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**ENVIRONMENT PROTECTION AMENDMENT ACT 1980**


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## ENVIRONMENT PROTECTION AMENDMENT

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 No. 21 of 1980  
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**AN ACT** to amend the Environment Protection Act 1973 for the purpose of making further provision with respect to changes in the operation of certain premises and with respect to the issue and renewal of licences under the Act relating to certain land, and for certain other purposes.

[Royal Assent 21 May 1980]

**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* 1980. Short title.

**2**—This Act shall commence on such date as may be fixed by proclamation. Commencement.

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

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\* No. 34 of 1973. Subsequently amended by No. 68 of 1975, No. 65 of 1977, and No. 64 of 1978.

Amendment of section 10 of Principal Act (Powers, &c., of authorized officers).

**4**—Section 10 of the Principal Act is amended by omitting from subsection (9) “has been declared to be an approved interpreter pursuant to subsection (6) of section ten of the *Factories, Shops, and Offices Act 1965*” and substituting “is an interpreter appointed pursuant to section 11 (5) of the *Industrial Safety, Health, and Welfare Act 1977*”.

Amendment of section 11 of Principal Act (Application of Part).

**5**—Section 11 of the Principal Act is amended by inserting “which a person is licensed under this Act to operate” after “premises”.

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

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

(a) by inserting in subsection (1) “or premises” after “land” wherever occurring;

(b) by omitting subsection (1B);

(c) by inserting in subsection (1C) “or premises” after “land” where firstly occurring;

(d) by inserting in that subsection “or those premises” after “land” where secondly occurring;

(e) by inserting in subsection (1D) “or premises” after “land”; and

(f) by inserting after subsection (5) the following subsections:—

(6) In this section—

(a) in relation to premises, the Director shall be the enforcement authority; and

(b) in relation to any other land, the Director and the corporation of the municipality in which the land is situated shall be enforcement authorities.

(7) For the purposes of this section, “premises” means scheduled premises in respect of which a person is exempted under section 35 from the obligation to hold a licence.

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

**7**—Section 21 (4) of the Principal Act is amended by omitting “sections nineteen and twenty” and substituting “section 19”.

**8**—Section 24 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:—

Amendment of section 24 of Principal Act (Application for licence).

(2) The Director or, with the consent of the Director, the person seeking a licence under this Part shall cause a notice containing the prescribed information to be published in 2 consecutive weeks in a newspaper circulating in the locality of the premises in respect of which a licence under this Part is sought.

(2A) For the purposes of subsection (2), “prescribed information” means—

- (a) a summary of the details contained in the application under subsection (1); and
- (b) a statement advising that objections may be lodged with the Director by the date specified in the notice, being a date not earlier than 30 days after the notice is first published in the newspaper.

**9**—Section 25 of the Principal Act is amended by inserting in subsection (3) “when granted for the first time” after “licence”.

Amendment of section 25 of Principal Act (Licences).

**10**—Section 29 of the Principal Act is amended as follows:—

Amendment of section 29 of Principal Act (Changes in operation of scheduled premises).

- (a) by inserting in subsection (1) “or a person who is exempted under section 35 from the obligation to hold a licence in respect of scheduled premises” after “scheduled premises”;
- (b) by omitting from that subsection “prior approval in writing of the Director” and substituting “approval of the Director obtained under this section”;
- (c) by omitting paragraph (d) of subsection (1) and substituting the following paragraph:—
  - (d) increase the quantity of materials dealt with or used on the premises—
    - (i) in the case of a licensee of scheduled premises, by more than an amount specified in that regard in the licence held by him; or

(ii) in the case of a person who is exempted from the obligation to hold a licence in respect of scheduled premises, by more than an amount specified in that regard in the last licence held by that person.

(d) by inserting in subsection (2) “ of scheduled premises or the person who is exempted under section 35 from the obligation to hold a licence in respect of scheduled premises ” after “ licensee ”;

(e) by inserting the following subsections:—

(3) A licensee of scheduled premises who wishes to do any act referred to in subsection (1) (a), (b), (c), or (d) (i), or a person who is exempted under section 35 from the obligation to hold a licence in respect of scheduled premises who wishes to do any act referred to in subsection (1) (a), (b), (c), or (d) (ii), shall apply in writing to the Director for his approval and shall—

(a) in his application specify—

(i) details of the act for which approval is sought; and

(ii) the situation of the premises; and

(b) give the Director such plans, specifications, and other information as he may require.

(4) The person seeking the Director's approval under subsection (3) shall cause a notice containing the prescribed information to be published in 2 consecutive weeks in a newspaper circulating in the locality of the premises to which the application relates.

(5) For the purposes of subsection (4), “ prescribed information ” means—

(a) a summary of the details contained in the application under subsection (3); and

(b) a statement advising that objections may be lodged with the Director by the date specified in the notice, being a date not earlier than 30 days after the notice is first published in the newspaper.

(6) Any person may inspect an application made under subsection (3) at the office of the Director.

(7) Any person may lodge an objection in respect of an application under subsection (3) with the Director within the period specified in the notice referred to in subsection (4).

(8) The Director shall, as soon as possible after the period for lodging objections under subsection (7) has expired, consider the application, and may—

(a) give his approval to the act specified in the application—

(i) unconditionally; or

(ii) subject to such conditions, limitations, and restrictions as he thinks fit; or

(b) refuse to give his approval to that act.

(9) The Director shall notify the applicant in writing of his decision and on the same day shall notify each person who lodged an objection under subsection (7).

**11**—Section 30 of the Principal Act is amended as follows:—

(a) by omitting subsection (4) and substituting the following subsection:—

(4) Where—

(a) a licensee fails to apply for the renewal of a licence within the time referred to in subsection (1); or

(b) it is not practicable to renew a current licence before its expiry,

the Director may, before the expiration of the current licence, by notice in writing served on the licensee, extend that licence for such period, not exceeding 6 months, as he sees fit.

(b) by inserting after subsection (4) the following subsections:—

(4A) Where a licence has expired, the Director may within one month from the date on which it expired, by notice in writing served on the holder of the expired licence, restore that licence for such period, not exceeding 6 months, as he sees fit.

Amendment of section 30 of Principal Act (Renewal, restoration, &c., of licences).

(4B) A person whose licence has, after its expiry, been restored under subsection (4A) shall, for the purposes of this Act, be deemed to be the holder of a licence from the date of that expiry until the restoration of the licence pursuant to that subsection.

(4C) Where the Director extends a licence under subsection (4) or restores a licence under subsection (4A), the holder of the licence shall pay a fee for the period for which it is extended or restored calculated in accordance with the prescribed formula.

(4D) At the expiration of the period for which the licence is extended under subsection (4) or restored under subsection (4A), the Director shall renew the licence or refuse to renew it.

(4E) The Director may renew a licence for a period of 1 year, 2 years, or 3 years.

(c) by omitting from subsection (5) (a) " twelve months;" and substituting " 1 year, 2 years, or 3 years;".

Substitution  
of new section  
35 of Principal  
Act.

**12**—Section 35 of the Principal Act is repealed and the following section is substituted:—

Exemptions.

35—(1) The Minister may, on the recommendation of the council—

(a) exempt any person from the obligation to hold a licence under this Part in respect of any scheduled premises; and

(b) revoke an exemption in respect of a person referred to in paragraph (a),

by notice in writing served on that person and notified in the *Gazette*.

(2) A person shall not be exempted from the obligation to hold a licence under this Part in respect of any scheduled premises unless, immediately before being granted such an exemption, he was the holder of a licence in respect of those premises for a period of not less than 12 months.

Amendment of  
section 38 of  
Principal Act  
(Rights  
of appeal).

**13**—Section 38 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) (d) " licence; or " and substituting " licence;";

(b) by omitting from subsection (1) (e) " twenty-nine," and substituting " 29; or ";



(c) by inserting after subsection (1) (e) the following paragraph:—

(f) the conditions, limitations, or restrictions subject to which the Director's approval under section 29 was given,

(d) by inserting after subsection (1A) the following subsection:—

(1AB) Where the Director gives his approval under section 29 (8), any person who lodged an objection under section 29 (7) may appeal against the Director's approval.

(e) by inserting in subsection (1B) "or under subsection (1AB) in respect of the Director's approval" after "licence", where firstly occurring;

(f) by inserting in that subsection "or approval" after "licence", where secondly occurring;

(g) by omitting from subsection (1C) "under this Act" and substituting "under section 24 or for the Director's approval under section 29";

(h) by inserting in that subsection "or under section 29, as the case may be," after "section 24";

(i) by omitting from subsection (1F) "under this Act" and substituting "under section 24 or for the Director's approval under section 29";

(j) by omitting paragraph (b) of subsection (3) and substituting the following paragraph:—

(b) in the case of an appeal under subsection (1A) or (1AB), the objector being notified under section 24 (4) or 29 (9), as the case may be, of the decision of the Director; and

**14**—Section 40 is amended as follows:—

(a) by inserting in subsection (2) (b) "or the conditions, limitations, or restrictions subject to which his approval under section 29 was granted" after "against";

(b) by inserting after subsection (3A) the following subsection:—

(3B) In deciding an appeal under section 38 (1AB) the appeal board may—

(a) reject the appeal; or

Amendment of  
section 40 of  
Principal Act  
(Jurisdiction).

(b) direct the Director to cancel his approval or amend the conditions, limitations, or restrictions subject to which his approval was given, and the Director shall comply with any such direction;

(c) by inserting in subsection (7) “ or under section 29 ” after “ section 24 ”;

(d) by inserting in subsection (8) “ the clerk to the appeal board ” after “ and ”, where firstly occurring.

Insertion in Principal Act of new section 44A.

Evidence as to certain matters.

**15**—After section 44 of the Principal Act the following section is inserted:—

44A—(1) In any proceedings under this Act—

- (a) a certificate under the hand of the Secretary of the Transport Commission that a person specified in the certificate is registered as the owner of a vehicle specified in that certificate is evidence that that person is the owner of the vehicle; and
- (b) a certified copy of a notice served under section 19 is evidence of the matters contained in the notice.

(2) For the purposes of subsection (1) (b), “ certified copy ”, in relation to a notice served under section 19, means a copy of that notice that is certified—

- (a) in the case of a notice served by the Director, by the Director; and
- (b) in the case of a notice served by a municipality, by the council clerk or town clerk, as the case may be, of that municipality,

to be a true copy of that notice.

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

**16**—Section 48 of the Principal Act is amended by omitting “ daily penalty of one thousand dollars ” and inserting “ penalty not exceeding \$5 000 ”.

Insertion in Principal Act of new sections 49A and 49B.

Failure to obtain Director's approval for certain acts.

**17**—After section 49 of the Principal Act the following sections are inserted:—

49A—(1) A person licensed to operate scheduled premises who does any act referred to in section 29 (1) (a), (b), (c), or (d) (i) without obtaining the approval of the Director in accordance with that section is guilty of an offence and is

liable on summary conviction to a penalty not exceeding \$5 000.

(2) A person exempted under section 35 from the obligation to hold a licence in respect of scheduled premises who does any act referred to in section 29 (1) (a), (b), (c), or (d) (ii) without obtaining the approval of the Director in accordance with that section is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$5 000.

49B—A person exempted under section 35 from the obligation to hold a licence in respect of scheduled premises who fails to comply with any of the conditions, restrictions, or limitations subject to which the Director's approval under section 29 (8) was given is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$5 000.

Failure to  
comply with  
certain con-  
ditions, &c.

