



## ENVIRONMENT PROTECTION AMENDMENT ACT (No. 3) 1980

No. 94 of 1980

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**AN ACT to amend the Environment Protection Act 1973 for the purpose of making provision with respect to the impounding of certain vehicles, vessels, plant, or equipment, and for certain other purposes.**

[Royal Assent 19 December 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 (No. 3) 1980*. Short title.

Principal Act.

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

Insertion in Principal Act of new section 10A.

**3**—After section 10 of the Principal Act, the following section is inserted in Part II:—

Impounding of certain vehicles, vessels, plant, or equipment.

10A—(1) Where a police officer—

(a) finds a person using or attempting to use; or

(b) has reasonable grounds to suspect that a person has used,

any vehicle, unregistered vessel, mobile plant, or mobile equipment, and believes that by the use or attempted use of that vehicle, vessel, mobile plant, or mobile equipment that person is committing, or has committed, an offence against this Act, the police officer may if the person refuses to give his name and address, or gives a name or address which the police officer believes may be false, impound that vehicle, vessel, mobile plant, or mobile equipment for the purpose of determining ownership and remove it to a convenient place for safe keeping.

(2) Where a police officer impounds any vehicle, unregistered vessel, mobile plant, or mobile equipment under subsection (1), he shall, within 14 days of that impounding, notify the person referred to in that subsection by notice in writing of the place at which that vehicle, vessel, mobile plant, or mobile equipment is impounded except where possession has been taken under subsection (3).

(3) Where any vehicle, unregistered vessel, mobile plant, or mobile equipment is impounded under subsection (1), any person who would, but for the impounding of that vehicle, vessel, mobile plant, or mobile equipment, have a right to its possession is entitled to take possession of it subject to the payment to the Director of any costs or expenses incurred in connection with its impounding, removal, or safe keeping.

(4) A court may, in any proceedings taken against a person for an offence relating to the circumstances giving rise to the impounding of any vehicle, unregistered vessel, mobile plant, or mobile equipment under subsection (1), order the person to pay any costs or expenses incurred in connection with the

\* No. 34 of 1973. For this Act as amended to 1st January 1980, see the continuing Reprint of Statutes. Subsequently amended by Nos. 21 and 48 of 1980.

impounding, removal, or safe keeping of the vehicle, vessel, mobile plant, or mobile equipment if it is of the opinion that there were reasonable grounds for incurring those costs and expenses.

(5) In this section—

“marine board” means a marine board continued by or constituted under the *Marine Act* 1976 and includes a board the name of which has been altered pursuant to section 14 of that Act;

“unregistered vessel” means a vessel which is not registered—

(a) under the by-laws of a marine board;

(b) under the *Marine Act* 1976; or

(c) under any law of the Commonwealth or of a foreign country relating to vessels.

**4**—Section 15 of the Principal Act is amended as follows:—

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

(a) by omitting paragraph (c) of subsection (1) and substituting the following paragraph:—

(c) onto or into land in other occupation unless the consent in writing of the occupier and the owner of that land and of the Director has been obtained.

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

(1A) Where land referred to in paragraph (c) of subsection (1) is owned by more than one person, the consent of each owner is required for the purposes of that paragraph.

**5**—Section 51 (2) of the Principal Act is omitted and the following subsection is substituted:—

Amendment of  
section 51 of  
Principal Act  
(Emission  
of noise  
prohibited).

(2) In any proceedings for an offence under this section, it is a defence to establish that—

(a) the noise was emitted in the course of ordinary farming operations;

- (b) the noise was not of an unusual kind having regard to the nature of those operations; and
- (c) the best practicable means in current use were used to prevent or minimize the noise, or, where there are no such means, the operations were carried out in a manner which is reasonable in the circumstances.