - (ii) not be compacted before it is covered, and
    - (iii) not come into contact with any earthmoving equipment at any time.
- (6) A person must not cause asbestos waste in any form to be used as road making material.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

- (7) In this clause, **asbestos waste** means any waste that contains asbestos as defined in the Waste Guidelines.

### 30 Special requirements relating to clinical waste

If a person disposes of clinical waste at a waste facility that is not licensed under the Act, the person must comply with the following requirements:



- (a) the waste must be disposed of only at a waste facility that is operated by a local authority and located outside the Sydney metropolitan area or extended regulated area,
- (b) the written approval of the local authority must be obtained before the waste is disposed of,
- (c) the waste must not be disposed of unless it was generated outside the Sydney metropolitan area or extended regulated area,
- (d) the waste must not contain any recognisable body parts, sharps waste, cytotoxic waste or radioactive waste,
- (e) the waste must be packaged in accordance with the requirements set out in the document called *NSW Health: Waste Management Guidelines for Health Care Facilities* issued by the Department of Health and dated August 1998,
- (f) the waste must not be disposed of in amounts that exceed 40 kg at any one time,
- (g) the waste must be buried, or be immediately contained, in a manner that prevents the waste coming into contact with any person or animal.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

### **Schedule 1 (Repealed)**