



Calculation of Annual Licence Fees

under the *Environmental Protection Regulations 1987*.

Purpose

To provide guidance to licence holders and industry on the method used by the Department of Environment Regulation (DER) to calculate annual licence fees, under regulation 5D of the *Environmental Protection Regulations 1987* (EP Regulations).

Introduction

The Calculation of Licence Fees under the *Environmental Protection Regulations 1987* Fact Sheet has been prepared to provide guidance to licence holders and industry on the method used by DER in calculating annual licence fees, to ensure consistency and transparency.

Regulation 5DA(3) of the EP Regulations require annual licence fees to be paid before the anniversary of the grant of the licence, for the subsequent period.

Under regulation 5DA(4), if the annual licence fee is not paid by the anniversary date but within one month after the anniversary date, a late payment fee is payable in addition to the annual licence fee.

Under regulation 5DA(5) if the annual licence fee is not paid within one month after the anniversary date, the licence ceases to have effect.

Under regulation 5D, annual licence fees are calculated based on a Premises component, Waste component and Discharge component. Schedule 4 of the EP Regulations provides the fee units for the Premises component, Waste component and Discharge component.

This Fact Sheet clarifies that fees will be calculated based on actual production or discharge quantities and charged accordingly.

This approach ensures:

- licence holders are not charged for discharges that have not been made;
- licence holders have an incentive to reduce actual discharge quantities to reduce fees;
- licence holders who have premises that are going into care and maintenance, will not be required to amend the licence in order to avoid paying fees for production or discharges that are not occurring; and
- avoidance of administrative burden associated with processing refunds where the actual production or discharge quantity is below capacity or permitted quantities, such as under regulation 5H(2) of the EP Regulations.

5D. Prescribed premises, fee for licence for

- (1) The total amount of the fee for a licence in respect of prescribed premises is the sum of the following amounts — the amount for each financial year, or part of a financial year, in the licence period worked out under subregulation (1a) (reduced pro rata for a part of a financial year).
 - (1a) Subject to subregulations (3) and (4) and regulation 5G (the maximum fee), the amount for a financial year is the sum of the paragraph (a) amount and the larger of the paragraph (b) amount and the paragraph (c) amount —
 - (a) the amount specified in the third column of Part 1 of Schedule 4 for the financial year for the relevant category, and the relevant production or design capacity (where applicable), of the premises specified in the first and second columns of that Part;
 - (b) in respect of premises within category 5, 6, 7, 8, 9, 12, 14, 44, 46, 53, 54A, 70, 80 or 85B, where the operation of the premises involves the discharge of Part 2 waste — the amount specified in the second column of Part 2 of Schedule 4 for the financial year for the relevant quantity of such waste specified in the first column of that Part that is permitted to be discharged from the premises;
 - (c) the amount for the financial year is the sum of the following amounts — the amount worked out under regulation 5E for each kind of waste to be discharged from the premises.
- (2) If any premises occupied by the same person, as determined by the Chief Executive Officer, fall within more than one category specified in the first column of Part 1 of Schedule 4, the amount payable in respect of those premises under subregulation (1a)(a) is that appropriate to the category in respect of which the higher or highest amount is payable.
- (3) No amount is payable under subregulation (1a)(c) in respect of bitterns discharges or discharges from category 14 premises
- (4) No amount is payable under subregulation (1a)(c) in respect of water discharge from category 6 premises.
- (5) For the purpose of section 64(1)(b) of the Act the fee prescribed for the transfer of a licence is 2 units.
- (6) In this regulation and Schedule 4 — Part 2 waste means waste consisting of —
 - (a) tailings; or
 - (b) bitterns; or
 - (c) water to allow mining of ore; or
 - (d) flyash; or
 - (e) waste water from a desalination plant.

Calculation of Fees

An annual licence fee is constituted of a Premises component, Waste component and Discharge component. Under regulation 5D(1a) of the EP Regulations, the annual licence fee is the sum of the Premises component and the larger of the Waste and Discharge component.

Annual fee periods use the licence commencement date as the anniversary date and are not based on financial years.

Part 1 – Premises Component Fees

Part 1 Schedule 4 of the EP Regulations provides the fee units payable for prescribed premises categories based on the production or design capacity of the prescribed premises.

A licence holder may elect for DER to determine the Premises component based on one of four amounts:

- a) Actual production for the preceding annual fee period as reported in the Annual Audit Compliance Report;
- b) The maximum allowed production or design capacity as stated in the licence;
- c) If a higher production than the actual production for the preceding year is forecasted, a projected amount between the preceding year and the maximum allowed production or design capacity as stated in the licence; or
- d) If the licence holder advises DER and DER accepts that the premises is going into care and maintenance, a projected lower production amount than the actual production of the preceding year.

If a licence holder does not elect an amount, DER will base the Premises component on a) above or, in the absence of the information specified in a), on b).

Premises component fees for an annual period will be charged using the following methods:

- a) When the actual production for an annual fee period is above the quantity for which a fee was paid at the commencement of the fee period, the fee associated with the increase in actual discharge will be recovered in the subsequent annual fee period;
- b) When the actual production for an annual fee period is less than the quantity for which the fee was paid at the commencement of the fee period, no refund will be granted for the portion of the fee that corresponds with the actual increase in production from the preceding fee period ; or
- c) When the actual production for an annual fee period is less than the quantity for which the fee was paid at the commencement of the fee period, a refund will be granted if there are no outstanding fees from a previous period.

Part 2 – Waste Component Fees

Part 2 Schedule 4 of the EP Regulations lists the fee units payable for Part 2 waste depending on the discharge quantity.

A licence holder may elect for DER to determine the Waste component based on one of four amounts:

- a) Actual discharge quantity for the preceding annual fee period as reported in the Annual Audit Compliance Report;
- b) The maximum permitted discharge as stated in the licence;
- c) If a higher discharge than the actual discharge quantity for the preceding year is forecasted, a projected amount between the preceding year and the maximum allowed permitted discharge as stated in the licence; or
- d) If the licence holder advises DER and DER accepts that the premises is going into care and maintenance, a projected lower discharge quantity than the actual discharge quantity of the preceding year.

If a licence holder does not elect an amount, DER will base the Waste component on a) above or, in the absence of the information specified in a), on b).

Waste component fees for an annual period will be charged using the following methods:

- a) When the actual discharge quantity for an annual fee period is above the quantity for which a fee was paid at the commencement of the fee period, the fee associated with the increase in actual discharge will be recovered in the subsequent annual fee period.;
- b) When the actual discharge quantity for an annual fee period is less than the quantity for which the fee was paid at the commencement of the fee period, no refund will be granted for the portion of the fee that corresponds with the actual increase in discharge from the preceding fee period; or
- c) When the actual discharge quantity for an annual fee period is less than the quantity for which the fee was paid at the commencement of the fee period, a refund will be granted if there are no outstanding fees from a previous period.

Part 3 – Discharge Component Fees

5E. Amount in r. 5D(1a)(c), calculation of

- (1) Subject to this regulation, the amount under regulation 5D(1a)(c) for a financial year for a particular kind of waste is to be worked out under Part 3 of Schedule 4 on the basis of the rate at which the waste is permitted to be discharged from the premises during the licence period — the rate (in the units specified for that kind of waste in Part 3 of Schedule 4) being the quantity of waste permitted to be discharged from the premises during the licence period averaged over the licence period.

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Part 3 Schedule 4 of the EP Regulations lists the fee units payable for discharge of specified waste based on emission rates. Table 1 specifies discharges to air in grams per minute and Table 2 specifies discharges to land and water in either kilograms or megalitres per day, as appropriate.

Discharge component fees will be calculated in accordance with regulation 5E of the EP Regulations.

Regulation 5E of the EP Regulations bases the calculation on the rate at which the waste is permitted to be discharged during the licence period from the premises averaged over the licence period.

Alternatively, regulation 5E provides the Chief Executive Officer (CEO) of DER with the discretion to allow, if satisfied that the discharge from the premises in the preceding licence period has been accurately measured, calculation of the Discharge component fee by the measured quantity averaged over a period of one year.

Regulation 5H(2) of the EP Regulations provides for refunds of the Discharge component fee where the quantity of waste discharged is less than the quantity used as the basis for determining the Discharge component fee.

Commencement and Transitional Arrangement

This Fact Sheet takes effect from 1 July 2016.

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

5O. Reduction, waiver, or refund of fees, CEO's powers as to

The Chief Executive Officer may reduce, waive or refund, in whole or part, any fee referred to in these regulations relating to a works approval, licence or registration

Due to inconsistent methods previously used by DER to calculate licence fees, affected licence holders are encouraged to apply for a fee refund.

A fee refund may be sought, for fees charged between April 2015 to June 2016, where the licence holder considers that the annual licence fee has been calculated based on the amount specified in a licence for the maximum approved production or design capacity for Part 1 fees and the quantity permitted to be discharged for Part 2 fees.

More Information

For advice on the Regulations, or related matters, 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 from <https://www.der.wa.gov.au/our-work/licences-and-works-approvals/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.

Document Versions

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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.