

Land and water pollution: Legal background and implications for business

■ Introduction

This fact sheet provides business owners and managers with the legal background to the Auckland Regional Council's (ARC) pollution prevention and pollution response functions. It also outlines the implications of breaches such as abatement notices, fines, prosecutions and bad publicity.



Each business is responsible for ensuring its activities comply with relevant legislation e.g. environmental, health and safety.

The ARC works with businesses to find ways to minimise any adverse effects their activities could have on the environment. The two main pieces of environmental legislation are:

- The Resource Management Act (1991)
- The Hazardous Substances and New Organisms Act (1996)

■ The Resource Management Act (1991) (RMA 1991)

The RMA promotes the sustainable management of natural and physical resources. Any discharge of contaminants is contrary to section 15 of the RMA, unless authorised in a regional plan or resource consent. The RMA sets out the action councils must take if a business is found to be in breach of section 15.

Any person or business responsible for breaching the RMA may be liable for:

- An infringement fee of up to \$1,000 and/or
- Imprisonment for a maximum term of two years and/or
- A fine of up to \$200,000, with a further \$10,000 for each day the discharge continues
- An abatement notice or enforcement order may also be issued requiring the business to stop the offending activity

■ The Proposed Auckland Regional Plan: Air, Land and Water

Under the RMA, discharges of contaminants into Auckland's environment must be authorised by the ARC.

The ARC's Proposed Auckland Regional Plan: Air, Land and Water (PARP: ALW) is designed to help carry out this function as it applies to the management of air, land and water resources in the region. The proposed plan is available online at www.arc.govt.nz.

The industrial or trade process rules in the PARP: ALW outline how businesses should manage their pollution risks. The rules focus on managing risks at the source rather than relying on cleaning up after pollution has occurred.

The ARC's pollution response officers and pollution prevention officers help businesses with their land and water pollution risks. The ARC's air quality officers deal with discharges to air, including those from industrial or trade process sites.

■ Hazardous Substances and New Organisms Act (1996) (HSNO 1996)

The HSNO aims to protect the health and safety of people, communities, and the environment by managing the adverse effects of hazardous substances and new organisms.

Sites that store, use, or manufacture certain quantities of substances with harmful properties (e.g. flammable or toxic) must comply with relevant regulations in the act.

The ARC plays an informal role in implementing the HSNO because of the close relationship between its pollution control functions and requirements for the storage of hazardous substances.

The ARC may require controls for substances on your site that the HSNO does not. This is because councils, under the RMA, are sometimes required to set more stringent controls than the HSNO over environmentally hazardous substances (e.g. the HSNO does not apply to waste substances but the ARC's requirements do).

See the Environmental Risk Management Authority website at www.ermanz.govt.nz, email any queries to hsinfo@ermanz.govt.nz, or call the Hazardous Substances Infoline on 0800 376 234.

■ What can I do to make sure my site complies?

It is important that you are aware of legislation that applies to your business and that you take steps to manage the risks associated with your activities.

If your business has a comprehensive system for managing pollution risks as well as any consents that you require, it is less likely the ARC would take enforcement action such as issuing abatement notices or fines if something does go wrong. However, the ARC may recover costs (under the Local Government Act (2002)) including officer's time, mileage, sample analysis fees and any other material expenses.

Things can still go wrong on a well-managed site. In that case, you should contact the ARC on 09 366 2000 and press 1. For incidents that may cause pollution of natural waters (including stormwater and groundwater), call the ARC's Water Pollution Hotline on 09 377 3107.



■ For more information

The ARC has a range of fact sheets and industry specific guidelines to help you comply with the requirement that you manage your site's pollution risks. Copies are available online at www.arc.govt.nz or upon request. Topics include:

- Industrial or Trade Processes
- Pollution Prevention Assessments

How do I contact the ARC?

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