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# A GUIDE TO THE ENVIRONMENTAL PROTECTION ACT 1986



*ENVIRONMENTAL PROTECTION AUTHORITY*

*20th February 1987*

## ENVIRONMENTAL PROTECTION AUTHORITY MEMBERS 1987

### MR BARRY CARBON

Chairman and Chief Executive Officer, EPA

Barry Carbon is the full-time Chairman and Chief Executive Officer of the EPA. He is a graduate of the University of Western Australia. His experience includes 17 years as a scientist at CSIRO, Division of Land Resources Management and 5 years as Manager, Environmental Department at Alcoa of Australia. Mr Carbon was appointed to the EPA in 1985.

### MR PETER JOHNSTON

Peter Johnston graduated Master of Law and Bachelor of Arts from the University of Western Australia. He was admitted to legal practice in 1965 and has been a member of Independent Bar, Perth, since 1974. He specialises in constitutional, mining and administrative law and has acted for conservationists and environmental bodies, as well as mining companies. He teaches law at the University of Western Australia and environmental law at Murdoch University. Mr Johnston was appointed as Deputy Chairman and part-time member of the EPA in 1985.

### DR JOHN BAILEY

John Bailey is a graduate of the University of Western Australia. He is an experienced member of a number of conservation groups and has authored numerous reports and submissions. Dr Bailey is a part-time tutor in Environmental Science at Murdoch University and a member of the National Parks and Nature Conservation Authority. He was Chairman of the Committee on Exploration and Mining in National Parks and Nature Reserves which reported in December, 1986. He has been a part-time member of the EPA since 1985.

### DR MAURICE MULCAHY

Maurice Mulcahy is a distinguished and experienced research scientist in soils and land use. He worked with CSIRO before joining the Department of Conservation and Environment as a Senior Research Scientist in 1976. He retired from the Department in 1985. Dr Mulcahy was appointed to the EPA for a brief period in 1985 prior to the restructuring of the Authority. He is a member of the Country Planning Council of the State Planning Commission and was a member of the Government taskforce which recommended the establishment of the Department of Conservation and Land Management and of the Committee of Inquiry into statutory planning which led to the formation of the State Planning Commission. Dr Mulcahy was a former Chairman of the Land Resources Policy Council. He was awarded the A.M. in the 1987 Australia Day Honours list. He was reappointed to the EPA as a part-time member in January, 1987, as one of the two new appointments provided for in the new legislation.

### DR PETER NEWMAN

Peter Newman graduated BSc and PhD from the University of Western Australia and has a post-graduate Diploma in Environmental Science and Technology from Delft University in the Netherlands. He has had long-term involvement in environmental issues including studies on wetlands, urban transport and waste recycling.

Dr Newman has been a Senior Lecturer in Environmental Science at Murdoch University since the foundation of the University in 1974.

His appointment to the EPA as a part-time member in January, 1987, is one of the two new appointments provided for in the new legislation.



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# THE ENVIRONMENTAL PROTECTION ACT, 1986

## Introduction

This guide is designed to provide a potential developer (known as a proponent), consultant, Government agency, decision making authority (DMA)\*, Member of Parliament or any interested member of the public with a clear explanation of the salient points of the new Environmental Protection Act, 1986 (hereafter referred to as "the Act").

The Act makes provision for the continuation of the Environmental Protection Authority, establishes its functions and provides it with suitable staff. The Act establishes head powers to provide mechanisms for the development of Environmental Protection Policies, the referral and assessment of proposals (Environmental Impact Assessment), the control of pollution and enforcement. The Act also establishes appeals procedures.

The Act is divided into nine parts as below. These parts are discussed in more detail in this booklet, and, where appropriate, comparisons with the Environmental Protection Act 1971-1980 and other repealed legislation are made.

- Part I Preliminary
- Part II Environmental Protection Authority
- Part III Environmental Protection Policies
- Part IV Environmental Impact Assessment
- Part V Control of Pollution
- Part VI Enforcement
- Part VII Appeals
- Part VIII General
- Part IX Transitional

## PART I — PRELIMINARY

The Environmental Protection Act 1986 provides for:

**“an Environmental Protection Authority, for the prevention, control and abatement of environmental pollution, for the conservation, preservation, protection, enhancement and management of the environment and for matters incidental to or connected with the foregoing”.**

The Act makes it an offence to pollute (Section 49 (1)).

The Act establishes a number of definitions which are reproduced in the Appendix to this booklet. In reading this guide, the understanding of two definitions is essential. These are reproduced below:

“ “environment” .....means living things, their physical, biological and social surroundings, and interactions between all of these;”

“ “pollution” means direct or indirect alteration of the environment —

- (a) to its detriment or degradation
- (b) to the detriment of any beneficial use; or
- (c) of a prescribed kind.”

The Act binds the Crown, with the exception of State Agreement Acts which received Royal Assent before 1 January, 1972.

The Environmental Protection Act 1971-1980, the Clean Air Act 1964-1985 parts of the Noise Abatement Act 1972 and Part III A (Control of Pollution) of the Rights in Water and Irrigation Act 1914-1985 are all repealed.\*

\* A decision-making authority (DMA) is any Minister with responsibility for the carrying out of proposals, as well as relevant Government Departments and local authorities.

## **PART II — ENVIRONMENTAL PROTECTION AUTHORITY**

This part covers the composition, functions, procedures and staffing of the Environmental Protection Authority (EPA).

### **Continuation of Environmental Protection Authority**

The three man body, known as the Environmental Protection Authority (EPA) established under the repealed Act, continues under that name. The membership of the Authority is increased from three to five members who are appointed by the Minister for the Environment for a term not exceeding 5 years. Any member may be reappointed. The Authority consists of:

- (a) one full-time member who is Chairman of the Authority;
- (b) one full-time or part-time member appointed to be Deputy Chairman; and
- (c) three additional full-time or part-time members.

No member of the Authority can be a Public Servant as defined by the Public Service Act, 1978.

The present members of the EPA are:

Mr Barry Carbon (Chairman)

Mr Peter Johnston

Dr John Bailey

Dr Maurice Mulcahy

Dr Peter Newman

A brief biography of each member is on the inside cover of this booklet.

The Act provides for the appointment of staff in a Department under the Public Service Act, 1978 and for the employment of wages and field staff, consultants, technical and such other assistance as is required to carry out the EPA functions. Staff and facilities of other Departments can also be used. The Chairman of the EPA also becomes the Chief Executive Officer (CEO) of the Public Service Department established as above. The Chief Executive Officer role is pertinent to the Pollution Control portions of the Act under which the Minister has the responsibility for the coercive powers and the CEO can be directed in the carrying out of these functions.

### **Independence of EPA**

The EPA is an independent Authority and neither the Authority, nor the Chairman are subject to the direction of the Minister for the Environment, except on some procedural matters relating to timing and level of EPA assessment.

### **Procedures of the EPA**

The Act sets down the manner in which meetings of the EPA will be held, and specifically addresses matters such as remuneration of members, disclosure of interests, decisions, and keeping of minutes. Powers of the Authority and delegation of powers are also covered.

### **Objectives of the EPA**

It is the objective of the Authority to use its best endeavours:

- (a) to protect the environment; and
- (b) to prevent, control and abate pollution.

### **Functions of the EPA**

The Act spells out the functions of the Authority. These are listed below:

- (a) to conduct environmental impact assessments;
- (b) to consider and initiate the means of protecting the environment and the means of preventing, controlling and abating pollution;
- (c) to encourage and carry out studies, investigations and research into the problems of environmental protection and the prevention, control and abatement of pollution;
- (d) to obtain the advice of specialists in regard to environmental protection and the prevention, control and abatement of pollution;

\* These Acts and parts thereof were repealed through accompanying legislation, viz "Acts Amendment and Repeal (Environmental Protection) Act, 1986".

- (e) to advise the Minister on environmental matters generally and specifically;
- (f) to prepare, and seek approval for, environmental protection policies;
- (g) to promote environmental awareness within the community and to encourage understanding by the community of the environment;
- (h) to receive representations on environmental matters from members of the public;
- (i) to provide advice on environmental matters to members of the public;
- (j) to publish reports on environmental matters generally;
- (k) to publish guidelines for the benefit of planners, builders, engineers or other persons;
- (l) to keep under review the progress made in the attainment of the objects and purposes of this Act;
- (m) to co-ordinate all such activities, whether governmental or otherwise, as are necessary to protect, restore or improve the environment in the State;
- (n) to establish and develop criteria for the assessment of the extent of environmental change or pollution;
- (o) to specify standards and criteria, and the methods of sampling and testing to be used for any purpose;
- (p) to promote, encourage, co-ordinate or carry out planning and projects in environmental management; and
- (q) generally, to perform such other functions as are prescribed.

The EPA is obliged to prepare an annual report of its activities and on environmental matters in general. The Authority and/or the Minister can establish such groups, committees, councils and panels as they think are necessary.

### **PART III — ENVIRONMENTAL PROTECTION POLICIES (EPP)**

As in the previous environmental legislation, the Environmental Protection Authority can develop environmental protection policies (EPP).

Provision is made for several consultations with interest groups during the development of draft EPP's, both at the instigation of the EPA and by the Minister for Environment. To ensure that a draft EPP is widely reviewed in the community, details of its availability have to be advertised a number of times in both the general press and in local newspapers. Once the Minister has approved a draft policy and it has not been disallowed by Parliament it has the force of law as though it is a part of the Environmental Protection Act, 1986.

### **PART IV — ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

The way in which the EPA will carry out Environmental Impact Assessment (EIA) will be essentially the same as under the previous legislation. However, two major differences will occur: the beginning and end of EIA become part of a statutory process in the new Act, and provisions are made for Appeals.

The way in which a proposal travels through the EIA process is shown in the flowchart in Figure 1. The initiation of the environmental impact assessment process is through referral of any proposal which, if implemented, would be likely to have a significant effect on the environment. As in the previous legislation, any member of the public can refer to EPA any proposal that might have a significant impact on the environment.

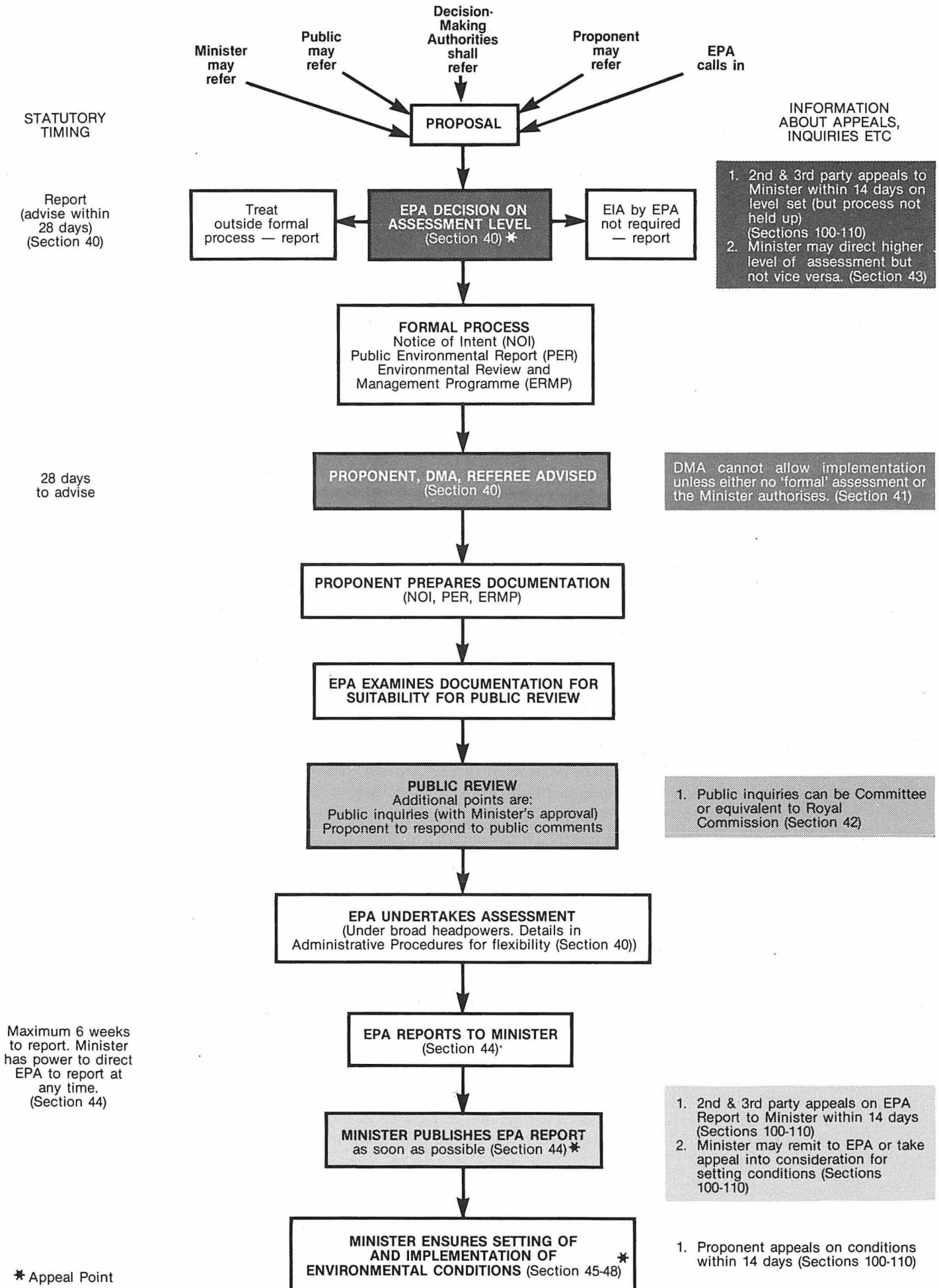
Referral of proposals is mandatory for decision-making authorities and optional for proponents and members of the community. The Minister for the Environment may refer proposals and the EPA has the power to call in proposals for assessment.

It is the EPA's role to determine whether proposals are likely to have a significant effect on the environment. In doing so, ongoing consultation, particularly with decision-making authorities (DMA's), is essential so that DMA's gain an understanding of the types of proposals that might cause concern.

The Minister for Environment has the role of designating a proponent for a proposal. This is particularly important because under the Act proponents are then responsible for a proposal.

Figure 1

The Environmental Assessment (EIA) Process  
(Under the Environmental Protection Act, 1986)





The EPA is required to keep a record of proposals referred which is publicly available. This record has to include the level of assessment set by the EPA (eg no assessment, Notice of Intent, Public Environmental Report, Environmental Review and Management Programme) but will exclude trade secrets or other confidential information. Unlike the previous Act, it is possible for appeals to the Minister to be made against the level of assessment determined as suitable by the Authority. Any person can lodge such an appeal to the Minister, but the level of assessment cannot be reduced, only increased if an appeal is successful. Appeals are discussed in more detail in Part VII of this guide.

When the EPA has decided formally to assess a proposal, relevant decision-making authorities cannot allow the proposal to be implemented until the Minister so authorises. Such authorisation will normally be given after the assessment is completed and the Minister has set the environmental and other conditions for the implementation of the proposal (see below).

Following the EPA report, the Minister sets conditions and procedures for implementation of a proposal. In setting conditions the Minister consults with other relevant Ministers or decision-making authorities. The Act provides mechanisms to reach agreement on conditions. Proponents are required to comply with conditions, procedures and "steps" in the implementation of their proposal. If the proponent is aggrieved by any of the conditions or procedures set he can, in certain cases, lodge an appeal (see Part VII of this booklet).

### **Public Submissions**

As under the previous legislation a proposal subject to a Public Environmental Report (PER) or Environmental Review and Management Programme (ERMP) will be made available to the public and written submissions will be sought.

### **Transitional Arrangements for EIA**

Upon promulgation of the Act, proposals currently in the system and undergoing EIA will be transitioned over. Specifically, this means that all proposals will be slotted into the scheme shown in Figure 1, at the appropriate equivalent place.

## **PART V — CONTROL OF POLLUTION, and PART VI — ENFORCEMENT**

In the past, pollution control in Western Australia has been covered by at least four Acts administered by three Government Departments. Consequently there were difficulties in achieving a coordinated approach to pollution control.

The Environmental Protection Act, 1986 provides powers to control pollution and for the management, and control of all wastes discharged into the environment. In addition, the Act provides for the control of environmental noise, odour and electromagnetic radiation.

The day to day administrative requirements of the Act are carried out by the CEO (or his delegated officer) subject to the direction of the Minister. Only the Minister or his delegated officer (which may include a responsible local authority officer) may approve prosecutions under the Act. The Minister is responsible for initiating stop orders on industry.

"Pollution" as defined in the Act means "direct or indirect alteration of the environment:

- (a) to its detriment or degradation;
- (b) to the detriment of any beneficial use; or
- (c) of a prescribed kind."

The Act makes it an offence to pollute and specifies penalties for doing so. A person also commits an offence if he places waste or allows waste to be placed anywhere from which the waste could reasonably be expected to cause pollution.

### **Prescribed Premises**

'Prescribed premises' are premises which have a known potential to pollute. A works approval is required, prior to commencement of any construction activity which would cause a premises to become a 'prescribed premises'. It is an offence to commence any such construction without a works approval. If a works approval is granted and construction is completed in compliance with conditions imposed in the works approval, an application to licence the premises is then required.

Transitional arrangements allow those premises already licenced under the Schedule to the Clean Air Act 1964-1985 to continue to be licenced during the change-over to the Environmental Protection Act 1986. Similar arrangements apply to current approved 'applications to construct' issued under the Clean Air Act 1964-1985.

On the proclamation of the Act, the Schedule of Prescribed Premises in the 1986 Act will not differ from that of the Clean Air Act 1964-1985. On the expiry of licences issued under the Clean Air Act, new licences will be issued under the Environmental Protection Act 1986.

A person who becomes the occupier of prescribed premises has 30 days in which to apply for a works approval, licence or transfer of a works approval or licence. In granting any works approvals, licences, amendments or transfers, the Chief Executive Officer must ensure that they are consistent with any approved policy as provided in Part III of the Act (see Part III of this guide).

### **Works Approvals**

Section 54 sets out the manner in which an application for a 'works approval' is to be submitted. Other than when a proposal is being considered under EIA procedures, the Chief Executive Officer may grant a works approval or may refuse to do so. A works approval may be issued subject to conditions. Provisions apply for a right of appeal to the Minister (see Part VII of this guide).

An occupier who contravenes any condition of a works approval commits an offence.

### **Licences**

Section 57 sets out the manner in which an application for a licence is to be submitted. Other than when application is being considered under EIA procedures, the Chief Executive officer may grant or refuse a licence, subject to comments received and the compliance of the applicant with conditions relating to a works approval. A licence may be granted subject to the approval being consistent with any approved policy and subject to conditions. Provisions apply for a right of appeal.

There are provisions for the CEO to seek comment from persons with a direct interest in works approval or licence applications.

The Chief Executive Officer may revoke, suspend or amend a licence. Provisions apply for the right of appeal against such actions.

If a licensee allows any contravention of licence conditions to occur on the premises he commits an offence.

### **Pollution Abatement Notices**

The Act requires the occupier of any premises, including residential, to comply with an emission standard and take all reasonable and practicable means to prevent or minimise the discharge of waste. If the Chief Executive Officer is satisfied that this is not happening, then he may serve a pollution abatement notice which may require the occupier to prevent or abate the discharge of waste within a specified time. Such pollution abatement notices are registered against the title of the land until revoked by the Chief Executive Officer (CEO).

A person may appeal to the Minister against a pollution abatement notice, however, pending the determination of the appeal, the relevant requirements continue to have effect.

When a person bound by a pollution abatement notice does not comply with the requirements of the notice, the Minister may close down the premises until the requirements of the pollution abatement notice have been fulfilled. As well that person faces prosecution for not complying with the requirements of the notice.

If a person notifies the Chief Executive Officer immediately of a discharge occurring as a result of an emergency, accident or malfunction, then an offence may not necessarily have been committed. The CEO may authorise whatever clean-up is required to prevent the situation recurring. This work can be carried out by a contractor at the expense of the person responsible for the discharge.

If the Chief Executive Officer is satisfied that pollution under certain conditions is likely to lead to or cause "pollution episodes", he may issue directions by TV or radio broadcasting, restricting or preventing certain industrial activities, and/or place bans on the use of motor vehicles.

### **Transfer of Works Approvals and Licences**

In the case of transfer of premises covered by works approvals and licences, the intended occupier becomes the applicant for the transfer. Provisions apply for the right of appeal against a refusal to transfer a works approval or licence.

### **Noise and General Provisions**

The Environmental Protection Act 1986, in making it an offence to pollute, also makes it an offence to create unreasonable noise or allow emission of excessive noise. The nuisance and offensive noise provisions of the Noise Abatement Act 1972 are repealed.

Unreasonable and excessive noises are prescribed in the form of noise level requirements which are applied to given situations and items of equipment.

Noise may be deemed to be unreasonable if it interferes directly or indirectly with the health, welfare, convenience, comfort or amenity of any person in any premises.

Under the Act, it is an offence for any persons to use or allow equipment to be used in a manner that creates pollution of the environment or excessive noise.

It is also an offence to allow the installation of equipment in a manner which will allow that equipment to cause pollution of the environment or create unreasonable noise, and to manufacture, sell or supply equipment which creates pollution or noise in excess of that prescribed by the relevant requirement.

The new Act allows for pollution and noise emission requirements to be prescribed for motor vehicles. It is an offence to own or drive a vehicle which does not comply with the prescribed requirements. This also applies to owners and masters of vessels. It is also an offence to remove, impair, adjust, modify, service or repair vehicle or vessel pollution-suppressing or noise-suppressing devices so that the vehicle or vessel no longer meets a prescribed requirement.

The Environmental Protection Authority may require a suspect vehicle, vessel or item of equipment to be presented or made available for inspection and testing. Police Officers may also remove vehicles and vessels for such inspection and testing.

A person creating unreasonable noise may be served with a Pollution Abatement Notice (discussed elsewhere in this booklet) or may be issued with a Noise Abatement Direction which takes effect immediately and lasts for up to seven days. Noise Abatement Directions can be issued by authorised persons or by Police Officers.

Non-compliance with a Noise Abatement Direction constitutes an offence, as does the refusal to supply information or the supply of false information.

Many of the provisions of the new Act are carried over from the Noise Abatement Act 1972.

### **PART VII — APPEALS**

The Act establishes a number of appeal points in the environmental assessment process and in the pollution control and licencing areas.

All appeals must be made in writing to the Minister for the Environment for determination.

In determining any appeal, the Minister or an appeals Committee cannot make any recommendation that conflicts with any approved policy or with any standard prescribed by or under the Act.

The ways in which appeals may be lodged are summarised here.

#### **Lodging of Appeals on Environmental Impact Assessment**

Appeals may be made in writing within a prescribed time, setting out the grounds of appeal. Appeals can be made against the level of assessment sought by the Authority and against the content of or recommendations made in the EPA assessment report. Such appeals can be made by any decision-making authority, proponent or other person.

After environmental assessment, when the Minister has set conditions on implementation of a proposal, any proponent who disagrees with the conditions (Section 45) may within 14 days lodge an appeal in writing. A proponent may also appeal if he is aggrieved by orders or steps in Section 48 (4).

Appeals to the Minister for Environment may be:

- dismissed;
- referred to the EPA for a fresh decision on level of assessment required;
- referred to the EPA for further assessment;
- referred to an appeals committee established for the purpose;
- set aside, or orders controlling implementation on a proposal altered; or
- set aside, or steps involved in implementing a proposal altered.

#### **Lodging of Appeals on Works Approvals and Licences**

An applicant for a works approval or licence can lodge an appeal within 21 days of a decision on specified actions if he is aggrieved by the decision.

An appeal can be made against:

- refusal to grant a works approval or licence;
- refusal to transfer a works approval or licence;
- conditions specified in a works approval or licence.

Appeals must be made in writing and specify the grounds of appeal. Persons other than the applicant for a works approval or licence can also lodge an appeal if they disagree with actions taken. In the case of an application for a licence or works approval, their transfer or where suspension, revocation or specification is involved, the decision being appealed continues to have effect until the appeal has been resolved.

In the case of revocation, suspension and amendment of licences the amendments are deemed not to have been made until the appeal is resolved.

#### **Lodging of Appeals in Respect of Pollution Abatement Notices.**

With a few exceptions, any person who is aggrieved by a requirement made in a pollution abatement notice or by an amendment made in a pollution abatement notice may within 21 days, lodge an appeal in writing. The relevant requirement or amendment will continue to have effect during the determination of the appeal.

#### **PART VIII — GENERAL**

A general section of the Act covers a range of matters such as specific penalties, institution of prosecutions and liability. This part allows for the development of Administrative Procedures, in particular for the purpose of establishing the principles and practices of environmental impact assessment. It also allows such Regulations to be made as are necessary for giving effect to the purposes of the Act.

This part also makes provision for a review of the operation and effectiveness of the Act as soon as possible after five years from its commencement.

#### **PART IX — TRANSITIONAL**

The Act provides for transitional arrangements to ensure smooth transfer from operations under the Clean Air Act 1964 and parts of the Noise Abatement Act 1972 and Rights in Water and Irrigation Act 1914 which have been repealed.

#### **FURTHER INFORMATION**

For further information contact:

Environmental Protection Authority  
1 Mount Street  
PERTH WA 6000  
Telephone: 222 7000

## **GLOSSARY OF ABBREVIATIONS**

CEO — Chief Executive Officer

DMA — Decision-Making Authority

EIA — Environmental Impact Assessment

EPA — Environmental Protection Authority

EPP — Environmental Protection Policy

ERMP — Environmental Review and Management Programme

NOI — Notice of Intent

PER — Public Environmental Report

**APPENDIX**  
**DEFINITIONS OF TERMS USED IN THE ACT**  
**(extract)**

**Interpretation**

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

“analysis” means test or examination of any matter, substance or process for the purpose of determining its composition or qualities or its effect (whether physical, chemical or biological) on any portion of the environment, or examination of emissions or recordings of noise to determine the level or other characteristics of noise or its effects on any portion of the environment;

“analyst” means analyst appointed under section 94;

“applicant”, in relation to an application for a works approval or licence, means person applying for the works approval or licence;

“appeals committee” means appeals committee appointed under section 45 (3) or 106;

“approved policy” means draft policy approved under section 31 (d);

“Authority” means Environmental Protection Authority continued in existence by section 7 (1);

“Authority member” means person for the time being holding office as a member of the Authority under section 7 and includes Chairman and Deputy Chairman;

“authorized person” means person or member of a class of persons appointed under section 87 (1), and includes Chief Executive Officer;

“beneficial use” means use of the environment, or of any portion thereof, which is—

- (a) conducive to public benefit, public amenity, public safety, public health or aesthetic enjoyment and which requires protection from the effects of discharges of wastes or of emissions of noise, odour or electromagnetic radiation; or
- (b) identified and declared under section 35 (2) to be a beneficial use to be protected under an approved policy;

“books”, without limiting the generality of the definition of “book” in section 3 of the *Interpretation Act 1984*, includes—

- (a) any register or other record of information; and
- (b) any accounts or accounting records,

however compiled, recorded or stored, and also includes any document;

“Chairman” means Chairman of the Authority for the time being holding office under section 7 (2);

“Chief Executive Officer” means—

- (a) Chairman when acting in his capacity as the Permanent Head of the Department under section 7 (4); or
- (b) during any temporary incapacity of the Chairman, the delegate under section 20 (2);

“committee of inquiry” means committee of inquiry appointed under section 29 (1);

“condition” includes restriction or limitation;

“decision-making authority” means public authority empowered by or under—

- (a) a written law; or
- (b) any agreement—
  - (i) to which the State is a party; and
  - (ii) which is ratified or approved by an Act,

to make a decision in respect of any proposal and, in Division 2 of Part IV, includes, in relation to a particular proposal, any Minister prescribed for the purposes of this definition as being the Minister responsible for that proposal;



“Department” means department of the Public Service of the State through which this Act is administered;

“Deputy Chairman” means Deputy Chairman of the Authority for the time being holding office under section 7 (2);

“discharge”, in relation to waste or other matter, includes deposit it or allow it to escape, or cause or permit it to be, or fail to prevent it from being, discharged, deposited or allowed to escape;

“draft policy” means draft of an environmental protection policy prepared under section 26;

“driver”, in relation to—

- (a) a vehicle within the meaning of the *Road Traffic Act 1974*, has the meaning given by that Act;
- (b) a vehicle other than a vehicle referred to in paragraph (a), means pilot or other person steering or controlling the movements of that vehicle; or
- (c) a vessel, means master as defined by the *Western Australian Marine Act 1982*;

“environment”, subject to subsection (2), means living things, their physical, biological and social surroundings, and interactions between all of these;

“equipment” means apparatus, appliance, boiler, chimney, crane, device, dredge, engine, facility, fireplace, furnace, generator, incinerator, instrument (including musical instrument), kiln, machine, mechanism, oven, plant, railway locomotive, retort, structure, tool, vehicle or vessel or any other equipment of any kind whatsoever;

“fuel burning equipment” means equipment (other than a motor vehicle) or open fire in the operation of which fuel or other combustible material is or is to be used or which is or is to be used in or in connection with the burning of fuel or other combustible material;

“industrial plant” means equipment—

- (a) which is used for the manufacturing, processing, handling, transport, storage or disposal of materials in or in connection with any trade, industry or process;
- (b) which when operated is capable of discharging waste or emitting noise, odour or electromagnetic radiation; or
- (c) which is of a prescribed class;

“inspector” means person appointed to be an inspector under section 88, and includes Chief Executive Officer;

“licence” means licence granted and in force under Part V;

“licensee” means holder of a licence;

“materials” includes raw materials, materials in the process of manufacture, manufactured materials, by-products and waste;

“monitoring programme” means all actions taken and equipment used for the purpose of detecting or measuring quantitatively or qualitatively the presence, amount or level of any substance, characteristic, noise, odour, electromagnetic radiation or effect;

“motor vehicle” has the meaning given by the *Road Traffic Act 1974*;

“noise” includes vibration of any frequency, whether transmitted through air or any other physical medium;

“occupier”, in relation to—

- (a) any premises, means person who is in occupation or control of those premises, whether or not that person is the owner of those premises; or
- (b) premises different parts of which are occupied by different persons, means, in relation to any such part, person who is in occupation or control of that part, whether or not that person is the owner of that part;

“owner”, in relation to—

- (a) a vehicle within the meaning of the *Road Traffic Act 1974*, has the meaning given by that Act; or
- (b) a vessel, has the meaning given by the *Western Australian Marine Act 1982*;

“pollution” means direct or indirect alteration of the environment—

- (a) to its detriment or degradation;
- (b) to the detriment of any beneficial use; or
- (c) of a prescribed kind;

“pollution abatement notice” means pollution abatement notice served under section 65 (1);

- “practicable” means reasonably practicable having regard to, among other things, local conditions and circumstances (including costs) and to the current state of technical knowledge;
- “practicable means” includes provision and maintenance of equipment and proper use of equipment;
- “premises” means residential, industrial or other premises of any kind whatsoever and includes land, water and equipment;
- “prescribed premises” means premises prescribed for the purposes of Part V;
- “proponent”, in relation to a proposal, means person who or which is nominated under section 38 as being responsible for the proposal;
- “proposal” means project, plan, programme, policy, operation, undertaking or development or change in land use, or amendment of any of the foregoing;
- “protection”, in relation to the environment, includes conservation, preservation, enhancement and management thereof;
- “public authority” means Minister of the Crown acting in his official capacity, department of the Government, State agency or instrumentality, council of a municipality within the meaning of the *Local Government Act 1960* or other person, whether corporate or not, who or which under the authority of a written law administers or carries on for the benefit of the State, or any district or other part thereof, a social service or public utility;
- “public place” means place that is open to the public or is used by the public, whether or not on payment of money or other consideration, whether or not that place is ordinarily so open or used and whether or not the public to whom that place is so open, or by whom that place is so used, consists only of a limited class of persons;
- “reserve” means land or waters or both reserved by or under a written law for a public purpose;
- “road” has the meaning given by the *Road Traffic Act 1974*;
- “sell” includes—
- (a) barter, offer or attempt to sell, receive for sale, have in possession for sale, expose for or on sale, send, forward or deliver for sale or cause or permit to be sold or offered for sale; and
  - (b) sell for resale;

“the repealed Act” means the *Environmental Protection Act 1971*;

“the regulations” means the regulations made under section 123 (1);

“the State Planning Commission” means the State Planning Commission established by section 4 of the *State Planning Commission Act 1985*;

“trade” means trade, business or undertaking, whether ordinarily carried on at fixed premises or at different places, the carrying on of which results or may result in the discharge of waste or the emission of noise, odour or electromagnetic radiation, and includes activity prescribed to be a trade, business or undertaking for the purposes of this Act;

“unreasonable noise” has the meaning given by subsection (3);

“vehicle” includes self-propelled vehicle, whether operated on a road or rails or otherwise, aircraft or air-cushion vehicle or rolling stock, trailer, semi-trailer or caravan when attached to such a self-propelled vehicle;

“vessel” has the meaning given by the *Western Australian Marine Act 1982*;

“waste” includes matter—

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or
- (b) prescribed to be waste;

“waters” means any waters whatsoever, whether in the sea or on or under the surface of the land;

“works approval” means works approval granted and in force under Part V.

(2) For the purposes of the definition of “environment” in subsection (1), the social surroundings of man are his aesthetic, cultural, economic and social surroundings to the extent that those surroundings directly affect or are affected by his physical or biological surroundings.

(3) For the purposes of this Act, noise shall be taken to be unreasonable if—

(a) it is emitted otherwise than—

(i) in accordance with prescribed conditions or in prescribed circumstances;

(ii) in accordance with this Act or with any requirement or permission, by whatever name called, made or given thereunder; or

(iii) in an emergency,

and interferes, directly or indirectly, with the health, welfare, convenience, comfort or amenity of any person in any premises;

(b) in the case of noise emitted by equipment, it results from the use of the equipment on any premises otherwise than—

(i) in accordance with prescribed conditions or in prescribed circumstances;

(ii) in accordance with this Act or with any requirement or permission, by whatever name called, made or given thereunder; or

(iii) in an emergency;

or

(c) it is prescribed to be unreasonable for the purposes of this Act.

(4) A reference in this Act to amending a works approval or licence includes a reference to revoking or amending any condition to which the works approval or licence is subject and to making the works approval or licence subject to a new condition.