

**ENVIRONMENTALLY HAZARDOUS CHEMICALS
(AMENDMENT) ACT 1987 No. 191**

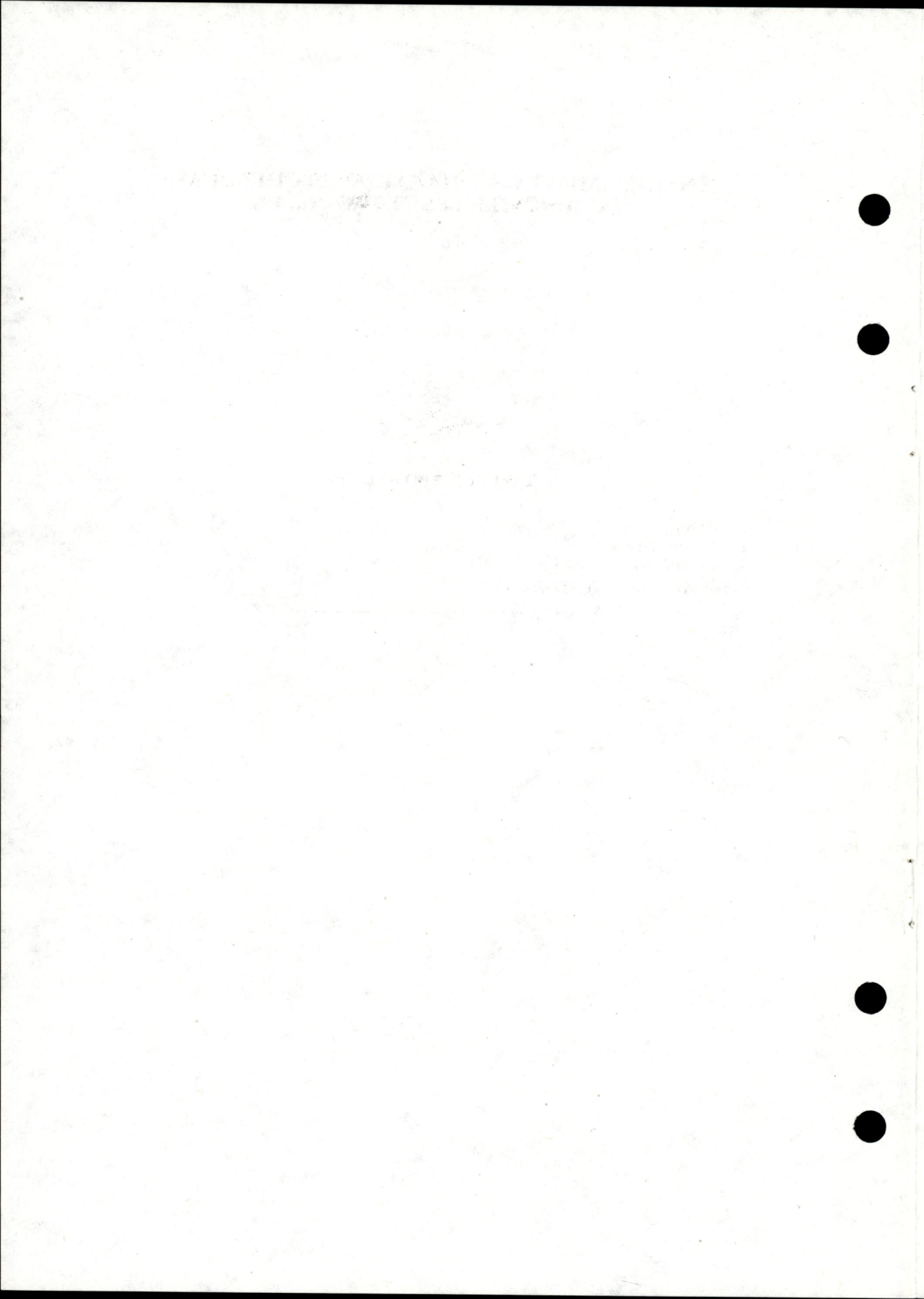
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 14, 1985

SCHEDULE 1—AMENDMENTS



**ENVIRONMENTALLY HAZARDOUS CHEMICALS (AMENDMENT)
ACT 1987 No. 191**

NEW SOUTH WALES



Act No. 191, 1987

An Act to amend the Environmentally Hazardous Chemicals Act 1985 so as to assist the enforcement of laws aimed at preventing pollution from hazardous chemicals and chemical wastes. [Assented to 4 December 1987]

Environmentally Hazardous Chemicals (Amendment) 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Environmentally Hazardous Chemicals (Amendment) Act 1987.

Commencement

2. This Act shall commence on a day or days to be appointed by proclamation.

Amendment of Act No. 14, 1985

3. The Environmentally Hazardous Chemicals Act 1985 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 13 (**Application for assessment of prohibited activity**)—

Section 13 (1)—

After “authority of”, insert “, and in accordance with any conditions for the time being in force in respect of, the chemical control order concerned or”.

(2) Section 19 (**Notice of Commission’s intention**)—

Omit section 19 (1), insert instead:

(1) When it intends to make an assessment of a listed chemical, the Commission shall cause notice of its intention to be published in the Gazette.

(3) Section 24 (**Scope and content of orders**)—

Section 24 (1) (a)—

Before “a licence”, insert “the chemical control order or”.

(4) Section 44 (**Disclosure of information**)—

(a) Section 44 (1), (4)—

Omit “Subject to subsection (3)” wherever occurring, insert instead “Except as provided by section 26 (3) and (4) of the State Pollution Control Commission Act 1970”.

(b) Section 44 (1) (b)—

Omit “or”.

Environmentally Hazardous Chemicals (Amendment) 1987

SCHEDULE 1—AMENDMENTS—*continued*

- (c) Section 44 (1) (c), (d)—
At the end of section 44 (1) (c), insert:
 ; or
 (d) in accordance with a requirement imposed under the
 Ombudsman Act 1974.
- (d) Section 44 (3)—
Omit the subsection.
- (5) Section 45 (**Powers of authorised officers**)—
- (a) Section 45 (1) (j)—
Before “detain”, insert “stop or”.
- (b) Section 45 (2A)—
After section 45 (2), insert:
 (2A) An authorised officer who suspects on reasonable grounds
 that an unlisted chemical, an environmentally hazardous chemical
 or a declared chemical waste is being conveyed by or is situated
 in a container being conveyed by a motor vehicle in a public place
 may—
- (a) if the vehicle is moving, direct that it be stopped;
 - (b) take without payment, for the purpose of examination or
testing, samples of any substance being so conveyed;
 - (c) detain the vehicle for such time as is necessary to take the
samples;
 - (d) if the authorised officer suspects on reasonable grounds
that the substance and any vehicle or container being used
to convey it has been or is being used in connection with
an offence against this Act or the regulations, seize and
remove the substance and the vehicle or container;
 - (e) for the purposes of paragraph (d), direct the occupier of
any place where the substance is seized, or the owner of
the substance, to retain it in that place, or in a place under
the control of the occupier or owner that will, in the
opinion of the officer, least endanger the environment; and
 - (f) give directions for or with respect to the detention of any
substance, vehicle or container that has been removed
under paragraph (d).
- (c) Section 45 (3) (a)—
After “(1) (g)”, insert “or (2A) (b)”.

Environmentally Hazardous Chemicals (Amendment) 1987

SCHEDULE 1—AMENDMENTS—*continued*

(d) Section 45 (3) (b)—

After “(1) (h)”, insert “or (2A) (d)”.

(6) Section 51 (**Evidence**)—

Omit the section.



**ENVIRONMENTALLY HAZARDOUS CHEMICALS
(AMENDMENT) BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the State Pollution Control Commission (Amendment) Bill 1987.

The object of this Bill is to amend the Environmentally Hazardous Chemicals Act 1985 so as—

- (a) to make clearer the conditions to be met before an assessment will be made of activities prohibited under the Principal Act by a chemical control order;
- (b) to dispense with certain notices relating to the State Pollution Control Commission's making, or intention not to make, chemical control orders;
- (c) to make it clear that a chemical control order may authorise persons to carry on activities only in accordance with conditions of the order which do not require the holding of a licence;
- (d) to vary provisions restricting the disclosure of information obtained by officers of the Commission as a consequence of amendments proposed to be made to the State Pollution Control Commission Act 1970;
- (e) to provide for the sampling of tanker loads for unlisted chemicals, environmentally hazardous chemicals and declared chemical wastes; and
- (f) to omit provisions facilitating the giving of evidence for which provision is intended to be made in the State Pollution Control Commission Act 1970.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be proclaimed by the Governor-in-Council.

Clause 3 is a formal provision giving effect to the Schedule of amendments to the Principal Act.

Environmentally Hazardous Chemicals (Amendment) 1987

Schedule 1 (1) amends section 13 (Application for assessment of prohibited activity) of the Principal Act so as to make it clear that the Commission may be requested to make an assessment of an activity which is permitted to be carried out only in accordance with the conditions of a chemical control order.

Schedule 1 (2) amends section 19 (Notice of Commission's intention) of the Principal Act so as to dispense with the requirement that the Commission give notice of its intention not to make a chemical control order and to make it clear that the Commission is not required to give notice of its intention to make such an order for a declared chemical waste.

Schedule 1 (3) amends section 24 (Scope and content of orders) of the Principal Act so as to make it clear that the conditions of a chemical control order may permit the carrying on of an activity otherwise prohibited by the order but without the necessity to obtain a licence.

Schedule 1 (4) amends section 44 (Disclosure of information) of the Principal Act as a consequence of the proposed amendment of the State Pollution Control Commission Act 1970 which will authorise officers of the Commission, in limited cases, to release information obtained by them in the course of their duties.

Schedule 1 (5) amends section 45 (Powers of authorised officers) of the Principal Act so as to empower officers to take samples from tankers and other vehicles for the purpose of examination or testing, but only if there is a suspected offence against that Act or the regulations made under it.

Schedule 1 (6) repeals section 51 (Evidence) of the Principal Act because of amendments intended to be made by the proposed State Pollution Control Commission (Amendment) Act 1987.

ENVIRONMENTALLY HAZARDOUS CHEMICALS (AMENDMENT) BILL 1987

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 14, 1985

SCHEDULE 1—AMENDMENTS

**ENVIRONMENTALLY HAZARDOUS CHEMICALS
(AMENDMENT) BILL 1987**

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Environmentally Hazardous Chemicals Act 1985 so as to assist the enforcement of laws aimed at preventing pollution from hazardous chemicals and chemical wastes.

Environmentally Hazardous Chemicals (Amendment) 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Environmentally Hazardous Chemicals (Amendment) Act 1987.

5 Commencement

2. This Act shall commence on a day or days to be appointed by proclamation.

Amendment of Act No. 14, 1985

3. The Environmentally Hazardous Chemicals Act 1985 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 13 (**Application for assessment of prohibited activity**)—

Section 13 (1)—

15 After “authority of”, insert “, and in accordance with any conditions for the time being in force in respect of, the chemical control order concerned or”.

(2) Section 19 (**Notice of Commission’s intention**)—

Omit section 19 (1), insert instead:

20 (1) When it intends to make an assessment of a listed chemical, the Commission shall cause notice of its intention to be published in the Gazette.

(3) Section 24 (**Scope and content of orders**)—

Section 24 (1) (a)—

25 Before “a licence”, insert “the chemical control order or”.

(4) Section 44 (**Disclosure of information**)—

(a) Section 44 (1), (4)—

30 Omit “Subject to subsection (3)” wherever occurring, insert instead “Except as provided by section 26 (3) and (4) of the State Pollution Control Commission Act 1970”.

(b) Section 44 (1) (b)—

Omit “or”.

Environmentally Hazardous Chemicals (Amendment) 1987

SCHEDULE 1—AMENDMENTS—*continued*

(c) Section 44 (1) (c), (d)—

At the end of section 44 (1) (c), insert:

; or

5 (d) in accordance with a requirement imposed under the Ombudsman Act 1974.

(d) Section 44 (3)—

Omit the subsection.

(5) Section 45 (**Powers of authorised officers**)—

(a) Section 45 (1) (j)—

10 Before “detain”, insert “stop or”.

(b) Section 45 (2A)—

After section 45 (2), insert:

15 (2A) An authorised officer who suspects on reasonable grounds that an unlisted chemical, an environmentally hazardous chemical or a declared chemical waste is being conveyed by or is situated in a container being conveyed by a motor vehicle in a public place may—

(a) if the vehicle is moving, direct that it be stopped;

20 (b) take without payment, for the purpose of examination or testing, samples of any substance being so conveyed;

(c) detain the vehicle for such time as is necessary to take the samples;

25 (d) if the authorised officer suspects on reasonable grounds that the substance and any vehicle or container being used to convey it has been or is being used in connection with an offence against this Act or the regulations, seize and remove the substance and the vehicle or container;

30 (e) for the purposes of paragraph (d), direct the occupier of any place where the substance is seized, or the owner of the substance, to retain it in that place, or in a place under the control of the occupier or owner that will, in the opinion of the officer, least endanger the environment; and

35 (f) give directions for or with respect to the detention of any substance, vehicle or container that has been removed under paragraph (d).

(c) Section 45 (3) (a)—

After “(1) (g)”, insert “or (2A) (b)”.

Environmentally Hazardous Chemicals (Amendment) 1987

SCHEDULE 1—AMENDMENTS—*continued*

- (d) Section 45 (3) (b)—
After “(1) (h)”, insert “or (2A) (d)”.
- (6) Section 51 (**Evidence**)—
Omit the section.