

TASMANIA

**ENVIRONMENTAL MANAGEMENT AND
POLLUTION CONTROL AMENDMENT BILL 2007**

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**ENVIRONMENTAL MANAGEMENT AND
POLLUTION CONTROL AMENDMENT BILL 2007**

*(Brought in by Minister for Tourism, Arts and the
Environment, the Honourable Paula Catherine Wriedt)*

A BILL FOR

**An Act to amend the *Environmental Management and
Pollution Control Act 1994***

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 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Environmental
Management and Pollution Control Amendment
Act 2007*.

2. Commencement

- (1) Except as provided in this section, this Act commences on the day on which this Act receives the Royal Assent.
- (2) Part 3 commences 6 months after the day on which this Act receives the Royal Assent.

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**PART 2 – ENVIRONMENTAL MANAGEMENT AND
POLLUTION CONTROL ACT 1994 AMENDED**

3. Principal Act

In this Part, the *Environmental Management and Pollution Control Act 1994** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by omitting the definition of “authorization”;
- (b) by inserting the following definition after the definition of “business”:

“clean fill” means fill, including soil, rock, concrete, bituminised pavement and similar non-putrescible and non-water-soluble material, that is not contaminated by other waste and that does not contain contaminant levels exceeding limits set by the Director;

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- (c) by omitting the definitions of “controlled activity”, “controlled article” and “controlled substance”;
 - (d) by inserting “existing or proposed” after “means an” in the definition of “environmentally relevant activity”;
 - (e) by omitting the definition of “general authorization”;
 - (f) by omitting the definitions of “individual authorization”, “internal marine waters” and “interstate authorization”;
 - (g) by inserting the following definition after the definition of “person in charge”:
 - “**place**” includes residential premises as defined in section 53(6);
 - (h) by omitting the definition of “recognized interstate authorization”;
 - (i) by inserting the following definition after the definition of “water”:

- “**waters within the limits of the State**” means all tidal waters adjacent to the State other than waters in respect of which a permit may be required under sections 10A, 10B, 10C or 10D of the *Environment Protection (Sea*

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Dumping) Act 1981 of the
Commonwealth;

5. Section 9 amended (Interaction with other Acts)

Section 9(2) of the Principal Act is amended by omitting “the *Environment Protection (Sea Dumping) Act 1987* or”.

6. Section 20B inserted

After section 20A of the Principal Act, the following section is inserted in Division 1:

20B. Council may ask Board to exercise powers

A council may ask the Board, in respect of an activity that is not a level 2 activity or a level 3 activity, to exercise any of the Board’s powers relating to the following:

- (a) an environmental audit;
- (b) an environmental improvement programme;
- (c) an environmental agreement;
- (d) lodgment of a financial assurance.

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7. Section 23A amended (General environmental duty)

Section 23A of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(a) “potential” and substituting “likely”;
- (b) by omitting from subsection (4) “section 102(2)(d)” and substituting “the regulations”;
- (c) by inserting in subsection (4) “in respect of the activity” after “compliance with the general environmental duty”.

8. Section 24 amended (Assessment of permissible level 1 activities)

Section 24 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “58 (2) of that Act” and substituting “58(2) of the *Land Use Planning and Approvals Act 1993*”;
- (b) by inserting the following subsections after subsection (1):
 - (1A) A requirement by the Director under subsection (1) must be made –

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- (a) in the case of an application under section 43A of the *Land Use Planning and Approvals Act 1993*, within 28 days after the date of lodgment of the application; or
 - (b) in the case of an application under section 57(1) of that Act, before the expiry of the period allowed for representations under subsection (5) of that section; or
 - (c) in the case of an application under section 58 of that Act, within 14 days after the date of lodgment of the application.
- (1B) Where an application under section 43A of the *Land Use Planning and Approvals Act 1993* is referred to the Board under subsection (1), the Board must deal with the application in accordance with section 25A of this Act.

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- (c) by omitting from subsection (3) “, (8), (8A), (8B) and (8C)” and substituting “and (8)”;
- (d) by omitting from subsection (3) “the application” and substituting “an application under section 57 or 58 of the *Land Use Planning and Approvals Act 1993*”;
- (e) by omitting subsection (4) and substituting the following subsections:
- (4) An activity in respect of which an application is referred to the Board under subsection (1) and which is assessed under this Act as a level 2 activity is subsequently to be treated for the purposes of this Act as if it were a level 1 activity unless the Board determines otherwise.
- (4A) If the Board determines that an activity referred to in subsection (4) is not subsequently to be treated as a level 1 activity, the activity is to be treated, for the purposes of this Act, as if it were a level 2 activity and subsections (8A), (8B) and (8C) of section 25 apply to the application in respect of that activity as if it were a level 2 activity.

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9. Section 25 amended (Assessment of permissible level 2 activities)

Section 25 of the Principal Act is amended as follows:

(a) by omitting subsections (1), (1A), (1B) and (1C) and substituting the following subsections:

(1) Where an application has been made to a planning authority under the *Land Use Planning and Approvals Act 1993* for a permit in respect of a use or development of land that is a permissible level 2 activity or a use or development of land that is on the same land as, and is not ancillary to, an existing level 2 activity, the planning authority must –

(a) except in the case of an application made under Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993*, deal with the application in accordance with section 57 of that Act; and

(b) refer the application to the Board.

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- (1A) For the purposes of subsection (1), a use or development that is on the same land as an existing level 2 activity is not ancillary to that activity if –
- (a) it constitutes conduct of works within the definition of that level 2 activity in Schedule 2; or
 - (b) it constitutes an intensification of the use or development of the land for the purposes of conducting the works which define that level 2 activity in Schedule 2; or
 - (c) it will, or is likely to, cause serious or material environmental harm; or
 - (d) it constitutes conduct of works within the meaning of any other level 2 activity in Schedule 2.
- (1B) If a planning authority determines that a use or development of land that is on the same land as an existing level 2 activity is ancillary to that activity, the planning authority must, if

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required by any person, give written reasons in support of its determination.

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

(1DA) The 14-day period referred to in subsection (1D), or such lesser period as the Board requires, is to be disregarded for the purposes of the calculation of the periods referred to in sections 57(6) and 58(2) of the *Land Use Planning and Approvals Act 1993*.

(c) by inserting in subsection (2)(a) “and Division 1A” after “Principles”;

(d) by inserting in subsection (2)(b) “in accordance with section 27G” after “application”;

(e) by omitting paragraph (c) from subsection (2);

(f) by inserting the following subsection after subsection (8C):

(8D) Subject to any further period agreed under section 57(6A) or 58(2A) of the *Land Use Planning and Approvals Act 1993* and to the receipt by the planning authority of additional

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information sufficient to satisfy a requirement under section 54 of that Act, the planning authority is to make its decision to grant or refuse to grant the permit within 42 days after receiving notification from the Board under subsection (5).

10. Section 27 amended (Assessment of activities which do not require a permit)

Section 27 of the Principal Act is amended as follows:

- (a) by inserting in subsection (3) “and Division 1A” after “Principles”;
- (b) by omitting from subsection (4) “environmental harm” and substituting “serious or material environmental harm”;
- (c) by omitting subsection (5) and substituting the following subsection:
 - (5) Subject to subsection (4), a person must not commence an activity which must be referred to the Board under this section until the assessment by the Board has been made.

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Penalty: Fine not exceeding 500
penalty units.

- (d) by inserting in subsection (6)(a)(i) “and the reasons for those conditions or restrictions” after “to the activity”;
- (e) by inserting in subsection (6)(a)(ii) “and the reasons for those conditions or restrictions” after “apply to the activity”;
- (f) by inserting in subsection (6)(b)(i) “, together with reasons in support of the Board’s decision” after “proceed”;
- (g) by inserting in subsection (6)(b)(ii) “, together with reasons in support of the Board’s decision” after “proceed”.

11. Part 3, Division 1A inserted

After section 27 of the Principal Act, the following Division is inserted in Part 3:

Division 1A – Assessment of activities

27A. Classes of assessment

- (1) An assessment by the Board of an activity, pursuant to section 25 or 27, is to be one of the following classes:
 - (a) class 2A;

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- (b) class 2B;
 - (c) class 2C.
- (2) A class 2A assessment is the assessment process applicable to an activity that, in the opinion of the Board –
- (a) is minor in scale or consequence; and
 - (b) only has potential local environmental impacts that may be readily avoided or mitigated through appropriate management measures; and
 - (c) is unlikely to generate significant public interest.
- (3) A class 2B assessment is the assessment process applicable to an activity that, in the opinion of the Board –
- (a) involves a complex or multi-jurisdictional assessment process; or
 - (b) involves significant multi-disciplinary or complex environmental issues; or
 - (c) requires approval from another State Government or the Commonwealth Government; or

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- (d) is likely to generate a high level of public interest.
- (4) A class 2C assessment is the assessment process applicable to an activity that satisfies one or more of the criteria set out in subsection (3) but, in the opinion of the Board, requires more stringent assessment or longer time frames than a class 2B assessment.

27B. Notice of intent

- (1) A person who lodges an application for a permit for a permissible level 2 activity may first lodge with the Board a notice of intent.
- (2) A notice of intent is to contain the following information:
 - (a) the name and contact details of the person lodging the application;
 - (b) the name of the proposed project and its location;
 - (c) background of the project proponent, including details of the proponent's experience and financial capacity to undertake

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- the project and his, her or its contact details;
- (d) a description of the proposed project, including its key physical components;
 - (e) an outline of the proposed location of the project and a general site location map;
 - (f) an outline of the stakeholder consultation process undertaken or proposed to be undertaken, including the consultation method, stakeholders consulted or to be consulted and the issues raised or to be raised;
 - (g) a general description of the physical environment that may be affected by the project;
 - (h) the key environmental, health, economic and social issues identified for the project to date;
 - (i) the surveys and studies proposed or underway in relation to the key issues for the project;
 - (j) the proposed timetable for the project;

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- (k) any other details that the Board may consider relevant to the project.

27C. Board to advise of proposed class of assessment

The Board is to advise the proponent or applicant, and the planning authority, of the class of assessment that is proposed to be undertaken under section 27A within 14 days of –

- (a) the lodgment of a notice of intent or the referral of an application under section 25(1), whichever occurs first; or
- (b) the referral of an application under section 24(1); or
- (c) the referral of a proposal under section 27(1) or (2).

27D. Periods for provision of guidance under section 74(4)

Subject to section 27E, the Board must provide guidance under section 74(4) –

- (a) in the case of a class 2A assessment, within 21 days; or

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(b) in the case of a class 2B assessment, within 28 days; or

(c) in the case of a class 2C assessment, within 63 days –

of the Board's advice under section 27C.

27E. Board may require further information

(1) The Board may require a person to provide information to assist it in the provision of guidance under section 74(4).

(2) If the Board requires the provision of information under subsection (1) in respect of a class 2C assessment, the periods specified in section 27D do not run, or cease running, until that information has been provided to the satisfaction of the Board.

27F. Case for assessment to be lodged within 12 months

(1) A case for assessment of an application or proposal must be –

(a) in accordance with the guidance provided by the Board under section 74(4); and

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- (b) lodged with the Board within 12 months after the Board provides that guidance, or within such other period as determined by written agreement between the Board and the applicant or proponent.
- (2) If a case for assessment referred to in subsection (1) is not lodged within the period specified in that subsection, the Board –
- (a) is not required to complete the assessment; and
 - (b) may reject the application or proposal.
- (3) If the Board rejects an application or proposal under subsection (2)(b) –
- (a) the Board is to notify the applicant or proponent of that rejection; and
 - (b) the Board may, in the case of an application for a permit for a permissible level 2 activity, direct the relevant planning authority to refuse to grant the application; and
 - (c) the applicant or proponent is to pay the assessment fee, or such

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portion of it as the Board determines.

- (4) The planning authority must comply with a direction under subsection (3).
- (5) A person who is aggrieved by a decision of the Board to reject, under subsection (2)(b), a proposal referred to it under section 27(1) or (2), may appeal to the Appeal Tribunal within 14 days after being notified of the Board's decision.

27G. Periods for advertising of applications and proposals

- (1) Once the Board has sufficient information to satisfy its requirements as referred to in section 74(3) in respect of an application or a proposal, the Board is to –
 - (a) in respect of an application referred to the Board under section 24(1) or section 25(1), cause the Director to direct the relevant planning authority to advertise the application and to call for public submissions in respect of it; or
 - (b) in respect of a proposal referred by a person to the Board under

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section 27(1) or (2), advertise the proposal and call for public submissions in respect of it.

- (2) Any person may make representations relating to an application or proposal –
 - (a) in the case of a class 2A assessment, within 14 days after the application or proposal is advertised; or
 - (b) in the case of a class 2B assessment, within 28 days after the application or proposal is advertised; or
 - (c) in the case of a class 2C assessment, within 42 days after the application or proposal is advertised.
- (3) Notwithstanding section 57(5) of the *Land Use Planning and Approvals Act 1993* and subject to section 54 of that Act, the planning authority must comply with the Director's direction under subsection (1)(a) of this section, unless the application is refused under section 57(2) of that Act.
- (4) In the case of an application referred to the Board under section 24(1) or section 25(1), the planning authority must, within 7 days after the end of the

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relevant period referred to in subsection (2) of this section, forward to the Board copies of any representations received under section 57(5) of the *Land Use Planning and Approvals Act 1993*.

27H. Period for completion of assessment

- (1) Notwithstanding the *Approvals (Deadlines) Act 1993* and subject to section 27I, after receipt from the planning authority of any representations in the case of an application referred to the Board under section 24(1) or section 25(1), or after closure of the public comment period in the case of a proposal referred to the Board under section 27(1) or (2), the Board must complete its assessment –
 - (a) in the case of a class 2A assessment, within 35 days; or
 - (b) in the case of a class 2B assessment, within 56 days; or
 - (c) in the case of a class 2C assessment, within 91 days.
- (2) An assessment commenced by the Board before the commencement of the *Environmental Management and Pollution Control Amendment Act 2007*

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must be determined within the period specified in Schedule 1 to the *Approvals (Deadlines) Act 1993* as in effect immediately before the commencement of that amendment Act.

27I. Additional information

- (1) The Board may require the applicant or proponent to submit further information to assist the Board in its assessment of an application or a proposal.
- (2) If the Board requires the submission of further information, the periods referred to in section 27H do not run, or cease running, until that information is provided to the satisfaction of the Board.

27J. Extension of periods

- (1) The periods referred to in section 27H may be extended by –
 - (a) any period as determined by a written agreement between the Board and the applicant or proponent at any time before the expiration of the period to be extended; or

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- (b) a period not exceeding half of the relevant period under section 27H as the Minister may determine on application by the Board.
- (2) An extension under subsection (1)(b) may be made only –
- (a) before the expiration of the relevant period specified in section 27H; and
- (b) where the Minister determines that there are special circumstances preventing the Board from complying with section 27H.
- (3) The Board must give written notice of an extension –
- (a) under subsection (1)(a) to the planning authority, in the case of an application referred to the Board under section 24(1) or section 25(1); or
- (b) under subsection (1)(b) to –
- (i) the applicant or proponent; and
- (ii) the planning authority, in the case of an application referred to the Board

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under section 24(1) or
section 25(1).

- (4) Notice under subsection (3) must be given within 7 days after the agreement under subsection (1)(a) or the Minister’s determination under subsection (1)(b), as the case may be.

27K. Calculation of number of days

A reference in this Division to a period of a number of days does not include any public holiday or any day in the period from the public holiday in respect of Christmas Day to the public holiday in respect of New Year’s Day, both inclusive.

12. Section 32 amended (Notification of incidents)

Section 32 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, and that is not assessed and approved by the Board under section 27,” after “3 activity”;
- (b) by inserting in subsection (2) “, or an activity that is assessed and approved by

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the Board under section 27,” after “3 activity”;

(c) by omitting subsection (6) and substituting the following subsections:

(6) For the purposes of –

(a) subsection (1), a person is not required to notify the council of such an incident if the person has reasonable grounds for believing that the incident has already come to the notice of the council; and

(b) subsections (2) and (3), a person is not required to notify the Director of such an incident if the person has reasonable grounds for believing that the incident has already come to the notice of the Director.

(6A) A person is required to notify the council or the Director under this section despite the fact that to do so might incriminate the person or make the person liable to a penalty.

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13. Section 35 amended (Financial assurance to secure compliance with Act)

Section 35(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “Act.” and substituting “Act; or”;
- (b) by inserting the following paragraph after paragraph (b):
 - (c) complying with any conditions or restrictions requiring the person to take action for the purposes of remediation, site clean-up, site decommissioning or infrastructure decommissioning and which –
 - (i) have been required by the Board under section 25 to be contained in a permit or under section 27 to be contained in an environment protection notice; or
 - (ii) are contained in an environment protection notice issued and served by the Director under section 44.

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14. Section 44 amended (Environment protection notices)

Section 44 of the Principal Act is amended as follows:

- (a) by omitting paragraphs (a) and (b) from subsection (1) and substituting the following paragraphs:
 - (a) serious or material environmental harm or environmental nuisance is being, or is likely to be, caused; or
 - (b) serious or material environmental harm or environmental nuisance has occurred and remediation of that harm or nuisance is required; or
- (b) by inserting in subsection (2) “environmentally relevant” after “to an”;
- (c) by omitting paragraphs (a) and (b) from subsection (2) and substituting the following paragraphs:
 - (a) serious or material environmental harm or environmental nuisance is being, or is likely to be, caused; or
 - (b) serious or material environmental harm or environmental nuisance

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- (a) a registered notice is amended or revoked under section 44; or
 - (b) a registered notice has been complied with in full; or
 - (c) the Director has taken action under this Division to carry out the requirements of a registered notice and payment has been made to the Director of the amount recoverable under this Division in respect of that action –

the Director must deliver to the Recorder of Titles a certificate, in a form approved by the Recorder, certifying that the relevant event took place on the date specified in that certificate.

- (6A) In subsection (6), “**registered notice**” means an environment protection notice that has been registered by the Recorder of Titles.

16. Section 48 amended (Civil enforcement proceedings)

Section 48 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (5)(e) “payment of” and substituting “respondent to pay the”;
- (b) by omitting from subsection (5)(e) “or any other” first occurring and substituting “, the Director or a”;
- (c) by inserting the following paragraph after paragraph (e) in subsection (5):
 - (ea) notwithstanding section 28(1) of the *Resource Management and Planning Appeal Tribunal Act 1993*, require a respondent to pay the reasonable costs and expenses incurred by an applicant in the course of investigating the matter that is the subject of an application for an order under this section and the making of that application, including, but not limited to, costs arising from –
 - (i) any action taken by an authorized officer or council officer under Division 1 of Part 7; and
 - (ii) the taking of witness statements; and
 - (iii) the gathering of other evidence, including the taking of samples and the

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- conduct of tests,
examinations and
analyses; and
- (iv) the preparation and
submission of a brief of
evidence to any person
acting on behalf of the
applicant; and
- (v) any appearance of counsel
on behalf of the applicant;
- (d) by inserting the following subsection
after subsection (5):
- (5A) Where an application for an order
under this section is rejected, the
Appeal Tribunal may,
notwithstanding section 28(1) of
the *Resource Management and
Planning Appeal Tribunal Act
1993*, require an applicant to pay
the reasonable costs and expenses
incurred by a respondent in the
course of investigating the matter
that is the subject of the
application and of responding to
the application including, but not
limited to, costs arising from –
- (a) the taking of witness
statements; and

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- (b) by omitting “private residence or residential flat” from the definition of “residential premises” in subsection (6) and substituting “residence and includes any land within the boundaries of the block of land on which the building is situated”.

18. Section 53A inserted

After section 53 of the Principal Act, the following section is inserted in Division 4:

53A. Evidentiary provision for environmental nuisance

If, in a proceeding for an offence against section 53(1) or (2), an authorized officer or a council officer gives evidence, based on the officer’s own senses, that noise, smoke, dust, fumes or odour was emitted from a place occupied by the defendant and travelled to, or was, or was likely to be, detectable at, a place occupied by another person, that evidence is *prima facie* evidence of the matters so stated.

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19. Section 55A amended (General environmental duty defence)

Section 55A of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) In any proceedings under this Act, if it is alleged that a person has contravened section 50, 51, 51A or 53, it is a defence if –
 - (a) in the case of an offence arising solely from the emission of a pollutant, maximum quantities, concentrations, emission rates, discharge rates or overall volumes of the particular pollutant have been set in a State Policy, an environment protection policy or as a condition in a permit, and it is shown that those quantities, concentrations, emission rates, discharge rates or overall volumes were not exceeded; or
 - (b) in the case of any other offence –
 - (i) a State Policy, environment protection policy or permit provides that compliance with specified provisions of

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that instrument will satisfy the general environmental duty in respect of an activity, and it is shown that those provisions, insofar as they relate to, or involve, the act or omission comprising the offence were complied with; or

- (ii) a code of practice, made and approved in accordance with the regulations, provides that the taking of specified measures will satisfy the general environmental duty in respect of an activity, and it is shown that those measures, insofar as they relate to, or involve, the act or omission comprising the offence were taken.

20. Section 63 amended (Orders by court against offenders)

Section 63(1) of the Principal Act is amended as follows:

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- (a) by omitting “that resulted in environmental harm”;
- (b) by omitting from paragraph (d)(i) “any public authority” and substituting “the Board, the Director or any public authority”.

21. Section 65 inserted

After section 64 of the Principal Act, the following section is inserted in Division 4:

65. Recovery of other costs associated with prosecutions

Where a person is convicted of an offence, the court may order the person to pay, in addition to any costs and expenses payable under section 63 or 64, the reasonable costs and expenses incurred by the Director or the council in the course of the investigation and prosecution of the offence, including, but not limited to, costs and expenses arising from –

- (a) any action taken by an authorized officer or council officer under Division 1 of Part 7; and
- (b) the taking of witness statements; and

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- (c) the gathering of other evidence;
and
- (d) the preparation and submission of
a brief of evidence to any person
acting on behalf of the applicant;
and
- (e) any appearance of counsel on
behalf of the Director or the
council.

22. Section 67 amended (Service and acceptance of an environmental infringement notice)

Section 67(1) of the Principal Act is amended by omitting “on that person an environmental infringement notice in respect of that offence” and substituting “an environmental infringement notice in respect of that offence on that person or, if the identity of that person cannot be readily ascertained or confirmed, on the occupier or person apparently in charge of the place or vehicle at, in or in relation to which the officer is satisfied such an offence has been committed”.

23. Part 6 repealed

Part 6 of the Principal Act is repealed.

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

(1A) Without limiting the powers set out in subsection (1), an authorized officer or council officer may exercise any of those powers for the prevention or investigation of offences under this Act or the regulations.

(c) by omitting subsection (3) and substituting the following subsection:

(3) If the entry is made to residential premises in the circumstances referred to in subsection (2)(d)(i), and none of the exceptions referred to in paragraph (a), (b) and (c) of subsection (2) and paragraph (d)(ii) or (iii) of that subsection apply, the entry must be made at a time that is reasonable.

25. Sections 92A and 92B inserted

After section 92 of the Principal Act, the following sections are inserted in Division 1:

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92A. Failure to provide name or address

A person, when required by an authorized officer or a council officer to state his or her name and address, must not –

- (a) fail or refuse to state his or her full name and residential address; or
- (b) state any name or residential address that is false.

Penalty: Fine not exceeding 2 penalty units.

92B. Power of arrest

An authorized officer who is a police officer may arrest, without warrant, any person who –

- (a) fails or refuses to state his or her full name or residential address; or
- (b) states any name or residential address that the officer has reasonable grounds for believing is false; or
- (c) without reasonable excuse, refuses or fails to comply with a direction under section 92(1)(ka).

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26. Section 100A inserted

After section 100 of the Principal Act, the following section is inserted in Division 2:

100A. *Listening Devices Act 1991* not to apply

Section 5(1) of the *Listening Devices Act 1991* does not apply to the use of videotaping equipment for recording an interview between an authorized officer or council officer and a person suspected of having committed an offence under this Act.

27. Schedule 2 amended (Level 2 Activities)

Schedule 2 to the Principal Act is amended as follows:

- (a) by omitting paragraph (c) from clause 1 and substituting the following paragraph:
 - (c) Oil Refineries: the conduct of works at which crude petroleum oil or shale oil is refined, at which lubricating oil is produced or at which used oil is refined or reprocessed by filtration or physical or chemical separation.
- (b) by omitting from clause 2(e) “or” third occurring and substituting “of”;

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treatment works that involve the discharge of treated or untreated sewage, septic tank effluent or industrial or commercial wastewater to land or water, being works with a design capacity to treat an average dry-weather flow of 100 kilolitres or more per day of sewage or wastewater.

- (h) by inserting in clause 3(b) “of” after “conduct”;
- (i) by inserting the following subparagraph after subparagraph (i) in clause 3(b):
 - (ia) storage, treatment or disposal of clean fill; or
- (j) by inserting the following paragraph after paragraph (c) in clause 3:
 - (d) Resource recovery: the conduct of works for –
 - (i) the production of compost or mushroom substrate, being works with a production capacity of 100 tonnes per year or more, other than –

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- (A) backyard composting for domestic use; and
 - (B) on-farm composting for use on agricultural land having the same owner as the land on which the compost is produced; and
 - (C) works in respect of silage for use on agricultural land; or
- (ii) the application to land of class 2 or class 3 biosolids, within the meaning of the Tasmanian Biosolids Re-use Guidelines 1999, as amended from time to time, where the application rate is 50 wet tonnes or more per hectare every 3 years or greater than 50% of the Nitrogen Limited Application Rate per 3 year period.

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- (k) by omitting from clause 4(c) “freezing, chilling, packing” and substituting “smoking, drying”;
 - (l) by inserting in clause 4(c) “, other than by freezing, chilling or packing,” after “sale”;
 - (m) by omitting paragraphs (b) and (c) from clause 7;
 - (n) by omitting paragraph (e) from clause 7 and substituting the following paragraphs:
 - (e) Disposing of Wastes in Waters Within the Limits of the State: the deposition of wastes (including dredged spoils) in waters within the limits of the State, other than in relation to the construction or placement of an artificial reef.
 - (f) Wind Energy Facilities: facilities for generating energy through wind with a maximum generating capacity of 30 megawatts or more.

28. Schedule 5 repealed

Schedule 5 to the Principal Act is repealed.

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Part 3 – Approvals (Deadlines) Act 1993 Amended

**PART 3 – APPROVALS (DEADLINES) ACT 1993
AMENDED**

29. Principal Act

In this Part, the *Approvals (Deadlines) Act 1993** is referred to as the Principal Act.

30. Schedule 1 amended (Approval Time Limits)

Schedule 1 to the Principal Act is amended by omitting

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Assessment of permissible level 1 activities referred to the Board of Environmental Management and Pollution Control under section 24 (1) of the *Environmental Management and Pollution Control Act 1994*

180 days from the date on which the Board of Environmental Management and Pollution Control receives adequate information to satisfy the requirements of section 74 (3) of the *Environmental Management and Pollution Control Act 1994*.

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Assessment of permissible
level 2 activities

180 days from the date on
which the Board of
Environmental Management
and Pollution Control
receives adequate
information to satisfy the
requirements of section 74
(3) of the *Environmental
Management and Pollution
Control Act 1994*.

Assessment of activities,
which do not require
permits under the *Land Use
Planning and Approvals
Act 1993*, referred to the
Board of Environmental
Management and Pollution
Control under section 27 of
the *Environmental
Management and Pollution
Control Act 1994*

180 days from the date on
which the Board of
Environmental Management
and Pollution Control
receives adequate
information to satisfy the
requirements of section 74
(3) of the *Environmental
Management and Pollution
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