
ENVIRONMENT PROTECTION AMENDMENT ACT 1989

No. 30 of 1989

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ENVIRONMENT PROTECTION AMENDMENT ACT 1989

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 No. 30 of 1989
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AN ACT to amend the Environment Protection Act 1973.

[Royal Assent 18 April 1989]

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:—

1—This Act may be cited as the *Environment Protection Amendment Act 1989*. Short title.

2—This Act shall commence on the day on which it receives the Royal assent. Commencement.

3—In this Act, the *Environment Protection Act 1973** is referred to as the Principal Act. Principal Act.

* No. 34 of 1973. For this Act, as amended up to and including 1st January 1980, see the continuing Reprint of Statutes. Subsequently amended by Nos. 21, 48, and 94 of 1980, Nos. 9 and 64 of 1982, Nos. 29, 110, and 111 of 1984, Nos. 24, 81, 110, and 117 of 1985, and No. 66 of 1987.

Amendment of
section 15 of
Principal Act
(Fixed sources of
pollution).

4—Section 15 of the Principal Act is amended by inserting the following subsection after subsection (2):—

(2A) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable on conviction—

(a) in the case of a corporation, to a fine not exceeding 1 000 penalty units and to a daily fine not exceeding 250 penalty units for each day during which the offence continues; or

(b) in the case of a natural person, to a fine not exceeding 500 penalty units and to a daily fine not exceeding 120 penalty units for each day during which the offence continues.

Amendment of
section 16 of
Principal Act
(Moving sources
of pollution).

5—Section 16 of the Principal Act is amended by inserting the following subsection after subsection (4C):—

(4D) A person who contravenes subsection (1) or (4A) is guilty of an offence and is liable on conviction—

(a) in the case of a corporation, to a fine not exceeding 1 000 penalty units and to a daily fine not exceeding 250 penalty units for each day during which the offence continues; or

(b) in the case of a natural person, to a fine not exceeding 500 penalty units and to a daily fine not exceeding 120 penalty units for each day during which the offence continues.

Amendment of
section 17 of
Principal Act
(Pollution of
territorial land
and inland
waters).

6—Section 17 of the Principal Act is amended by inserting the following subsection after subsection (1A):—

(1B) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction—

(a) in the case of a corporation, to a fine not exceeding 1 000 penalty units and to a daily fine not exceeding 250 penalty units for each day during which the offence continues; or

(b) in the case of a natural person, to a fine not exceeding 500 penalty units and to a daily fine not exceeding 120 penalty units for each day during which the offence continues.

7—Section 18 of the Principal Act is amended by inserting the following subsection after subsection (1):—

Amendment of section 18 of Principal Act (Dumping of waste).

(1A) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction—

- (a) in the case of a corporation, to a fine not exceeding 1 000 penalty units; or
- (b) in the case of a natural person, to a fine not exceeding 500 penalty units.

8—Section 19 (4) of the Principal Act is amended as follows:—

Amendment of section 19 of Principal Act (Notices to reduce or eliminate pollution or noise).

- (a) by omitting from paragraph (a) “penalty of \$2 000” and substituting “fine not exceeding 100 penalty units”;
- (b) by omitting from paragraph (b) “penalty not exceeding \$100” and substituting “fine not exceeding 10 penalty units”.

9—Section 20A (1) of the Principal Act is amended by omitting “penalty not exceeding \$10 000” and “penalty not exceeding \$1 000” and substituting “fine not exceeding 100 penalty units” and “fine not exceeding 10 penalty units” respectively.

Amendment of section 20A of Principal Act (Failure to comply with notice on demand).

10—Section 21 of the Principal Act is amended by inserting the following subsection after subsection (1):—

Amendment of section 21 of Principal Act (Fires in the open).

(1A) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction—

- (a) in the case of a corporation, to a fine not exceeding 1 000 penalty units; or
- (b) in the case of a natural person, to a fine not exceeding 500 penalty units.

11—Section 23 of the Principal Act is amended by inserting the following subsection after subsection (1):—

Amendment of section 23 of Principal Act (Prohibition on operating unlicensed scheduled premises).

(2) A person who contravenes subsection (1) and is not exempted from holding a licence pursuant to section 35 is guilty of an offence and is liable on summary conviction—

- (a) in the case of a corporation, to a fine not exceeding 500 penalty units; or
- (b) in the case of a natural person, to a fine not exceeding 250 penalty units.

Amendment of section 36A of Principal Act (Licence to transport waste).

12—Section 36A of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “Penalty: \$5 000.”;
- (b) by omitting from subsection (5) “Penalty: \$5 000.”;
- (c) by inserting the following subsection after subsection (5):—

(5A) A person who contravenes subsection (1) or fails to comply with subsection (5) is guilty of an offence and is liable on summary conviction to a fine not exceeding 100 penalty units.

Amendment of section 46 of Principal Act (Obstruction, &c., of authorized officers).

13—Section 46 of the Principal Act is amended by omitting “liable to a penalty of \$1 000” and substituting “guilty of an offence and is liable on summary conviction to a fine not exceeding 50 penalty units”.

Substitution of section 47 of Principal Act (Emission of pollutants).

14—Section 47 of the Principal Act is repealed and the following section is substituted:—

Indictable offences.

47—(1) An offence against section 15, 16, 17, 18, 21, or 50 is an indictable offence.

(2) Notwithstanding that an offence referred to in subsection (1) is an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

(3) Where, pursuant to subsection (2), a court of summary jurisdiction hears and determines proceedings in respect of an offence against section 15, 16, or 17 and convicts a person of such an offence, the court may impose—

- (a) in the case of a corporation, a fine not exceeding 50 penalty units and a daily fine not exceeding 25 penalty units for each day during which the offence continues; or
- (b) in the case of a natural person, a fine not exceeding 20 penalty units and a daily fine not exceeding 10 penalty units for each day during which the offence continues.

(4) Where, pursuant to subsection (2), a court of summary jurisdiction hears and determines proceedings in respect of an offence against section 18, 21, or 50 and convicts a person of such an offence, the court may impose—

- (a) in the case of a corporation a fine not exceeding 50 penalty units; or
- (b) in the case of a natural person, a fine not exceeding 20 penalty units.

15—Section 48 of the Principal Act is repealed.

Repeal of section 48 of Principal Act (Unlicensed operation of scheduled premises).

16—Section 49 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 49 of Principal Act (Breach of licence for scheduled premises).

49—The holder of a licence in respect of scheduled premises who fails to comply with any of the conditions, limitations, or restrictions to which the licence is subject is guilty of an offence and is liable on summary conviction—

Failure to comply with conditions, &c., of licence for scheduled premises.

- (a) in the case of a corporation, to a fine not exceeding 500 penalty units and to a daily fine not exceeding 100 penalty units for each day during which the offence continues; or
- (b) in the case of a natural person, to a fine not exceeding 250 penalty units and to a daily fine not exceeding 50 penalty units for each day during which the offence continues.

17—Section 49A of the Principal Act is amended as follows:—

Amendment of section 49A of Principal Act (Failure to obtain Director's approval for certain acts).

(a) by omitting from subsection (1) “conviction to a penalty not exceeding \$5 000.” and substituting “conviction—

- (a) in the case of a corporation, to a fine not exceeding 500 penalty units; or
- (b) in the case of a natural person, to a fine not exceeding 250 penalty units.”;

(b) by omitting from subsection (2) “conviction to a penalty not exceeding \$5 000.” and substituting “conviction—

(a) in the case of a corporation, to a fine not exceeding 500 penalty units; or

(b) in the case of a natural person, to a fine not exceeding 250 penalty units.”

Amendment of section 49B of Principal Act (Failure to comply with certain conditions, &c.).

18—Section 49B of the Principal Act is amended by omitting “conviction to a penalty not exceeding \$5 000.” and substituting “conviction—

(a) in the case of a corporation, to a fine not exceeding 500 penalty units; or

(b) in the case of a natural person, to a fine not exceeding 250 penalty units.”

Amendment of section 50 of Principal Act (Pollution of the sea restrained).

19—Section 50 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) “Penalty: \$4 000.”;

(b) by inserting the following subsection after subsection (1):—

(1A) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction—

(a) in the case of a corporation, to a fine not exceeding 1 000 penalty units; or

(b) in the case of a natural person, to a fine not exceeding 500 penalty units.

(c) by omitting from subsection (3) “liable to a penalty of \$1 000” and substituting “guilty of an offence and is liable on conviction—

(a) in the case of a corporation, to a fine not exceeding 1 000 penalty units; or

(b) in the case of a natural person, to a fine not exceeding 500 penalty units.”;

(d) by omitting from subsection (4) “liable to a penalty of \$5 000” and substituting “guilty of an offence and is liable on conviction—

(a) in the case of a corporation, to a fine not exceeding 1 000 penalty units; or

(b) in the case of a natural person, to a fine not exceeding 500 penalty units.”;

(e) by omitting subsection (6).

20—Section 51 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) “Penalty: \$500 and a daily penalty of \$50.”; Amendment of section 51 of Principal Act (Emission of noise prohibited).

(b) by inserting the following subsection after subsection (1):—

(1A) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction—

(a) in the case of a corporation, to a fine not exceeding 200 penalty units and to a daily fine not exceeding 20 penalty units for each day during which the offence continues; or

(b) in the case of a natural person, to a fine not exceeding 100 penalty units and to a daily fine not exceeding 2 penalty units for each day during which the offence continues.

21—Section 53 of the Principal Act is amended as follows:—

(a) by inserting “(1)” before “A person”;

(b) by omitting “Penalty: \$5 000 or 2 years’ imprisonment, or both.”; Amendment of section 53 of Principal Act (Secrecy).

(c) by adding the following subsection as subsection (2) of that section:—

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding 200 penalty units or imprisonment for a period not exceeding 2 years, or both.

22—Section 55 of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:— Amendment of section 55 of Principal Act (Regulations).

(4) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene, or fail to comply with, any of the regulations and may provide in respect of such offence for the imposition of a fine not exceeding 50 penalty units.

