



Amendments to Works Approvals and Licences

Application, Administration and Fees

Purpose

The purpose of this Fact Sheet is to provide guidance on the application, administration and fees associated with amendments to works approvals and licences for prescribed premises listed in Schedule 1 of the *Environmental Protection Regulations 1987* (EP Regulations).

Introduction

The Department of Environment Regulation (DER) administers Part V Division 3 of the *Environmental Protection Act 1986* (EP Act) under a full cost recovery model, through the charging of fees which are prescribed in the EP Regulations.

Historical regulatory custom and practice has not consistently distinguished between application of the requirement for a works approval or licence amendment for existing licence holders to undertake additional works. This has been clarified in DER's [Guidance Statement: Licensing and Works Approvals Process](#).

Disparity has existed in the regulatory fee regime, with prescribed fees for works approvals or licences and no prescribed fees for amendments to works approvals or licences.

On 1 July 2016, the EP Regulations were amended to provide DER with the capacity to charge prescribed fees for amendments to works approvals or licences.

The aim of the introduction of the amendment fee is to:

- ensure there is no perceived bias of a preference by the regulator for works approvals rather than the amendment processes to assess works to be undertaken by Licence Holders;
- not increase the regulatory fees paid by industry for environmental regulation; and
- increase regulatory efficiency by encouraging licence holders to apply for amendments as batch application, rather than a series of sequential applications.

Fees are reviewed annually in accordance with the *Treasurer's Instruction 810 'Review of Fees and Charges'*.

EP Regulations amendments

Regulation 5C of the EP Regulations has been replaced with regulations 5BA, 5BB and 5C as shown below.

Regulation 5BB introduces a fee, of \$3.40 per unit, for applications to amend works approvals or licences for 2016-17 period. The unit numbers correspond to prescribed premises categories and production or design capacity in Schedule 4 Part 1 of the EP Regulations.

5BA. Fees prescribed for works approval

- (1) The fee prescribed for the purposes of section 54(1)(b) of the Act is the appropriate fee specified in Schedule 3 determined on the basis of the cost of the works that are the subject of the application.
- (2) In determining the cost of works for the purposes of this regulation, no account is to be taken of —
 - (a) the cost of land; or
 - (b) the cost of buildings to be used for purposes unrelated to the purposes in respect of which the premises are, or will become, prescribed premises; or
 - (c) consultancy fees paid or to be paid in relation to those works.

5BB. Fees prescribed for amending works approval or licence (Act s.59B (1))

- (1) For the purpose of section 59B(1)(b) of the Act, the fee prescribed for an application for an amendment to a works approval or licence is based on a unit value for 2016–2017 of 3.40 per unit, calculated-
 - (a) for a single category of prescribed premises to which the works approval or licence relates – by using the unit number corresponding to the prescribed premises category in Schedule 4 Part 1; or
 - (b) for multiple categories of prescribed premises to which the works approval or licence relates- by using the highest unit number corresponding to the prescribed premises categories in Schedule 4 Part 1.

5C. Fees prescribed for transfer of works approval or licence

For the purpose of section 64(1)(b) of the Act the fee prescribed for the transfer of a works approval or licence is 2 units.

Amendments – Application and Administration

In determining whether an amendment or works approval is required, for works to be undertaken by a licence holder, DER will:

- only require an application for a works approval where works are to be undertaken for a new category of activity of prescribed premises, listed in Schedule 1 of the EP Regulations; and
- assess all other works by licence holders as a licence amendment, in accordance with the [Guidance Statement: Licensing and Works Approvals Process](#).

Changes required to a works approval will be assessed as an amendment.

DER's target timeframe for assessing and determining applications for amendments is 60 business days from the date of receipt of the application. Where the amendment is of a minor or administrative nature, the target timeframe is 40 business days.

Amendments – Fees

The prescribed fee for an amendment is a one off fee when an application for an amendment to a works approval or licence is submitted. The fee rate is \$3.40 per unit (regulation 5BB) for applications to amend works approvals and licences (section 59B (1) EP Act) for 2016–17 period.

The fee unit can be calculated by DER on the production or design capacity.

In determining the fee applicable to an application for amendment, DER will:

- consider a request for a multiple amendments to a works approval or licence as a single amendment if submitted in a single application;
- apply the design capacity of the category of prescribed premises for works approvals and licences to calculate the fee;
- where a works approval or licence has multiple prescribed premises categories, the higher unit number will be used to calculate the fee;
- no fee will be applicable when an amendment is initiated by the Chief Executive Officer (CEO) or a Delegated Officer;
- no fee will be applicable for amendments as prescribed in the following subsections of section 59 of the EP Act:

- (e) correcting in the works approval or licence —
 - (i) a clerical mistake or unintentional error or omission; or
 - (ii) a figure which has been miscalculated; or
 - (iii) the misdescription of any person, thing or property; or
- (f) making an administrative change to the format of the works approval or licence which does not alter the obligations of the occupier of the premises to which the works approval or licence relates; or
- (h) deleting any discharge point or emission point which is no longer in use; or
- (i) amending the works approval or licence in conformity with an approved policy or prescribed standard or with an exemption conferred under this Act; or
- (j) amending the works approval or licence to give effect to a decision of the Minister under this Act (whether on an appeal or otherwise); or
- (k) extending the duration of the works approval or licence.

Commencement and Transitional Arrangement Amendments – Fees

This Fact Sheet will take effect from 12 July 2016.

For amendment applications submitted from 1 August 2016, applicants will be required to pay the prescribed fee for amendments.

The prescribed fees will not be charged retrospectively for works approval or licence amendment applications submitted to DER prior to this date.

To support the introduction of the amended EP Regulations, DER has updated its application form, available at www.der.wa.gov.au/our-work/licences-andworks-approvals/applications and relevant guidance material.

Regulation 5O of the EP Regulations grants the CEO discretion to refund or waive all or part of any fee.

More Information

For further advice please contact DER on 6467 5000.

This document is available in alternative formats and other languages on request.

Related Documents

Additional publications about Industry Regulation are available online:

<https://www.der.wa.gov.au/ourwork/licences-andworksapprovals/publications>,

or can be requested by phoning 6467 5000.

Legislation

This document is provided for guidance only. It should not be relied upon to address every aspect of the relevant legislation. Please refer to the State Law Publisher (SLP) for copies of the relevant legislation, available electronically from the SLP website at www.slp.wa.gov.au.

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Legal advice

The information provided to you by DER in relation to this matter does not constitute legal advice. Due to the range of legal issues potentially involved in this matter, DER recommends that you obtain independent legal advice.