

# **Antarctic Treaty (Environment Protection) (Waste Management) Regulations (Amendment) 1998 No. 231**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 1998 NO. 231**

### **ISSUED BY THE AUTHORITY OF THE MINISTER FOR THE ENVIRONMENT**

*Antarctic Treaty (Environment Protection) Act 1980*

Antarctic Treaty (Environment Protection) (Waste Management) Regulations (Amendment)

Paragraph 29(1)(a) of the *Antarctic Treaty (Environment Protection) Act 1980* empowers the Governor-General to make regulations not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. In addition, paragraph 29(1)(d) of the Act specifically provides for the making of regulations providing for the management and disposal of waste in the Antarctic, or the removal of waste from the Antarctic.

The Antarctic Treaty (Environment Protection) (Waste Management) Regulations (the Principal Regulations) were made to implement the obligations arising from Annex III to the Protocol on Environmental Protection to the Antarctic Treaty (the Madrid Protocol). Annex III relates to waste disposal and waste management and is primarily concerned with managing waste generated on a day to day basis on the stations and the cleaning up of abandoned work sites and waste disposal sites.

The Regulations amend the Principal Regulations in order to correct an unintended consequence in relation to the removal of historic structures from abandoned work sites. The previous paragraph 19(2)(b) did not allow a person to take a structure from an abandoned work site if the structure had been entered on the Register of the National Estate or on the Interim List for the Register of the National Estate kept under the *Australian Heritage Commission Act 1975*. This meant that in some circumstances Australia may have been unable to meet its international obligations as Annex III requires the clean up of abandoned work sites. The Regulations omit paragraph 19(2)(b). Historically significant structures will continue to be protected as Annex III does not require the removal of a structure which has historical significance and has been accorded protection in accordance with Antarctic Treaty requirements. In most cases such a listing will coincide with protection as provided for under the Australian Heritage Commission Act.

The Regulations commence on gazettal.

Details of the Regulations are as follows:

#### **Regulation 1 - Amendment**

This regulation provides for the Antarctic Treaty (Environment Protection) (Waste Management) Regulations, the Principal Regulations, to be amended as provided for in these Regulations. The amendments were made for the purposes of correcting an unintended consequence and a grammatical error.

#### **Regulation 2 - Regulation 10 (Destination of waste removed)**

This amendment corrects a grammatical error in regulation 10 of the Principal Regulations.

### **Regulation 3 - Regulation 19 (Cleaning up waste disposal sites and abandoned work sites)**

Subregulation 3.1 amends subregulation 19(2) of the Principal Regulations to more accurately reflect the requirements of Annex III. That is, the restriction on taking matter from a work site is extended to sites that have already been abandoned, not just sites that are being abandoned.

Subregulation 3.2 omits paragraph 19(2)(b) of the Principal Regulations. This is necessary in order to correct an unintended consequence in relation to the removal of historic structures from abandoned work sites. The previous paragraph 19(2)(b) did not allow a person to take a structure from an abandoned work site if the structure had been entered on the Register of the National Estate or on the Interim List for the Register of the National Estate kept under the *Australian Heritage Commission Act 1975*. This meant that in some circumstances Australia may have been unable to meet its international obligations as Annex III requires the clean up of abandoned work sites. The Regulations omit paragraph 19(2)(b). Historically significant structures will continue to be protected as Annex III does not require the removal of a structure which has historical significance and has been accorded protection in accordance with Antarctic Treaty requirements. In most cases such a listing will coincide with protection as provided for under the Australian Heritage Commission Act.