

Changes to Environment Protection Regulations 2009 following the licence fee review

One year after implementation, the EPA reviewed the licence fee system with a focus on identifying potential areas of ambiguity in the Environment Protection Regulations 2009 (EP Regulations) and recommending changes in response to these findings.

The amendments to the EP Regulations and impacts of each are outlined below:

1. Cost of issuing a licence – Regulation 29 – Flat fee component

The flat minimum fee portion of the annual authorisation fee is designed to cover part of the cost of issuing a licence. Regulation 29(2) prescribed that if no environment management component is payable for the licence, no flat fee component is payable. This resulted in the EPA not being reimbursed for its costs associated with issuing a licence for dredging and earthworks drainage activities if they do not operate during the year.

Therefore, in the interest of maintaining the user pays principle of the licence fee system and to make the system more equitable Regulation 29 has been deleted and Regulation 28 has been amended to ensure the flat minimum component applies even if no environment management fee is paid.

Businesses licensed for other activities in addition to dredging and earthworks drainage activities are not impacted by the change.

2. Benefits of accreditation – Regulation 35

An accredited licence (Regulation 36) encourages and rewards holders of EPA licences for following best practice environmental management standards. Accredited licence holders are rewarded with discounted licence fees and less prescriptive licence conditions.

Regulation 35(a) prescribed that an accredited licensee is entitled to a 50% reduction in the authorisation fee. This reduction applied to the flat minimum fee, the environment management fee and the resource efficiency fee (load based component). The inclusion of the resource efficiency fee in the discount was not consistent with the polluter pays principle on which the licence fee system is based. The resource efficiency fee is designed to be a financial incentive for reducing emissions and by enabling a licensee to halve this fee by becoming accredited, the incentive to reduce emissions is significantly reduced. In addition, irrespective of accreditation, the administrative work covered by the flat fee component still needs to occur.

Therefore, this clause has been amended to indicate that accredited licence holders are rewarded with a 50% discount on the environment management fee while the flat minimum fee and resource efficiency fee are not discounted.

Fees for specific licence activities where unintended consequences resulted from introducing LFS

3. (Fee for Sewage Treatment Works in a Water Protection Area) –Environment management component – (Clause 9 of Schedule 2) (clause 3(2)(b))

The EP Regulations (Clause 9 of Schedule 2) prescribes the environment management fees for Activities of Environmental Significance prescribed in Schedule 1 of the *Environment Protection Act 1993* (the Act).

The wording of sewage treatment works within the Mount Lofty Water Protection Area (clause 3(2)(b) in Clause 9 of Schedule 2) was not consistent with sewage treatment works in a water protection area in Schedule 1 (activity 3(2)(b)) of the Act. Thus no fee was specified for sewage treatment works within a water protection area that is not the Mount Lofty Water Protection Area.

Therefore, column 1 (Clause 3(2)(c) in Schedule 2, clause 9, table) has been deleted and substituted with clause 3(2)(b) or (c) to specify a fee for these works is the same as that for clause 3(2)(c) sewage treatment works, other than within the Mount Lofty Water Protection Area.

This change corrects an oversight in the licence fee system. The change ensures consistency, formalises current practices and does not have a business cost.

4. (Fee for Composting Facilities) – Environment management component – (Clause 9 of Schedule 2) (clause 6(3))

The EP Regulations (Clause 9 of Schedule 2) prescribes the environment management fees for Activities of Environmental Significance prescribed in Schedule 1 of the Act. Clause 6(3) prescribes the environment management fee for composting works.

The clause previously prescribed the fee relative to the type of waste received and thus there was no fee prescribed for composting works that are operating but not receiving waste. Therefore, the clause has been amended to indicate that the fee in this scenario is equivalent to the fee applicable if the composting works is receiving waste.

There are no businesses impacted by this change however the change will clarify the licence fee system.

The Regulations will come into operation on 1 July 2011 to align with the start of the financial year and is consistent with information communicated to licensees.