

ENVIRONMENT PROTECTION ACT 1973.

ANALYSIS.

PART I—PRELIMINARY.

1. Short title and commencement.
2. Interpretation.
3. Effect on other Acts.
4. Act to bind Crown.

PART II—ADMINISTRATION.

5. Officers.
6. Additional officers.
7. Environment Protection Advisory Council.
8. Functions of council.
9. Committees.
10. Powers, &c., of authorized officers.

PART III—GENERAL PROVISIONS.

11. Application of Part.
12. Duties of the Crown and of public and local authorities.
13. Enforcement of duties of public authorities.
14. Enforcement of duties of municipalities.
15. Fixed sources of pollution prohibited.
16. Moving sources of pollution prohibited.
17. Pollution of territorial and inland waters prohibited.
18. Dumping of waste prohibited.
19. Control of trades, industries, &c., by municipalities.
20. Control of trades, industries, &c., by Director.
21. Fires in the open.
22. Exemptions.

PART IV—CONTROL OF SCHEDULED PREMISES.

23. No operation of scheduled premises without a licence.
24. Application for a licence.
25. Licences.
26. Effect of licence.

27. Effect of refusal of licence.
28. Notice of future requirements.
29. Changes in operation of licensed premises.
30. Renewal of licences.
31. Transfer of licences.
32. Revocation of licences.
33. Temporary operation.
34. Crown premises.
35. Exemptions.
36. Effect of statutory authorization of scheduled premises.

PART V—APPEALS.

37. The Environment Protection Appeal Board.
38. Rights of appeal.
39. Effect of appeal.
40. Jurisdiction.
41. Procedure.

PART VI—EVIDENCE.

42. Analysis.
43. Proof of pollution.
44. Evidence for the purposes of s. 50.
45. Proof in respect of licences.

PART VII—OFFENCES.

46. Obstruction, &c., of authorized officers.
47. Emission of pollutants.
48. Unlicensed operation of scheduled premises.
49. Breach of licence for scheduled premises.
50. Pollution of the sea restrained.
51. Excessive noise.
52. Sale, &c., of motor vehicles not properly equipped.
53. Secrecy.

PART VIII—MISCELLANEOUS.

54. Service of notices.
55. Regulations.
56. Fees.





ENVIRONMENT PROTECTION.

No. 34 of 1973.

AN ACT to make better provision for protecting the environment of the people of the State. [26 July 1973.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as the *Environment Protection Act* Short title and commencement. 1973.

(2) Parts III to VIII of this Act shall commence on a date to be fixed by proclamation.

(3) The power—

(a) to make, grant, or issue any regulation or other instrument;
or

(b) to do any other thing,

for the purposes of Parts III to VIII may be exercised at any time after the commencement of this Act.

(4) Except so far as may be necessary to bring those Parts into operation, no such instrument shall take effect until the commencement of those Parts.

Interpretation.

2—(1) In this Act, unless the contrary intention appears—

“appeal board” means the Environment Protection Appeal Board;

“analysis” means any test or examination of any matter, substance, or process for the purpose of determining its composition, qualities, or its effects upon any segment of the environment (whether physical, chemical, or biological);

“analyst” means an analyst appointed under section forty-two;

“authorized officer” means—

(a) an officer appointed under section five;

(b) an additional officer appointed under subsection (1) of section six; and

(c) a person whose services are available under subsection (2) of that section,

to whom the Director has caused to be issued an authority as provided in subsection (14) of section ten, and includes a police officer acting under subsection (3) of section six and a municipal officer appointed under subsection (4) of that section;

“beneficial use” means a use of the environment or any part thereof that is conducive to human benefit, welfare, safety, or health;

“council” means the Environment Protection Advisory Council;

“Director” means the Director of Environmental Control;

“emit” includes deposit and discharge;

“environment” means the land, water, and atmosphere of the earth;

“land” includes buildings and structures on land and parts of such buildings and structures;

“licence” means a licence issued under section twenty-five, including a licence renewed under section thirty;

“microbe” means any minute living organism, whether or not it is an animal or a plant;

“motor vehicle” has the same meaning as in the *Traffic Act 1925*;

“noise” includes sub-audio and ultra-sonic vibrations;

- “operate scheduled premises” means to carry on on scheduled premises any operation or process by reason of which the premises are scheduled premises;
- “pollutant” means any substance, whether liquid, solid, or gaseous and whether living or not, which directly or indirectly—
- (a) causes pollution of the environment; or
 - (b) causes odours or noises that are offensive or prejudicial to man;
- “pollution” means any direct or indirect contamination or alteration of any part of the environment so as—
- (a) to affect any beneficial use adversely; or
 - (b) to cause a condition that is detrimental or hazardous or likely to be detrimental or hazardous to—
 - (i) human health, safety, or welfare;
 - (ii) animals, plants, or microbes; or
 - (iii) property;caused by emitting anything;
- “prejudicial” means detrimental or injurious or likely to be detrimental or injurious;
- “premises” includes place;
- “public authority” means any corporation, aggregate or sole, of a public or semi-public nature constituted under statutory authority, other than a local authority;
- “scheduled premises” means premises of the kinds described in the first schedule;
- “the municipality” means the municipality having jurisdiction in the locality to which the context relates;
- “time of appealing” means the period of fourteen days referred to in subsection (3) of section thirty-eight;
- “vessel” has the same meaning as in the *Marine Act 1921*;
- “waste” means anything produced in the course of a trade or manufacture or of farming or of some other occupation otherwise than as a commodity for sale or use, and emitted from the premises on which it was produced.

(2) A person shall be deemed to make a noise who does any act whereby a noise is produced.

Effect on
other Acts.

3—(1) Subject to subsection (2) of this section, nothing in this Act affects a provision of another Act, or takes away a power vested in a person by another Act.

(2) Subject to subsection (4) of this section, where the provisions of this Act are inconsistent with a provision of another Act (including special, local, and private Acts) other than the *Oil Pollution Act 1961* and the *Public Health Act 1962*, the provisions of this Act prevail.

(3) Where the provisions of a regulation made under this Act are inconsistent with a provision of a regulation, rule, or by-law made under another Act, other than a regulation or by-law made under the *Oil Pollution Act 1961* or under the *Public Health Act 1962*, the provisions of the regulation made under this Act prevail.

(4) Subject to subsection (5) of this section, this Act does not affect a right or power to cause pollution expressly given by an Act referred to in the second schedule until four years after the commencement of this Act.

(5) The rights and powers referred to in subsection (4) of this section may not be exercised so as to cause pollutants to be emitted at greater rates than those at which they have been emitted before the commencement of this Act.

Act to bind
Crown.

4 This Act binds the Crown.

PART II.

ADMINISTRATION.

Officers.

5—(1) The Governor may appoint, in accordance with the *Public Service Act 1923*, a Director of Environmental Control and such other officers as may be required for the purposes of this Act.

(2) The Director has, under the direction and control of the Minister, the functions, powers, and duties set forth in this Act.

(3) It is the duty of the Director to use his best endeavours in accordance with this Act—

(a) to protect the environment in the State of Tasmania;

- (b) to ensure the control or prevention of any act or emission which causes or is capable of causing pollution; and
- (c) to co-ordinate all activities, whether governmental or otherwise, as are necessary to protect, restore, or improve the environment of the State.

(4) In addition to any other functions conferred on him by this Act, the Director has the following functions, namely:—

- (a) To consider means and initiate steps for the protection of the environment and for preventing, controlling, abating, or mitigating pollution;
- (b) To carry out investigations into the problems of environmental protection;
- (c) To obtain the advice of persons having special knowledge, experience, or responsibility in regard to environment protection;
- (d) To keep under review the progress made in the attainment of the objects and purposes of this Act and to publish reports and provide information for the purpose of increasing public awareness of such progress and of the problems and remedies that exist in relation to the protection of the environment;
- (e) To advise on standards and criteria and methods of sampling and testing to be used for any purpose;
- (f) To promote, encourage, co-ordinate, and carry out short-term and long-term planning and projects in environmental protection together with or separate from other State Departments and instrumentalities; and
- (g) Generally, to administer and give effect to the provisions of this Act and to carry out such other functions as may be prescribed.

(5) Before exercising any of his powers under this Act the Director may consult with—

- (a) the council;
- (b) any relevant committee of the council;
- (c) any permanent head of a department of State concerned; and
- (d) any public or local authority concerned,

either generally or in respect of the particular exercise.

(6) The Director shall as soon as practicable after the thirtieth day of June in every year make a report to the Minister on the operations and administration of the Department during the twelve months ending on that day and shall include therein a section containing such matters as the council recommends him to include.

(7) The Minister shall cause the yearly report of the Director to be laid before both Houses of Parliament within fourteen sitting days of his receipt thereof.

(8) The person holding the office of Director of Environmental Control under the *Public Service Act 1923* at the commencement of this Act shall be deemed to have been appointed under this section.

Additional
officers.

6—(1) With the consent of the Public Service Commissioner, and on the recommendation of the Director, any officer or temporary employee within the meaning of the *Public Service Act 1923* may be given duties or functions under this Act which shall be carried out subject to such conditions as the Public Service Commissioner may determine.

(2) The Minister may agree with any person for—

(a) the services of that person or any of his officers or servants to be made available from time to time for the purposes of this Act; and

(b) payment for such services to be made out of funds available for the purposes of this Act,

and may give to any such persons duties and functions under this Act.

(3) All police officers as defined in the *Police Regulation Act 1898* are additional officers for the purposes of this Act and are without special appointment authorized officers and have such duties and functions under this Act as are agreed upon between the Director and the Commissioner of Police.

(4) A municipality may, with the concurrence of the Director, appoint any of its officers to be authorized officers.

(5) An authorized officer appointed under subsection (4) of this section shall not exercise his powers in respect of scheduled premises.

7—(1) For the purposes of this Act there shall be a council called the Environment Protection Advisory Council consisting of—

Environment
Protection
Advisory
Council.

- (a) the Director, who shall be the chairman;
- (b) the Director of Agriculture;
- (c) the Director of Mines;
- (d) the Secretary for Labour;
- (e) the Director of Public Health;
- (f) the Director of Industrial Development;
- (g) the Town and Country Planning Commissioner; and
- (h) twelve other persons, of whom—
 - (i) two shall be appointed by the Minister from among five persons nominated by the Municipal Association of Tasmania;
 - (ii) one shall be appointed by the Minister from among three persons nominated by the Commonwealth Scientific and Industrial Research Organization;
 - (iii) one shall be appointed by the Minister from among five persons nominated by the Tasmanian Industry Association for Environment Control;
 - (iv) one shall be appointed by the Minister from among three persons nominated by the Tasmanian Conservation Trust;
 - (v) one shall be appointed by the Minister from among five persons nominated by the Tasmanian Trades and Labour Council;
 - (vi) one shall be nominated by the Minister administering the *Hydro-Electric Commission Act 1944* from among the members or officers of the Hydro-Electric Commission;
 - (vii) one shall be nominated by the Minister administering the *Forestry Act 1920* from among the members of the Forestry Commission or of the officers of the Forestry Department;
 - (viii) one shall be nominated by the Minister administering the *Water Act 1957* from among the members of the Rivers and Water Supply Commission or the officers of the Rivers and Water Supply Department;

- (ix) one shall be nominated by the Minister administering the *National Parks and Wildlife Act 1970* from among the members of the National Parks and Wildlife Advisory Council or the National Parks and Wildlife Service;
- (x) one shall be nominated by the Minister administering the *Fisheries Act 1959* from among the members of the Inland Fisheries Commission; and
- (xi) one shall be nominated by the Minister from among four persons nominated, two by the Tasmanian Farmers', Stockowners' and Orchardists' Association and two by the Tasmanian Farmers' Federation.

(2) The council with the approval of the Minister may co-opt additional members for a specified meeting or meetings or for a period not exceeding twelve months.

(3) The Minister may—

(a) summon a special meeting of the council; and

(b) attend all special and ordinary meetings of, and confer with, the council.

(4) At meetings of the council the chairman shall preside and in his absence the council shall elect a chairman from among the members present.

(5) If a body or association authorized to nominate persons as mentioned in subsection (1) of this section fails for one month to comply with a request by the Minister so to do, he may appoint any person instead of a person so nominated and that person may be appointed as if so nominated.

(6) A member of the council appointed by the Minister shall be appointed to hold office for three years.

(7) A member of the council nominated by another Minister shall cease to be a member if he—

(a) resigns his office by writing under his hand addressed to; or

(b) is removed from office by,

the Minister by whom he was nominated.

(8) Where a vacancy occurs in the membership of the council that is to be filled on the nomination of a body or association, it shall be filled similarly, the Minister either using the last previous nominations or requesting fresh ones, in which latter case subsection (5) of this section applies, and the person then appointed shall be appointed to hold office for the balance of the term for which the person he replaces was appointed.

(9) For meetings of the council the quorum is ten.

(10) The council may meet and act notwithstanding any vacancy in its membership, so long as a quorum remains.

(11) Subject to the *Public Service Act 1923*, members of the council shall be paid such remuneration and allowances as are prescribed.

(12) A member of the council may be represented at meetings of the council by a deputy appointed by him by notice in writing to the secretary of the council.

(13) There shall be a secretary of the council appointed under the *Public Service Act 1923*, and the person so appointed may hold his office in conjunction with another office under that Act.

(14) The council shall meet when called together by the secretary on the order of the Director.

(15) Except as otherwise provided in this section the council may regulate its own procedure.

8 The council—

Functions of council.

- (a) shall advise the Minister on all matters on which he asks its advice;
- (b) shall make recommendations in respect of any matter in respect of which this Act provides for its recommendation; and
- (c) may make recommendations to the Minister or the Director in respect of any matter affecting the purposes or administration of this Act.

9—(1) The council may appoint committees to advise itself or the Director on any specified subject. Committees.

(2) Such committees may, with the consent of the Minister, include persons not members of the council.

(3) Members of such committees may, subject to the *Public Service Act 1923*, be paid such remuneration and allowances as are prescribed.

(4) Appointments of such committees lapse at the end of each term of three years for which members of the council are ordinarily appointed.

Powers, &c.,
of authorized
officers.

10—(1) An authorized officer may at any time enter with or without assistants, vehicles, and equipment any land from which a waste, pollutant, or noise is emitted or likely to be emitted and may there—

(a) examine and inspect any control equipment, fuel burning equipment, or industrial plant;

(b) take and remove samples of any substance used in or on the land or emitted therefrom; and

(c) make such examination or inquiry and such tests,

as he considers necessary to ascertain whether any of the provisions of this Act or of any requirements made under this Act or the conditions, limitations, or restrictions to which any licence or approval under this Act is subject are being complied with.

(2) In the course of his duties an authorized officer may take such photographs in or on any land as he considers necessary.

(3) An authorized officer may, by notice in writing, require—

(a) the occupier or person in charge of any place or part thereof, from which a pollutant or noise is being, or is usually, or is reasonably expected, to be emitted to produce to the authorized officer any reports, books, plans, maps, or documents relating to—

(i) the emission from that place of a pollutant or noise;

(ii) any manufacturing, industrial, or trade process carried on at that place; or

(iii) data from any monitoring equipment or programme providing information as to waste discharges, emissions, or deposits from or on that place;

- (b) any person or body to produce to the authorized officer any reports, books, plans, maps, or documents in the custody or possession of that person or body relating to any apparatus, equipment, or works used for the discharge, emission, or deposit of a waste,

and may take copies of any such reports, books, plans, maps, or documents.

- (4) An authorized officer may—

- (a) examine, either alone or in the presence of some other person, with respect to matters under this Act a person whom he finds in a place entered by him under this section, and require that person to answer any questions put by the authorized officer and to sign a declaration of the truth of his answers; and

- (b) require any such person to give such information as it is within his power to give as to who is the occupier of the place.

(5) No person may be required under the authority of paragraph (a) of subsection (4) of this section to answer any question or give any information tending to criminate him.

(6) An authorized officer on entering any place under this section may take with him an approved interpreter.

(7) A question or requirement that is put or made on behalf of an authorized officer by an approved interpreter shall be deemed to have been put or made by the authorized officer, and the answer thereto made to the interpreter shall be deemed to have been made to the authorized officer.

(8) The Minister, if he is satisfied that any person is qualified by reason of his knowledge of any language to act as an interpreter and that person is of good fame and character, may, by notice in the *Gazette*, declare that person to be an approved interpreter for the purposes of this Act.

(9) In this section “ approved interpreter ” means a person who has been declared to be an approved interpreter pursuant to subsection (8) of this section or a person who has been declared to be an approved interpreter pursuant to subsection (6) of section ten of the *Factories, Shops, and Offices Act 1965*.

(10) The occupier of any land or person in charge of any place that an authorized officer enters under this section shall furnish the means required by the authorized officer as necessary for any entry, inspection, examination, inquiry, or taking of samples, or otherwise for the exercise of his powers under this Act in relation to that land or place.

(11) An authorized officer may—

- (a) by notice in writing, require the owner of a motor vehicle to bring the vehicle to an inspection centre selected by the owner within a specified time, not less than ten days, and within specified hours, not less than six, for inspection as provided in paragraph (d) of this subsection and the owner shall comply;
- (b) no owner of a motor vehicle shall be required to bring the vehicle to any inspection centre more than fifty miles from the residence or place of business of the owner or in the case of an interstate vehicle within the meaning of the *Traffic Act 1925* more than fifty miles from the point of arrival or departure from the State;
- (c) stop any motor vehicle and inspect it as provided in that paragraph;
- (d) require the driver of any motor vehicle to stop the vehicle for the purposes of such an inspection and the driver shall comply; and
- (e) inspect any motor vehicle in order to ascertain whether it complies with this Act.

(12) For the purposes of subsection (11) of this section, an inspection centre is a place declared by the Director by notice in the *Gazette* to be an inspection centre for the purposes of this section.

(13) An authorized officer may at any time, with or without assistants and equipment, board any vessel and enter or go to any part thereof and may there—

- (a) examine and inspect any control equipment or fuel-burning equipment;
- (b) take and remove samples of any substance kept or used aboard or emitted from the vessel; and
- (c) make such examination or inquiry and such tests,

as he considers necessary to ascertain whether any of the provisions of this Act or of any requirements made under this Act are being complied with.

(14) The Director shall cause to be issued to every authorized officer an authority in writing bearing a photograph of the officer and on applying for admission to any land, place, or vessel which he is empowered by this Act to enter the authorized officer shall, if requested so to do, produce the authority to the occupier or person in charge of the land, place, or vessel.

(15) Subsection (14) of this section does not apply to a police officer acting under subsection (3) of section six.

(16) Notwithstanding the provisions of subsection (1) of this section, an authorized officer is not entitled to enter a private dwelling house or upon land used in connection therewith unless he believes on reasonable grounds that a pollutant or noise is being emitted or is likely to be emitted therefrom into the environment.

(17) When an authorized officer making an entry under the provisions of this section is informed that the land or vessel upon which he is entering has dangerous operations being conducted therein or has dangerous substances used in or on, or emitted therefrom he shall take all such precautions for his own safety as he shall be instructed to take by the owner or occupier thereof.

PART III.

GENERAL PROVISIONS.

11 Sections nineteen and twenty do not apply to scheduled premises. Application of Part.

12—(1) It is the duty of the Crown to refrain, as far as is practicable and reasonable, from causing or permitting pollution of the environment and to put the laws into execution to prevent or reduce such pollution. Duties of the Crown and of public and local authorities.

(2) It is the duty of all the servants of the Crown, and especially of the Director, so far as is consistent with their respective offices, to help the Crown in its duty referred to in subsection (1) of this section.

(3) The Director has, for the purposes of subsections (1) and (2) of this section, the right—

- (a) to request information about anything done or intended to be done on behalf of the Crown that will or may pollute or substantially alter the environment; and
- (b) to give advice on how to avoid, prevent, or mitigate such pollution or alteration.

(4) It is the duty of all public and local authorities so to use their powers and perform their functions that, so far as is reasonable and practicable, they do not cause or permit pollution of the environment.

(5) It is also the duty of municipalities to use their powers to prevent or mitigate, so far as is reasonable and practicable, pollution of the environment within their respective municipal districts, to prosecute offenders against any law that assists such prevention or mitigation, and to proceed by way of action, suit, or other proceeding against persons who so pollute the environment as to become liable to such proceedings.

Enforcement
of duties
of public
authorities.

13 Where the Governor is of the opinion that satisfactory financial arrangements have been or can be made to meet the costs of compliance with an order under this section, he may, by order-in-council, direct a public authority to exercise its powers or to carry out its functions as specified in the order so as not to cause or permit pollution of the environment, and the public authority shall comply with the order.

Enforcement
of duties of
municipalities.
No. 75 of
1962, s. 8.

14—(1) Where the Minister—

- (a) considers it necessary or desirable for preventing or reducing pollution, nuisances (including statutory nuisances), or noises or for preventing the creation of, or for bettering or removing, any unsightly building, structure, advertisement, or work; and
- (b) is of the opinion that satisfactory financial arrangements have been or can be made for the municipality to meet the cost to it of complying with a recommendation under this section,

he may recommend to a municipality that it exercise any power vested in it, including a power to make by-laws, and the municipality shall comply with the recommendation.

(2) A recommendation under this section shall be under the hand of the Minister, and shall specify with reasonable particularity what he recommends that the corporation should do, and the reason why it should be done.

15—(1) Subject to subsections (4), (5), and (7) of this section, an occupier of land shall not cause or permit the emission therefrom of a pollutant—

Fixed sources
of pollution
prohibited.

(a) into the atmosphere;

(b) into the sea or any arm or creek thereof, any river, rivulet, or other watercourse, or any lake, pond, marsh, or swamp;
or

(c) onto or into any other land.

(2) Subject to subsections (4), (5), and (7) of this section, an occupier of land shall not thereon—

(a) conduct any industry, trade, or process, or any operation for disposing of any industrial, commercial, agricultural, domestic, or other waste; or

(b) operate or permit to be operated any fuel-burning equipment or industrial plant,

in such a manner that a pollutant is emitted into the environment.

(3) For the purposes of this section an occupier of land who causes or permits a pollutant to enter underground water shall be deemed to have emitted it from his land into other land.

(4) Subject to subsection (6) of this section, where a standard is prescribed in respect of the emission of a pollutant, no offence is committed against this section in respect of such emission if that standard is complied with.

(5) Subject to subsection (6) of this section, where no such standard is prescribed, no offence is committed against this section if—

(a) the occupier, or in the case of subsection (1) of this section the person causing the emission, has used the best practicable means in current use to prevent or minimize pollution of the environment; or

- (b) there are no such practicable means in current use and the act done is reasonably done in the normal course of living, gaining a living, or enjoying the use of the land.

(6) Where a contravention of this section is deemed to be committed pursuant to section forty-three, subsections (4) and (5) of this section have no application.

(7) The Minister may by writing under his hand or official seal exempt any person from the operation of this section in respect of any specified act or course of action.

Moving
sources of
pollution
prohibited.

16—(1) Subject to subsections (2), (3), and (5) of this section, a person shall not operate a locomotive on a railway or tramway, a motor vehicle, or a vessel so as to cause or permit the emission therefrom of a pollutant—

- (a) into the atmosphere;
- (b) into the sea or any arm or creek thereof, any river, rivulet, or other watercourse, or any lake, pond, marsh, or swamp;
or
- (c) onto or into any other land.

(2) Subject to subsection (4) of this section, where a standard is prescribed in respect of the emission of a pollutant, no offence is committed against this section in respect of such emission if that standard is complied with.

(3) Subject to subsection (4) of this section, where no such standard is prescribed, no offence is committed against this section if the person operating the locomotive, motor vehicle, or vessel—

- (a) has complied with all relevant laws governing the relevant emission; or
- (b) so far as there are not such laws has not unnecessarily caused or permitted the emission of a pollutant that is emitted in the course of providing power, heat, or light for the normal operation of the locomotive, motor vehicle, or vessel.

(4) Where a contravention of this section is deemed to be committed pursuant to section forty-three, subsections (2) and (3) of this section have no application.

(5) The Minister may by writing under his hand or official seal exempt any person from the operation of this section in respect of any specified act or course of action.

17—(1) A person shall not cause or knowingly permit to flow, put, or knowingly permit to be put, any pollutant into—

Pollution of territorial and inland waters prohibited.
Cf. No. 75 of 1962, s. 128A.

- (a) the sea or any arm or creek of the sea;
- (b) a source of supply for a water district or irrigation water district;
- (c) a fishery of the State; or
- (d) any river, stream, watercourse, lake, pond, or marsh flowing into or communicating with such a source of supply or a fishery of the State.

(2) The Minister may by writing under his hand or official seal exempt any person from the operation of this section in respect of any specified act or course of action.

18—(1) A person shall not deposit, or cause to be deposited, any waste—

Dumping of waste prohibited.

- (a) on any highway over land;
- (b) without the permission of the appropriate Minister or someone acting on his behalf, on any land of the Crown; or
- (c) without the permission of the owner or someone acting on his behalf, on land in other ownership.

(2) The court before which a person is convicted of a contravention of this section may allow that person a time within which to remove the waste so deposited, and if upon complaint made at the end of that time it appears to a court of summary jurisdiction that the waste has not been removed, it may proceed to determine the cost of its removal and order the person convicted to pay a sum equal to that cost to a person having the ownership or control of the land on which that waste lies, upon his undertaking to remove the waste within one month, or such longer time as the court may allow, after payment in full as ordered.

(3) On the breach of an undertaking referred to in subsection (2) of this section that is recorded in the records or remembrances of the court, the person convicted may recover from the person to

whom it was paid any amount paid by him under that subsection and not spent in removing the waste.

Control of
trades,
industries,
&c., by
municipalities.

19—(1) Where a pollutant or noise is being or is likely to be emitted from any land in or on which is conducted a trade, industry, or process or in or on which there is fuel-burning equipment or industrial plant, the municipality may by notice served on the occupier thereof require him to—

- (a) install and operate control equipment in or on;
- (b) repair, alter, or replace any control equipment installed in or on;
- (c) modify the process, fuel-burning equipment, or industrial plant used in or on;
- (d) erect, or alter the height of, any chimney through which the pollutant may be emitted from;
- (e) install, alter, repair, or replace any channel, duct, or pipe for the emission of a liquid from; or
- (f) erect, install, alter, repair, or replace any barrier, insulation, or equipment for the control or reduction of noise emitted from,

that land within such time (not less than fourteen days) and in such manner as may be specified in the notice.

(2) If a person required to take action under subsection (1) of this section fails to comply with the notice the municipality may proceed against him by complaint under the *Justices Act 1959*.

(3) At the hearing of a complaint under subsection (2) of this section, if it appears to the justices that the defendant has failed to comply with the notice they shall convict the defendant, unless he proves that when the notice was served he was, and has ever since been, taking all practicable means to prevent or minimize the emission of the pollutant or noise.

(4) Upon a conviction under subsection (3) of this section the justices may—

- (a) impose a penalty of two thousand dollars; and
- (b) fix a daily penalty not exceeding one hundred dollars and a date after which it is to be payable.

(5) Where a daily penalty has been fixed under subsection (4) of this section the defendant is liable to that penalty for every day on which he wilfully or negligently failed to comply with the notice after the date after which the daily penalty was to be payable, and the municipality may proceed therefor under the *Justices Act 1959*.

20—(1) Where an occupier of land fails to comply with the prescribed standards of emission or where in the opinion of the Director an occupier of land has not taken all practicable means to prevent or minimize the emission of a pollutant or noise from his land, and the municipality has not served a notice under subsection (1) of section nineteen, the Director may by notice served on him require him to carry out such work as the Director thinks proper to prevent or minimize such emission within such time and in such manner as may be specified in the notice.

Control of
trades,
industries, &c.,
by Director.

(2) Subsections (2) to (5) of section nineteen apply where a notice has been given under this section as if—

- (a) the notice had been given under subsection (1) of this section; and
- (b) the Director had been mentioned instead of the municipality.

21—(1) A person shall not, elsewhere than in a building or fuel-burning equipment—

Fires in
the open.

- (a) destroy by burning any prescribed matter; or
- (b) light a fire from which a pollutant is emitted into the environment.

(2) Where a standard is prescribed in respect of the emission of a pollutant, no offence is committed against paragraph (b) of subsection (1) of this section in respect of that pollutant if that standard is complied with.

(3) Where no such standard is prescribed, no offence is committed against that paragraph if the person in control of the fire has used the best practicable means to prevent or minimize pollution of the environment by the emission of that pollutant.

(4) A person who regularly or frequently lights fires contrary to paragraph (b) of subsection (1) of this section in or near the same place is subject to sections nineteen and twenty as if the place of the fires were fuel-burning equipment.

(5) The Minister may by writing under his hand or official seal exempt any person from the operation of this section in respect of any specified act or course of action.

(6) Nothing in this section affects—

- (a) campfires and similar fires for cooking food for, heating liquids for, or warming, human beings;
- (b) except as provided in subsection (7) of this section, the burning of dead trees, scrub, long grass, stubble, or the results of mowing, pruning, trimming, or weeding in the normal course of farming or gardening; or
- (c) the burning of fire breaks and vegetation pursuant to the *Local Government Act 1962* or the *Rural Fires Act 1967* or otherwise for the protection of life or property.

(7) The Director may cause a written directive under his hand to be served on an occupier of land directing him to burn anything specified in paragraph (b) of subsection (6) of this section only at specified times and on specified conditions and, where the Director does so, that subsection applies to such burning on that occupier's land only if the directive is complied with.

Exemptions.

22—(1) The Governor may, by order-in-council, exempt any class of persons from an obligation imposed by this Part.

(2) An order-in-council under this section is subject to subsection (3) (except paragraphs (a) and (c) and subsections (4) and (5)) of section forty-seven of the *Acts Interpretation Act 1931* as if it were a regulation.

PART IV.

CONTROL OF SCHEDULED PREMISES.

No operation of scheduled premises without a licence.

23—(1) Subject to this section, a person shall not operate—

- (a) scheduled premises brought into existence after; or
- (b) after such period, not less than twelve months from the commencement of this Act, as may be fixed by proclamation, scheduled premises existing at,

the commencement of this Act unless he is licensed so to do.

(2) Where scheduled premises exist at the commencement of this Act a licence for their operation shall be applied for within the period referred to in subsection (1) of this section.

(3) Where a licence has been applied for under subsection (2) of this section, subsection (1) of this section does not apply to the relevant premises until the application has been determined by its granting or refusal.

24—(1) A person seeking a licence may apply therefor in writing to the Director and shall— Application for a licence.

(a) in his application specify—

(i) the nature of the premises for which a licence is sought;

(ii) the situation of those premises; and

(iii) if he operates under a statutory power, the enactment under which he operates;

(b) if he is not a servant or agent of the Crown or a public or local authority lodge the prescribed fee with his application; and

(c) give the Director such plans, specifications, and descriptions of emissions and other information within such time as he may require.

(2) The person seeking a licence under this Part shall serve notice of his intention to apply under subsection (1) of this section on all persons who may be affected: provided that it shall be sufficient notice if an advertisement containing the same details as in the application and providing for objections to be lodged with the Director within thirty days is published in two consecutive weeks in a newspaper circulating in the locality of the premises.

(3) Any person may have the right to inspect the applications made under subsection (1) of this section in the register maintained at the offices of the Director on payment of the prescribed fee.

(4) Objections may be lodged with the Director within a period of thirty days of notice on the prescribed form and each objector shall be notified of the decision of the Director at the same time as such decision is notified to the applicant.

(5) The provisions of subsections (2), (3), and (4) of this section shall apply to the provisions of section thirty (renewals) and section thirty-one (transfers) as if they had been repeated in those sections.

Licences.

25—(1) Upon an application under section twenty-four, the Director may—

- (a) grant the applicant a licence to operate the scheduled premises the subject of the application—
 - (i) unconditionally; or
 - (ii) subject to such conditions, limitations, and restrictions as he thinks fit; or
- (b) refuse to grant him a licence.

(2) The conditions that may be attached to a licence include conditions that—

- (a) the licensee—
 - (i) do specified things to prevent, minimize, or control pollution and noise;
 - (ii) comply with specified standards for the emission of pollutants or noise;
 - (iii) carry out, at his own expense, a specified routine of monitoring emissions and supplying specified information about the results thereof;
 - (iv) do specified things to remove, cover up, or avoid anything unsightly on the premises; and
 - (v) do specified things for the restoration of the surface of the land and the vegetation of the premises; and
- (b) specified outlets, places, or points, and no others, be used for—
 - (i) the emission of pollutants, generally or for the purposes of—
 - (A) ascertaining the volume, nature, or constituents of the emission; or
 - (B) the specified routine of monitoring; or
 - (ii) the measurement of noise.

(3) A licence has effect for twelve months and may be renewed as provided in section thirty and transferred as provided in section thirty-one.

(4) The Director shall, as soon as he reasonably can, serve on the applicant a notice stating either that the application will be granted in accordance with paragraph (a) of subsection (1) of this section or that the application is refused.

(5) A licence may be granted to apply to more than one set of scheduled premises.

26—(1) A person who operates scheduled premises in accordance with a licence is— Effect of licence.

- (a) not criminally liable in respect of anything done in the course of such operation; but
- (b) liable to civil proceedings in respect of anything done in the course of such operation to the same extent as if he had no licence.

(2) Where the first licence is granted for any scheduled premises the conditions, limitations, and restrictions thereof do not take effect until the time for appealing against them has expired.

(3) During the currency of a licence the Director may, by notice in writing served on the licensee—

- (a) vary or add to the conditions, limitations, or restrictions of the licence; or
- (b) add conditions, limitations, or restrictions to an unconditional licence,

and may therein specify a date on which the notice is to take effect, on and after which date the licence shall be subject to the notice.

27 Where the Director refuses to grant an original licence to operate scheduled premises in existence at the commencement of this Act, the operation of the premises shall be discontinued within six months of the service on the applicant of the notice of refusal, or within such shorter time as the Director may specify in that notice. Effect of refusal of licence.

28 When granting a licence in respect of scheduled premises operated at the commencement of this Act the Director may in the licence notify the licensee that after a specified time specified stricter or other conditions, limitations, or restrictions will be included in the licence of the person then operating the premises. Notice of future requirements.

Changes in
operation of
licensed
premises.

29—(1) The licensee of scheduled premises shall not, except as provided in subsection (2) of this section, without the prior approval in writing of the Director—

- (a) change any process used on the premises so as to cause or substantially increase the emission of a pollutant or noise from the premises;
- (b) construct, install, alter, or remove—
 - (i) any structure in, on, or connected with the premises; or
 - (ii) any furnace or other device that produces a pollutant on the premises,
 so as to cause or substantially increase the emission of a pollutant or noise from the premises;
- (c) change the nature of the materials dealt with or used on the premises so as to cause or substantially increase the emission of a pollutant or noise from the premises; or
- (d) increase the quantity of materials dealt with or used on the premises by more than an amount specified in that regard in the licence.

(2) In a case of emergency, the licensee may do anything mentioned in subsection (1) of this section but shall give notice in writing thereof to the Director forthwith.

Renewal of
licences.

30—(1) A licensee of scheduled premises who proposes to renew the licence shall apply in writing therefor to the Director at least one month before the licence expires.

(2) An application under this section shall refer to the licence to be renewed and be accompanied, except where the applicant is a servant or agent of the Crown or a public or local authority, by the prescribed fee, and the licensee shall give the Director such information in respect of the licensed premises and the process there carried on within such time as he may require.

(3) Sections twenty-five, twenty-six, and twenty-eight apply with necessary changes in respect of the renewal of licences as if they were original licences.

(4) Where a licensee fails to apply for renewal in time or for any other reason a renewed licence cannot be granted before the expiry of the current licence the Director may by notice in writing to the licensee extend the latter licence, even if it has expired.

- (5) In renewing a licence the Director may use either—
- (a) a notice that the current licence is renewed for twelve months; or
 - (b) a new licence.

31—(1) Where there is a licence for the operation of scheduled premises, a person, who takes over the operation of those premises has, for a period of three months from his taking over, the rights, duties, and immunities of the licensee of the premises and may within that period apply in writing to the Director for a transfer of the licence to himself. Transfer of licences.

- (2) An application under this section shall—
- (a) be in the prescribed form;
 - (b) include a statement of how the applicant came to be entitled to operate the scheduled premises; and
 - (c) except where the applicant is a servant or agent of the Crown or a public or local authority, be accompanied by the prescribed fee.

(3) The Director may require the applicant to produce evidence of the applicant's right to operate the premises or a statement sealed or signed by the licensee of the applicant's right.

(4) The transfer of a licence shall be effected by consent of the Director to the transfer either endorsed on the licence or set forth in a separate document.

32—(1) The Minister, on the recommendation of the council, may revoke a licence to operate scheduled premises by notice served on the licensee. Revocation of licences.

(2) A notice under this section takes effect on the day after the time for appealing against it has expired.

33—(1) If the licensee of scheduled premises—

- (a) dies;
- (b) is dissolved;
- (c) goes or is put into liquidation;
- (d) becomes bankrupt;

Temporary operation.

(e) becomes a patient within the meaning of Part VI of the *Mental Health Act 1963*; or

(f) because of sickness or some other cause is unable to operate the scheduled premises,

his executor, administrator, liquidator, receiver, or attorney, or any other person having power to operate the premises may do so as if named a licensee in the current licence, subject to this section.

(2) This section ceases to operate for the benefit of a person—

(a) who having operated the premises under it for fourteen days has failed to apply within that time for a transfer of the licence; or

(b) to whom a transfer of the licence has been refused.

Crown premises.

34—(1) Where scheduled premises are operated by the Crown, the Minister in whose department the premises are shall nominate an officer in control of the premises to apply for and hold the licence therefor.

(2) The officer holding a licence under this section shall, for the purpose of so holding, be deemed to be a corporation sole by the name of his office.

Exemptions.

35—(1) The Governor may, on the recommendation of the council, exempt any person from the obligation to hold a licence—

(a) in respect of any class of scheduled premises or in any specified area, by order-in-council; or

(b) individually, by instrument under the seal of the State.

(2) Every order-in-council and other instrument made or given under this section is subject to subsection (3) (except paragraphs (a) and (c)) and subsections (4) and (5) of section forty-seven of the *Acts Interpretation Act 1931* as if it were a regulation.

Effect of statutory authorization of scheduled premises.

36 Where an Act gives power to operate, or authorizes the operation of, scheduled premises it shall, unless the contrary intention appears, be read as doing so upon the condition that a licence under this Part is held by an appropriate person in respect of the premises.

PART V.

APPEALS.

37—(1) There shall be an Environment Protection Appeal The Environment Protection Appeal Board. Board consisting of three persons appointed by the Governor on the recommendation of the Minister of whom—

- (a) one shall be a barrister or solicitor, and chairman of the Board;
- (b) one shall be—
 - (i) a graduate in a branch of science, engineering, or medicine; and
 - (ii) if possible experienced in environmental control or management; and
- (c) one shall have—
 - (i) a tertiary qualification in a branch of science or engineering; and
 - (ii) at least five years' experience in a responsible position associated with process operation in industry.

(2) For each member of the appeal board the Governor may likewise appoint two substitutes with like qualifications.

(3) Members of the appeal board and their substitutes shall be appointed for five years, or if they have been members or substitutes and are more than sixty-five years of age for any less period.

(4) A member of the appeal board or a substitute for a member may be removed from office by the Governor—

- (a) if he departs out of the State for any period of more than three months without the approval of the Minister;
- (b) if he refuses or fails, without just cause or excuse, to attend two meetings of the appeal board within any period of twelve months;
- (c) if he is an undischarged bankrupt;
- (d) if he is taking the benefit of Part X of the *Bankruptcy Act* 1966 of the Commonwealth as from time to time amended or re-enacted;
- (e) if he is a patient within the meaning of Part VI of the *Mental Health Act* 1963;

- (f) if he is sentenced in this State or elsewhere to a term of imprisonment or to a fine exceeding five hundred dollars or its equivalent;
- (g) if he becomes incapable of acting as a member;
- (b) if he resigns his office by writing addressed to the Minister;
or
- (i) on an address of both Houses of Parliament.

(5) If a member is unable to attend a meeting of the appeal board one of his substitutes may with the approval of the Minister take his place.

(6) If a substitute replaces a member at a meeting of the appeal board his right to do so shall not be questioned in any court.

(7) The appeal board shall have a clerk appointed under the *Public Service Act 1923*, who may hold that office in conjunction with another office under that Act.

(8) The members of the appeal board and their substitutes acting in their places are entitled to such fees and allowances as may be prescribed.

Rights of
appeal.

38—(1) A person aggrieved by—

- (a) a notice served on him under section nineteen or section twenty;
- (b) the conditions, limitations, or restrictions of his licence;
- (c) the refusal to grant him a licence or renew his licence;
- (d) the revocation of his licence; or
- (e) the refusal to him of the Director's approval under section twenty-nine,

may appeal to the appeal board.

(2) An appeal is instituted by giving notice thereof in writing to the clerk of the appeal board.

- (3) An appeal shall be instituted within fourteen days of—
 - (a) in the case of an appeal under paragraph (b) of subsection (1) of this section, the issue of the licence; and
 - (b) in any other case, the service of the relevant notice,

or such further time as the Appeal Board may, on an application made before or after the expiration of those fourteen days, allow.

(4) The Director, or in the case of a notice under section nineteen the municipality, is entitled to notice of an appeal under this section from the clerk to the appeal board and to attend the appeal board when it deals with the appeal and then and there to support the action appealed against.

(5) This section shall expire on the last day of December 1975.

39 Unless the appeal board otherwise orders, time for doing anything or for refraining from doing anything, against the obligation to do or refrain from doing which the appeal has been instituted, does not run until the appeal is finally concluded. ^{Effect of appeal.}

40—(1) The appeal board in dealing with an appeal— ^{Jurisdiction.}

- (a) has the duty of giving effect to the policy of this Act, but fairly and reasonably so that no hardship is inflicted on any person without good cause;
- (b) is not a court nor bound in any way to proceed as a court;
- (c) may examine witnesses on oath;
- (d) may, notwithstanding the provisions of paragraph (c) of this subsection, inform itself on any matter as it thinks fit;
- (e) is not bound by the rules of evidence used in courts;
- (f) may in doubtful or obscure matters act according to its own opinion and judgment;
- (g) shall act according to the rules of natural justice;
- (h) shall avoid such precision and technicality as might cause a party before it to be unfairly treated;
- (i) shall consider what ought to be done at the time of its decision; and
- (j) may order the payment by any party to any other party of any costs incurred in dealing with the appeal.

(2) In deciding an appeal the appeal board may—

- (a) reject the appeal; or

(b) allow the appeal and say how the respondent should act if the matter is pursued, with power to direct him to amend or vary the provisions of a notice or licence appealed against.

(3) A decision of an appeal in accordance with paragraph (b) of subsection (2) of this section binds the respondent.

(4) The appeal board's decisions under this section are final and not subject to appeal or review.

(5) The appeal board's findings of scientific or technological fact or that anything is a pollutant may not be questioned in any court.

(6) An appeal is finally concluded when the final decision of the board is duly recorded as prescribed.

Procedure.

41—(1) The appeal board may decide any question by the opinion of all or any two of its members and may sit with only two members present and so act if the two are unanimous.

(2) The appeal board shall have and use a seal for the authentication of its acts, summonses, decisions, and records, and the signature of its clerk is sufficient evidence that the seal is duly affixed.

(3) The chairman may, subject to the appeal board's confirmation—

(a) fix and adjourn times for hearings; and

(b) extend and shorten times prescribed under this section for doing any act.

(4) The Governor may make regulations prescribing the process and procedure of the appeal board and in particular for—

(a) summoning parties and witnesses;

(b) providing for the representation of parties;

(c) summoning persons whom the board thinks it proper to hear before reaching a decision;

(d) statements in the nature of pleadings;

(e) fixing the amount of costs ordered under paragraph (j) of subsection (1) of section forty;

(f) recording the acts and proceedings of the board; and

(g) enforcing its orders for payment of costs.

PART VI.

EVIDENCE.

42—(1) The Governor may appoint on the recommendation of ^{Analysis.} the Director—

- (a) officers and temporary employees as defined in the *Public Service Act 1923*; and
- (b) other persons,
having the prescribed qualifications, to be analysts for the purposes of this Act.

(2) A certificate of his analysis of anything given by an analyst may for the purpose of a prosecution under this Act be served on the defendant with the summons or delivered to the defendant or his attorney not less than fourteen days before the hearing of the summons.

(3) A certificate so served is sufficient evidence of the facts stated therein unless the defendant has notified the complainant, not less than seven days before the hearing, that he requires the analyst to be called as a witness.

43—(1) For the purposes of section fifteen a person shall be ^{Proof of pollution.} deemed to have caused or permitted the emission of a pollutant—

- (a) into the atmosphere if he has caused or permitted—
 - (i) the establishment on any land of a refuse dump, garbage tip, soil and rock disposal site, sludge deposit site, waste injection well, or some other use of land for the disposal of, or as the repository for, solid or liquid wastes so that the place used has become obnoxious or unduly offensive to the senses of human beings;
 - (ii) the emission into, or so that it may be released into, the atmosphere of any matter, whether solid, liquid, or gaseous, that is prohibited under this Act to be emitted or does not comply with a standard prescribed for its emission;
 - (iii) the emission of odours which by virtue of their nature, concentration, volume, or extent are obnoxious or unduly offensive to the senses of human beings;

- (iv) the burning of rubbish at such times or in such manner as the regulations forbid for the burning of rubbish;
 - (v) the use of an internal combustion engine—
 - (A) which is not equipped with a device required by the regulations under this or another Act to be fitted to that engine for the prevention of pollution; or
 - (B) on which such a device is not operating properly; or
 - (vi) the use or burning of any fuel which is prohibited by the regulations;
- (b) into any water or place mentioned in paragraph (b) of subsection (1) of that section if he has caused or permitted—
- (i) the placing in or on any such water or place, or in a place whence it may gain access to any such water or place, of any matter, whether solid, liquid, or gaseous, that is prohibited under this Act to be emitted or does not comply with a standard prescribed for its emission;
 - (ii) the placing of any waste in a position whence it has fallen, descended, evaporated, been washed, been blown, or percolated, or is likely to fall, descend, evaporate, be washed, be blown, or percolate, into any such water or place or onto the bed of any river, rivulet, or other watercourse, when dry;
 - (iii) the placing of waste on the bed of any river, rivulet, or other watercourse, when dry; or
 - (iv) the temperature of receiving waters to be raised or lowered beyond the prescribed limit; or
- (c) onto or into any other land if he has caused or permitted—
- (i) the placing in or on the soil of that land or in any place whence it may gain access to that soil of any matter, whether solid, liquid, or gaseous,

that is prohibited under this Act to be emitted or does not comply with a standard prescribed for its emission; or

- (ii) the establishment on any land of a refuse dump, garbage tip, soil and rock disposal site, sludge deposit site, waste injection well, or some other use of land for the disposal of, or as a repository for, solid or liquid wastes so as—

(A) to affect the quality of underground water; or

(B) to be detrimental to any beneficial use of any other land.

(2) For the purposes of section sixteen a person shall be deemed to have caused or permitted the emission of a pollutant from a locomotive, motor vehicle, or vessel therein referred to into the atmosphere if he has—

(a) caused or permitted a furnace or internal combustion engine thereof to emit more smoke than it would when properly managed and maintained;

(b) used therein an internal combustion engine—

(i) which is not equipped with a device required by the regulations under this or another Act to be fitted to the engine for the prevention of pollution; or

(ii) on which such a device is not operating properly; or

(c) used or burnt any fuel that is prohibited by the regulations.

(3) For the purposes of section seventeen a person shall be deemed to have caused or permitted to flow, or to have put or permitted to be put, a pollutant into water referred to in that section if he has caused or permitted to flow, or has put or permitted to be put, any matter that is prohibited under this Act to be emitted or does not comply with a standard prescribed for its emission.

44—(1) Upon complaint on oath of the Director or an authorized officer that he has reasonable grounds for believing and does believe that there is a ship, barge, tank, or other vessel or an aircraft about to leave this State or any island comprised therein

Evidence for the purposes of s. 50. No. 75 of 1962, s. 128c.

for the purpose mentioned in subsection (1) of section fifty, a justice may issue a warrant to that officer or any other such officer therein named to board, enter, and search that vessel or aircraft and to demand and inspect the vessel's or aircraft's papers, which warrant may be acted on, is enforceable, and shall be complied with, according to its tenor.

(2) Where a ship, barge, tank, or other vessel or an aircraft carries any matter mentioned in subsection (1) of section fifty for which there is in respect of the matter no bill of lading, consignment note, or similar document evidencing a right to receive belonging, or a duty to deliver, to some person outside the vessel's port, or the aircraft's place of loading, the owner, charterer, or master, skipper, or captain of the vessel or aircraft, if prosecuted for an offence or penalty under section fifty in respect of that matter, shall be deemed to intend or to have intended, as the case may be, that the matter should be discharged into the sea unless he proves the contrary.

(3) Where in a prosecution for an offence, forfeiture, or penalty under section fifty it is proved that matter is to be or has been discharged into the sea, that matter shall be deemed to be capable of causing the effects mentioned in subsection (1) of that section unless the contrary is proved.

(4) Where there is—

- (a) preparation for the carriage; or
- (b) carriage,

of matter out of this State or any island comprised therein and that matter is not an ordinary commodity of commerce or is such that its possessor would wish to get rid of it otherwise than by sale or barter, that matter shall be deemed to be intended to be or to have been discharged into the sea, as the case may be, unless the contrary is proved.

Proof in
respect of
licences.

45 In proceedings for offences under this Act where it is necessary to prove that—

- (a) a person was or was not licensed under this Act on a certain date or for a certain period;
- (b) a licence was subject to a specified condition, limitation, or restriction; or

(c) a licence was suspended during a certain period, a certificate in writing purporting to be signed by the Director stating that the fact necessary to be proved was so is *prima facie* evidence of the fact.

PART VII.

OFFENCES.

46 A person who—

- (a) delays or obstructs an authorized officer in the execution of his duties;
- (b) fails to comply with any requirement made by an authorized officer under this Act;
- (c) being the occupier of land refuses to permit an authorized officer to do anything that by this Act he is authorized to do; or
- (d) refuses or fails to afford an authorized officer entry to a place that under this Act he is entitled to enter,

Obstruction,
&c., of
authorized
officers.

is liable to a penalty of one thousand dollars.

47—(1) A person who—

- (a) causes or permits the emission of a pollutant;
- (b) conducts an industry, trade, process, or operation; or
- (c) operates or permits to be operated equipment or plant,

Emission of
pollutants.

contrary to section fifteen is liable to a penalty of five thousand dollars and to a daily penalty of one thousand dollars for every day the offence continues after his conviction thereof.

(2) A person who causes or permits the emission of a pollutant contrary to section sixteen is liable to a penalty of two thousand dollars and to a daily penalty of five hundred dollars for every day on which the offence continues after his conviction thereof.

(3) A person who contravenes subsection (1) of section seventeen is liable to a penalty of four thousand dollars and a daily penalty of one thousand dollars.

(4) A person who contravenes subsection (1) of section eighteen is liable to a penalty of two thousand dollars.

(5) A person who contravenes subsection (1) of section twenty-one is liable to a penalty of one thousand dollars.

Unlicensed
operation of
scheduled
premises.

48 A person who operates scheduled premises for his operation of which a licence is required by section twenty-three without being—

(a) licensed so to do; or

(b) exempted in respect thereof under section thirty-five,
is liable to a daily penalty of one thousand dollars.

Breach of
licence for
scheduled
premises.

49 A person who being licensed to operate scheduled premises fails in so doing to comply with any of the conditions, restrictions, and limitations of his licence is liable to a penalty of five thousand dollars and a daily penalty of one thousand dollars.

Pollution of
the sea
restrained.
No. 75 of
1962, s. 128b.

50—(1) A person shall not do any act in preparation for carrying out of this State or any island comprised therein any matter that may cause any part of the sea to become—

(a) a common nuisance to persons in this State;

(b) prejudicial to animals, plants, or microbes that live in water, fresh or salt, or to seabirds, water-fowl, or amphibians;

(c) prejudicial to the health of mariners or fishermen; or

(d) deleterious to foods of man,

for the purpose of discharging it into the sea.

Penalty: Four thousand dollars.

(2) A ship, barge, tank, or other vessel or an aircraft that has been used for discharging matter as mentioned in subsection (1) of this section, which matter has been carried out of this State or any island comprised therein, and is within the jurisdiction of this State thereafter may in an action under section fifty-four of the *Supreme Court Civil Procedure Act 1932* be seized and upon proof of such use forfeited to the Crown.

(3) A person who, having discharged or assisted in discharging matter as mentioned in subsection (1) of this section, which matter has been carried out of this State or any island comprised therein, returns to this State is liable to a penalty of one thousand dollars.

(4) A person who in this State procures matter to be discharged as mentioned in subsection (1) of this section is liable to a penalty of five thousand dollars.

(5) A foreign company registered under Division III of Part XI of the *Companies Act* 1962 that outside this State procures matter to be discharged as mentioned in subsection (1) of this section, which matter has been carried out of this State or any island comprised therein, shall be deemed to have done so in this State.

(6) Liability to a penalty under subsections (3), (4), and (5) of this section is enforceable under the *Justices Act* 1959 like liability to a penalty for a simple offence.

(7) For the purposes of this section where a barge, tank, or other vessel that is without its own means of propulsion is or is about to be towed by another vessel, the tug and the tow shall be deemed to be one vessel.

(8) A complaint under this section may not be made without the Minister's authority, given on the advice of the council.

51 A person who emits, or causes or suffers to be emitted, onto land in other occupation noise of a volume, intensity, or quality, that is—

(a) harmful to; or

(b) offensive to the senses of,

human beings is liable to a penalty of five hundred dollars and a daily penalty of fifty dollars.

52—(1) Subject to subsection (2) of this section, a person shall not sell or hire or offer for sale or hire a motor vehicle that is not equipped as required by this Act.

Excessive
noise.

Sale, &c., of
motor
vehicles
not properly
equipped.

(2) Nothing in this section applies to a sale or offer for sale—

(a) for wrecking;

(b) as scrap metal; or

(c) of a motor vehicle more than twenty years old,

or to any transaction previously approved in writing by the Director.

Secrecy.
No. 8056
(Vic.), s. 60.

53 A person shall not disclose any information obtained by him in connection with the administration or execution of this Act in relation to any manufacturing process or trade secret used in carrying on any particular undertaking, unless the disclosure was made with the consent of the person carrying on that undertaking or in connection with the administration or execution of this Act or for the purpose of any legal proceedings arising out of this Act or of any report of any such proceedings.

Penalty: Five thousand dollars or two years' imprisonment, or both.

PART VIII.

MISCELLANEOUS.

Service of
notices.

54—(1) A notice required by this Act to be served on any person may be so served—

- (a) in the same way as a writ is served personally;
- (b) by sending the notice to the person by certified mail addressed to—
 - (i) his usual or last known place of abode or business;
 - (ii) his registered office; or
 - (iii) his manager at premises affected by the notice; or
- (c) by leaving it with a person apparently over the age of eighteen years at the office of the person to be served or if he has more than one office, his principal office.

(2) A notice required by this Act to be served on any person may be addressed to the occupier of the land or place concerned, without naming him and in that case may be served by—

- (a) sending it by certified mail addressed to the occupier of the land or place described by its postal address; or
- (b) leaving it with a person apparently over the age of eighteen years apparently employed on that land or at that place.

Regulations.

55—(1) The Governor, on the recommendation of the council, may make regulations for the purposes of this Act.

- (2) The regulations may provide for—
 - (a) prohibiting or regulating the emission of pollutants;

- (b) standards to be complied with in emissions that contain or may contain pollutants;
- (c) methods of analysis and testing either prescribing a method in full or by reference to a code or manual issued by a prescribed person or organization or to any other publication available by purchase or loan in this State;
- (d) prohibiting the sale, manufacture, supply, receiving, possession, or disposal of things that are or contain pollutants or will or may cause or increase pollution of the environment;
- (e) prohibiting or regulating the making or emission of noise;
- (f) prohibiting or regulating the disposal of—
 - (i) waste; and
 - (ii) domestic, commercial, or industrial garbage or rubbish;
- (g) prohibiting or regulating the burning of specified kinds of fuel;
- (h) regulating the burning of rubbish, grass, weeds, undergrowth, and trees, standing or fallen;
- (i) requiring the fitting of engines and other machinery with devices to prevent or reduce pollution or noise; and
- (j) making—
 - (i) either the owner or the driver of a motor vehicle liable for the acts of the other;
 - (ii) an employer liable for the acts of his employees or contractors; and
 - (iii) an officer of any person liable for the acts of that person's subordinate officer or servant.

(3) Nothing contained in subsection (2) of this section affects the generality of subsection (1) of this section.

(4) The regulations may for their contravention provide for penalties of three months' imprisonment or two thousand dollars or both.

(5) The regulations may be made to apply generally or in specified areas and at all or at specified times.

(6) The Governor may, on the recommendation of the council, make regulations under the *Traffic Act 1925* for the purposes mentioned in paragraphs (e), (i), and (j) of subsection (2) of this section and for the inspection and testing of devices mentioned in paragraph (i) as if powers for those purposes were contained in section ten of that Act.

Fees.

56—(1) Different fees may be prescribed for the purposes of Part IV in respect of the kind and location of premises, the number of persons employed there, and any other circumstances.

(2) Where the Director is satisfied upon the advice of the council that the pollution from any prescribed premises would not be such as to warrant the exaction of a fee prescribed for the purposes of Part IV, he may remit that fee in whole or in part.

THE FIRST SCHEDULE.

(Section 2.)

SCHEDULED PREMISES.

1. Primary metallurgical works, being works in which ores or ore concentrates are smelted to produce metal.
2. Ferrous and non-ferrous metal works, being works in which metal melting processes for casting or metal coating are carried out.
3. Electroplating works, being works in which metal coatings are deposited electrolytically.
4. Cement works, being works in which argillaceous and calcareous materials are used in the production of cement clinker and works in which cement clinker is ground.
5. Crushing and grinding works, being works in which rock, ores, minerals, or chemicals are processed by crushing or grinding or separating into different sizes by sifting or air elutriation.
6. Pre-mix bitumen plants, being works in which crushed or ground rock aggregates are mixed with bituminous or asphaltic materials for the purpose of producing road-building mixtures.
7. Ceramic works, being works in which any products such as bricks, tiles, pipes, pottery goods, refractories, or glass are manufactured in furnaces or kilns fired by any fuel, and which are capable in a year of normal work of producing more than two hundred tonnes of such products.
8. Mines used for the extraction of any valuable substance.

9. Quarries used for the extraction of any valuable substance.
10. Chemical works, being works in which sulphuric acid, chemical fertilisers, soap, starch, calcium compounds, or other chemical products are manufactured.
11. Gas works, being works in which coal, coke, oil, or their mixture or derivatives are carbonized or gasified.
12. Oil refineries, being works in which crude shale oil, crude petroleum, or waste mineral oil is refined.
13. Pulp and paper mills, being works in which wood, wood products, or other cellulose materials are processed to form wood pulp, paper, cardboard, or fibreboard.
14. Premises on which there is erected a boiler, incinerator, or furnace consuming or capable of consuming, either alone or in the aggregate with other such things erected thereon, more than one tonne of combustible material per hour.
15. Wood-chip mills, being works in which trees or parts thereof are processed to form wood-chips.
16. Dairies, being works manufacturing or processing butter, cream, cheese, ice-cream, dried milk, and similar dairy products.
17. Abattoirs and rendering plants, being works in which animals, including poultry, are slaughtered for human or animal consumption or in which animal waste is processed for the manufacture of fertiliser, meal, or tallow.
18. Woollscours and tanneries, being works involving fellmongering, scouring, or carbonizing wool, or tanning hides or skins.
19. Factories for the processing of fish, meat, vegetables, and fruit, including fish-meal and fish-oil factories.
20. Breweries, distilleries, maltings, and soft drink factories, being works in which grain, fruit, vegetables, or derivatives thereof are processed to produce malt or beverages, and capable of consuming more than 100 kilolitres of water in a working day of eight hours.
21. Textile bleaching and dyeing factories, being works involving bleaching, dyeing, or printing of yarns, threads, fabrics, or other textiles, and capable of consuming more than 100 kilolitres of water in a working day of eight hours.
22. Laundries, being premises used primarily in providing laundering or dry-cleaning services and capable of consuming more than 100 kilolitres of water in a working day of eight hours.
23. Sewage-treatment plants, including sewer outfalls, having a normal dry-weather flow greater than 100 kilolitres per day.
24. Refuse-disposal sites used for the disposal of solid or liquid refuse or trade wastes.

25. Sawmills in respect of which the Minister has caused an order under his hand or seal of office to be served on the occupier declaring the sawmill to be within this paragraph.

THE SECOND SCHEDULE.

(Section 3.)

ACTS NOT AFFECTED FOR FOUR YEARS.

Year and No. of Act.	Title of Act.
1 Edw. VIII No. 35	<i>Associated Pulp and Paper Mills Act 1936</i>
8 & 9 Geo. VI No. 54	<i>Australian Titan Products Act 1945</i>
26 Geo. V No. 27	<i>Florentine Valley Paper Industry Act 1935</i>
No. 70 of 1959	<i>Huon Valley Pulp and Paper Industry Act 1959</i>
24 Geo. V No. 40	<i>Kermandie Wood-pulp and Paper Industry Act 1933</i>
9 & 10 Geo. VI No. 64	<i>Tasmanian Paper and Timber Mills Act 1946</i>
No. 67 of 1948	<i>Thomas Owen & Co. (Australia) Limited Act 1948</i>
No. 48 of 1961	<i>Wesley Vale Pulp and Paper Industry Act 1961</i>
16 Geo. V No. 82	<i>Wood-pulp and Paper Industry Encouragement Act 1926</i>