

Protection of the Environment Operations (Penalty Notices) Regulation 2004

[2004-601]



New South Wales

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Protection of the Environment Operations (Penalty Notices) Regulation 2004



New South Wales

Contents

| | |
|---|----------|
| 1 Name of Regulation | 3 |
| 2 Commencement | 3 |
| 3 Definitions | 3 |
| 4 Penalty notice offences: section 222 | 3 |
| 5 Enforcement officers: section 226 | 4 |
| 6 Amounts of penalty payable: section 227 | 5 |
| 7 Service of penalty notices on owners of vehicles or vessels: section 224 (3)..... | 6 |
| 8 Saving arising on repeal of former regulation..... | 6 |
| Schedule 1 Penalty notice offences | 6 |

Protection of the Environment Operations (Penalty Notices) Regulation 2004



New South Wales

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Penalty Notices) Regulation 2004*.

2 Commencement

(1) Except as provided by subclause (2), this Regulation commences on 1 September 2004.

Note—

This Regulation replaces the *Protection of the Environment Operations (Penalty Notices) Regulation 1999*, which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

(2) The provisions of Schedule 1 to this Regulation that relate to clauses 19F, 19G and 19H of the *Protection of the Environment Operations (Clean Air) Regulation 2002* commence on 15 November 2004.

3 Definitions

(1) In this Regulation:

penalty notice offence means an offence prescribed by clause 4.

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

(2) Notes in the text of this Regulation do not form part of this Regulation.

4 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.

5 Enforcement officers: section 226

- (1) Officers or employees of a class specified in Column 2 of Schedule 1 are, subject to this clause and section 226 of the Act, prescribed as enforcement officers in relation to the penalty notice offences concerned.
- (2) Any such officer or employee of an organisation (being a local authority, Department, statutory authority or university that is referred to in subclause (6)) is an enforcement officer only if the organisation 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 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.
- (4) An officer or employee is not an enforcement officer in relation to a penalty notice offence alleged to have been committed by:
 - (a) the organisation that has authorised the officer or employee as an enforcement officer, or
 - (b) an officer or employee of that organisation.
- (5) A number included in Column 2 of Schedule 1 is a reference to an officer or employee of a class identified by that number.
- (6) The classes 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 Department of Environment and Conservation 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 Department of Environment and Conservation,
 - (c) class 2A—an officer or employee of the Department of Environment and Conservation who is employed within a group of staff that is designated by the Director-General of the Department as comprising EPA regulatory staff,
 - (d) class 3—an officer or employee of a Port Corporation within the meaning of the [Ports Corporatisation and Waterways Management Act 1995](#),
 - (e) class 4—a police officer,

- (f) class 5—an officer or employee of the Sydney Water Corporation, the Hunter Water Corporation or a water supply authority within the meaning of the *Water Management Act 2000* (other than a water supply authority that is also a local council),
 - (g) class 6—an officer or employee of the Department of Primary Industries,
 - (h) class 7—an officer or employee of the Sydney Harbour Foreshore Authority,
 - (i) class 8—an officer or employee of:
 - (i) the Department of Tourism, Sport and Recreation in relation to a penalty notice offence alleged to have been committed on land vested in the Centennial Park and Moore Park Trust or in the Parramatta Park Trust, or
 - (ii) the Parramatta Stadium Trust,
 - (j) class 9—an officer or employee of an Australian university within the meaning of the *Higher Education Act 2001*,
 - (k) class 10—an officer or employee of the Sydney Olympic Park Authority,
 - (l) class 11—an officer or employee who is a marine park ranger within the meaning of the *Marine Parks Act 1997*,
 - (m) class 12—an officer or employee of the Sydney Catchment Authority,
 - (n) class 13—an officer or employee of the Waterways Authority.
- (7) A reference in this clause to an officer or employee of an organisation includes a reference to a person who:
- (a) is an officer or employee of a body corporate (whether or not the body corporate is a public authority), and
 - (b) acts under the direction and control of the organisation in the provision of services that are the subject of an arrangement between the body corporate and the organisation.

6 Amounts of penalty payable: section 227

The prescribed penalty payable under a penalty notice in respect of 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.

7 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.

8 Saving arising on repeal of former regulation

Any act, matter or thing that, immediately before the repeal of the *Protection of the Environment Operations (Penalty Notices) Regulation 1999*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Penalty notice offences

(Clauses 4-7)

Ozone Protection Act 1989

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

Ozone Protection Regulation 1997

| Column 1 | Column 2 | Column 3 |
|-------------------------|----------|----------|
| Provision of Regulation | Officer | Penalty |
| Clause 9 (1) | 2A | \$300 |
| Clause 9 (5) | 2A | \$300 |
| Clause 10 (1) | 2A | \$300 |
| Clause 10 (2) | 2A | \$300 |
| Clause 12 (1) | 2A | \$300 |
| Clause 12 (5) | 2A | \$300 |
| Clause 22 | 2A | \$300 |
| Clause 24 (1) | 2A | \$300 |
| Clause 25 (1) | 2A | \$300 |
| Clause 31 (1) | 2A | \$300 |

| | | |
|-------------------|----|-------|
| Clause 39 (1) (a) | 2A | \$300 |
| Clause 39 (1) (b) | 2A | \$300 |
| Clause 40 (1) | 2A | \$300 |

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 | 2A | \$750 | \$1500 |
| Section 48 | 2A | \$750 | \$1500 |
| Section 49 | 2A | \$750 | \$1500 |
| Section 64 | 2A | \$750 | \$1500 |
| Section 66 (2) | 2A | \$750 | \$1500 |
| Section 66 (4) | 2A | \$750 | \$1500 |
| Section 86 | 2A | \$750 | \$1500 |
| Section 88 | 2A | \$750 | \$1500 |
| Section 91 | 1, 2, 11, 12, 13 | \$750 | \$1500 |
| Section 94 | 1, 2, 11, 12, 13 | \$500 | \$1000 |
| Section 97 | 1, 2, 11, 12, 13 | \$750 | \$1500 |
| Section 100 | 1, 2, 11, 12, 13 | \$500 | \$1000 |
| Section 120 | 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13 | \$750 | \$1500 |
| Section 124 | 1, 2, 13 | \$750 | \$1500 |
| Section 125 | 1, 2, 13 | \$750 | \$1500 |
| Section 126 | 1, 2, 13 | \$750 | \$1500 |
| Section 128 | 1, 2, 13 | \$750 | \$1500 |
| Section 129 | 2A | \$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 by less than 5dB(A).

| | | |
|----|-------|-------|
| 2A | \$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.

| | | |
|----|-------|-------|
| 2A | \$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.

| | | |
|----|-------|-------|
| 2A | \$300 | \$600 |
|----|-------|-------|

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|-------------|------|-------|-------|
| Section 137 | 1, 2 | \$200 | \$400 |
|-------------|------|-------|-------|

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|-------------|----------|-------|-------|
| Section 139 | 1, 2, 13 | \$200 | \$400 |
|-------------|----------|-------|-------|

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| Section 140 | 1, 2, 13 | \$200 | \$400 |
|-------------|----------|-------|-------|

Section 143:

Transport waste, being waste comprising asbestos waste or hazardous waste (within the meaning of Schedule 1 to the Act), 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, 4, 12 | \$1500 | \$5000 |
|-------------|--------|--------|

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|---|--|--------|--------|
| Section 143: | | | |
| Transport waste to a place that cannot lawfully be used as a waste facility for that waste. | 1, 2, 4, 12 | \$750 | \$1500 |
| Section 144 | 1, 2, 4, 12 | \$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, 6, 7, 8, 9, 10, 11, 12, 13 | \$60 | — |
| Section 145: | | | |
| Deposit litter (excluding cigarette, and excluding litter deposited from vehicle). | 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 | \$200 | \$400 |
| Section 145: | | | |
| Deposit litter, being unlit or extinguished cigarette (excluding litter deposited from vehicle). | 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 | \$60 | — |
| Section 145: | | | |
| Deposit litter, being lit cigarette (excluding litter deposited from vehicle). | 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 | \$200 | — |
| Section 145: | | | |
| Deposit litter from vehicle. | 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 | \$200 | \$400 |
| Section 145A: | | | |
| Deposit litter (for example, lit cigarette) in dangerous circumstances, including deposit of syringe. | 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 | \$375 | \$750 |
| Section 146A | 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 | \$200 | \$400 |
| Section 146B | 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 | \$200 | \$400 |
| Section 146C | 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 | \$200 | \$400 |
| Section 146E (1) | 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 | \$200 | \$400 |
| Section 146E (2) | 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 | \$200 | \$400 |
| Section 146E (3) | 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 | \$375 | \$750 |

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|---------------------|--------------------|-------|--------|
| Section 152 | 1, 2 | \$750 | \$1500 |
| Section 155 | 2A | \$750 | \$1500 |
| Section 156 | 2A | \$750 | \$1500 |
| Section 157 (1) | 2A | \$750 | \$1500 |
| Section 157 (2) | 2A | \$750 | \$1500 |
| Section 161 (4) | 2A | \$300 | \$600 |
| Section 161 (7) | 2A | \$300 | \$600 |
| Section 167 | 1, 2 | \$750 | \$1500 |
| Section 211 (1) | 1, 2, 3, 4, 12, 13 | \$500 | \$1000 |
| Section 211 (2) | 1, 2, 3, 4, 12, 13 | \$500 | \$1000 |
| Section 265 | 1, 2, 3, 13 | \$200 | \$400 |
| Section 277 (1) (a) | 1, 2, 3, 4, 7, 13 | \$200 | \$400 |
| Section 277 (1) (b) | 1, 2, 3, 4, 7, 13 | \$200 | \$400 |
| Section 277 (2) (a) | 1, 2, 3, 4, 7, 13 | \$200 | \$400 |
| Section 277 (2) (b) | 1, 2, 3, 4, 7, 13 | \$200 | \$400 |

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) | 2A | \$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. | 2A | \$200 | |
| Clause 15 (1): in any other case. | 2A | \$300 | |
| Clause 16 (1) | 2A | \$300 | |
| Clause 17 (1) | 2A | \$300 | |
| Clause 19 (2) | 2A | \$300 | |
| Clause 19 (3) | 2A | \$300 | |
| Clause 19B (2) | 2A | \$300 | \$600 |

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|----------------|----|-------|--------|
| Clause 19C (1) | 2A | \$300 | \$600 |
| Clause 19F (1) | 2A | \$750 | \$1500 |
| Clause 19F (2) | 2A | \$750 | \$1500 |
| Clause 19G (1) | 2A | \$300 | \$600 |
| Clause 19H (1) | 2A | \$300 | \$600 |
| Clause 37 | 2A | \$600 | |
| Clause 48 (1) | 2A | \$600 | |
| Clause 48 (2) | 2A | \$600 | |
| Clause 53 (2) | 2A | \$600 | |
| Clause 54 (2) | 2A | \$600 | |
| Clause 54 (3) | 2A | \$600 | |
| Clause 54 (4) | 2A | \$600 | |
| Clause 55 (1) | 2A | \$600 | |
| Clause 55 (2) | 2A | \$600 | |

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 | \$500 | \$1000 |
| Clause 6 (1) | 1, 2 | \$500 | \$1000 |
| Clause 7 (1) | 1, 2 | \$500 | \$1000 |
| Clause 7 (2) | 1, 2 | \$500 | \$1000 |
| Clause 7 (3) | 1, 2 | \$500 | \$1000 |

Protection of the Environment Operations (General) Regulation 1998

| 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 47 (1) | 2A | \$1500 | |
| Clause 51 (1) | 2A | \$500 | |

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|--------------------|----|-------|--------|
| Clause 57D (2) (a) | 2A | \$500 | \$1000 |
| Clause 57D (2) (b) | 2A | \$500 | \$1000 |
| Clause 57E (1) | 2A | \$500 | \$1000 |
| Clause 57E (2) | 2A | \$500 | \$1000 |
| Clause 57M | 2A | \$750 | \$1500 |
| Clause 57N (4) | 2A | \$750 | \$1500 |
| Clause 57P (1) | 2A | \$750 | \$1500 |

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 | 2A | \$750 | \$1500 |

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) | 2A | \$300 | \$600 |
| Clause 11 | 2A | \$300 | \$600 |
| Clause 12 (1) | 2A | \$300 | \$600 |
| Clause 13 (1): Cause or permit use of vehicle capable of emitting noise exceeding maximum level by up to 5 dB(A). | 2A | \$150 | \$300 |
| Clause 13 (1): Cause or permit use of vehicle capable of emitting noise exceeding maximum level by between 5 and 15 dB(A). | 2A | \$250 | \$500 |
| Clause 13 (1): Cause or permit use of vehicle capable of emitting noise exceeding maximum level by more than 15 dB(A). | 2A | \$500 | \$1000 |
| Clause 14 | 1, 2, 4 | \$200 | \$400 |
| Clause 15 (1) | 1, 2, 4 | \$200 | \$400 |
| Clause 16 (1) | 1, 2, 4 | \$200 | \$400 |

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|--|-------------|-------|--------|
| Clause 17 | 1, 2, 4 | \$150 | \$300 |
| Clause 17A (1) | 2, 4 | \$150 | |
| Clause 18 (1) | 2, 4 | \$200 | \$400 |
| Clause 18 (2) (a) | 2, 4 | \$200 | \$400 |
| Clause 18 (2) (b) | 2, 4 | \$200 | \$400 |
| Clause 19 (1) | 2, 4 | \$200 | \$400 |
| Clause 20 | 2A | \$200 | \$400 |
| Clause 21 (1) (a) | 2A | \$200 | \$400 |
| Clause 21 (1) (b) | 2A | \$200 | \$400 |
| Clause 21 (2) (a) | 2A | \$200 | \$400 |
| Clause 21 (2) (b) | 2A | \$200 | \$400 |
| Clause 23 | 1, 2, 4 | \$200 | \$400 |
| Clause 24 (1): Cause or permit use of noisy alarm (for up to 24 hours). | 1, 2, 4, 7 | \$200 | \$400 |
| Clause 24 (1): Cause or permit use of noisy alarm (for more than 24 hours and up to 48 hours). | 1, 2, 4, 7 | \$400 | \$800 |
| Clause 24 (1): Cause or permit use of noisy alarm (for more than 48 hours). | 1, 2, 4, 7 | \$600 | \$1200 |
| Clause 25 (1) | 2A | \$200 | \$400 |
| Clause 26 (5) | 2, 4 | \$300 | \$600 |
| Clause 27 (4) | 2, 4 | \$300 | \$600 |
| Clause 27 (5) | 2, 4 | \$300 | \$600 |
| Clause 29 | 1, 3, 4, 13 | \$200 | \$400 |
| Clause 30 | 1, 3, 4, 13 | \$300 | \$600 |
| Clause 31 (1) | 3, 4, 13 | \$200 | \$400 |
| Clause 31 (2) (a) | 3, 4, 13 | \$200 | \$400 |
| Clause 31 (2) (b) | 3, 4, 13 | \$200 | \$400 |
| Clause 32 (1) | 1, 3, 4, 13 | \$300 | \$600 |
| Clause 33 (5) | 3, 4, 13 | \$300 | \$600 |
| Clause 34 (4) | 3, 4, 13 | \$300 | \$600 |
| Clause 34 (5) | 3, 4, 13 | \$300 | \$600 |

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|---|---------|-------|--------|
| Clause 50 (1) | 1, 4 | \$200 | \$400 |
| Clause 51 (1) | 1, 4 | \$200 | \$400 |
| Clause 52 (1) | 1, 4 | \$200 | \$400 |
| Clause 53 (1): Cause or permit use of noisy intruder alarm (for up to 24 hours). | 1, 2, 4 | \$200 | \$400 |
| Clause 53 (1): Cause or permit use of noisy intruder alarm (for more than 24 hours and up to 48 hours). | 1, 2, 4 | \$400 | \$800 |
| Clause 53 (1): Cause or permit use of noisy intruder alarm (for more than 48 hours). | 1, 2, 4 | \$600 | \$1200 |

Protection of the Environment Operations (Waste) Regulation 2005

| Column 1 | Column 2 | Column 3 |
|--------------------------------|-----------------|-----------------|
| Provision of Regulation | Officer | Penalty |
| Clause 6 (5) | 2A | \$500 |
| Clause 10 (2) | 2A | \$500 |
| Clause 10 (3) (a) | 2A | \$500 |
| Clause 10 (3) (b) | 2A | \$500 |
| Clause 11 (7) | 2A | \$500 |
| Clause 12 (1) | 2A | \$500 |
| Clause 12 (2) | 2A | \$500 |
| Clause 12 (3) | 2A | \$500 |
| Clause 13 | 2A | \$500 |
| Clause 14 (1) | 2A | \$500 |
| Clause 14 (2) | 2A | \$500 |
| Clause 15 (1) | 2A | \$500 |
| Clause 15 (2) | 2A | \$500 |
| Clause 16 (3) | 2A | \$500 |
| Clause 22 (1) | 2A | \$500 |
| Clause 22 (2) | 2A | \$500 |
| Clause 22 (3) | 2A | \$500 |
| Clause 23 | 2A | \$500 |

| | | |
|---------------|------|-------|
| Clause 24 (1) | 2A | \$500 |
| Clause 24 (2) | 2A | \$500 |
| Clause 24 (3) | 2A | \$500 |
| Clause 24 (4) | 2A | \$500 |
| Clause 24 (6) | 2A | \$500 |
| Clause 25 (1) | 2A | \$500 |
| Clause 25 (3) | 2A | \$500 |
| Clause 25 (4) | 2A | \$500 |
| Clause 25 (5) | 2A | \$500 |
| Clause 25 (6) | 2A | \$500 |
| Clause 26 (2) | 2A | \$500 |
| Clause 27 (4) | 2A | \$500 |
| Clause 27 (5) | 2A | \$500 |
| Clause 28 (5) | 2A | \$500 |
| Clause 29 (4) | 2A | \$500 |
| Clause 32 | 2A | \$500 |
| Clause 33 | 2A | \$500 |
| Clause 34 | 2A | \$500 |
| Clause 35 | 2A | \$500 |
| Clause 36 | 2A | \$500 |
| Clause 40 (1) | 2A | \$500 |
| Clause 40 (2) | 2A | \$500 |
| Clause 42 (2) | 1, 2 | \$500 |
| Clause 42 (6) | 1, 2 | \$500 |
| Clause 43 | 1, 2 | \$500 |
| Clause 45 (1) | 1, 2 | \$750 |
| Clause 47 (3) | 2A | \$500 |
| Clause 47 (4) | 1, 2 | \$500 |
| Clause 47 (5) | 2A | \$500 |
| Clause 48 | 1, 2 | \$500 |

| | | |
|----------------|------|-------|
| Clause 49 | 1,2 | \$500 |
| Clause 50 (11) | 2A | \$500 |
| Clause 51 (10) | 2A | \$500 |
| Clause 52 | 1, 2 | \$500 |