

Regulatory tools under the Environment Protection Act

Legal instruments	Explanation
<i>Environment Protection Policy (EPP)</i>	<p>Established under section 28 of the Act with accompanying consultation requirements, an EPP:</p> <ul style="list-style-type: none"> • has the force of a standard imposed by Parliament • may impose mandatory provisions with penalties • is developed for a specific area, e.g. waste, water, air, noise.
<i>Regulations</i>	<p>As subordinate legislation made under section 140 of the Act, regulations:</p> <ul style="list-style-type: none"> • may give effect to administrative arrangements (e.g. container approvals under the beverage container provisions) • may provide details of issues broadly established under the Act • may be made for any purpose: ‘such regulations as are contemplated by, or as are necessary and expedient for the purposes of, this Act’ (section 140(1)).
<i>Code of Practice (Code)</i>	<p>A Code regulates a specific <i>activity</i> and:</p> <ul style="list-style-type: none"> • is enforceable, via an environment protection order (EPO) or a mandatory provisions of an EPP • provides direction and control over an industry • sets measurable outcomes, e.g. ‘you must achieve certain defined levels/limits’ • requires extensive consultation in development and alteration • can incorporate specific industry elements of umbrella policies (e.g. ‘Piggeries’ Code may incorporate air, water, waste and noise provisions) • may link to and operate under legislation other than the Environment Protection Act. <p>Compliance with a Code is a strong defence for an alleged offence under the Act if the EPA deems that this constitutes compliance with the General Environmental Duty in section 25(3) of the Act. This would also provide a defence against third party prosecution.</p>
Other tools	
<i>Guideline</i>	<p>An EPA Guideline provides guidance to industry or the community concerning specific issues, and:</p> <ul style="list-style-type: none"> • is primarily advisory • includes technical information and recommends ways of undertaking an activity: ideas for ‘how to’ • prescribes an environmental outcome, but is not normally prescriptive about the mechanisms by which an outcome would be achieved, as it seeks to encourage rather than stifle innovation • is intended for internal and external use • is not directly enforceable; however, it may be used to help the EPA interpret the General Environment Duty for a particular situation, and may be enforced through issuing an EPO, a condition of licence, or a condition of a development approval.
<i>Position Statement</i>	<p>A statement of the EPA’s broad policy position and principles on an issue, a Position Statement may reflect accepted international conventions and national policy.</p> <p>The key elements of the statement may include:</p> <ul style="list-style-type: none"> • identification of the environmental issue • identification of the EPA’s role in managing the issue, or what the EPA is or will be doing • identification of the challenges and opportunities associated with the topic and/or what the EPA is intending to further assess or evaluate • a call for specific action to be taken by others to better manage the issue—that is, what the EPA believes needs to happen. <p>Consultation is at the discretion of the Board, but would include at least any organizations that may be identified to undertake specific action.</p>