Section 104(2) Protection of the Environment Operations Act 1997

Notice requiring payment of reasonable costs and expenses – clean-up action

«AcctPartyName»

«AcctPartyTradingName»

«AcctPartyACN»

«PostalAddressStreet»

«PostalAddressSuburb» «PostalAddressState» «PostalAddressPostcode»

Attention: <insert contact name>

Notice Number   «NoticeNumber»

File Number   "FileNumber"

Date   «NoticeIssueDate»

Notice requiring payment of reasonable costs and expenses – clean-up action

Why is the <insert regulatory authority name> writing to you?

The <insert authority name> incurred costs associated with clean-up action taken <insert which applies: [at land <enter location – Use Lot/DP or be as specific as possible> (the **premises**) for which you are the occupier] or [for a pollution incident which the <insert authority name> reasonably suspects was caused by you]. The <insert authority name> is requiring repayment of the reasonable costs and expenses in accordance with s 104(2) of the *Protection of the Environment Operations Act 1997* (the POEO Act).

What are you required to do?

Please read this notice carefully and make payment to the <insert authority name> by the date required. If you have any queries about this matter, please contact <insert contact name> on <insert contact number>.

Background

1. The <insert regulatory authority name> has responsibility for enforcement of the POEO Act.

2. Section 104(2) of the POEO Act enables the <insert relevant authority>, where it has taken clean-up action under s 92, to require <the occupier of the premises from which the <insert relevant authority> reasonably suspects that the pollution incident occurred/the person who is reasonably suspected of having caused the pollution incident [or both] – delete as appropriate> to pay all or any reasonable costs and expenses incurred by it in connection with the clean-up action.

3. On <enter date> a <describe pollution incident e.g. fire, chemical spill etc> occurred at the premises.

4. As a result of the <state the incident and consequences – e.g. "as a result of the chemical spill and run off into XYZ river>, the <insert authority name> reasonably suspected that a pollution incident occurred or was occurring">.

5. «AcctPartyName» («AcctPartyACN») was the <occupier of the premises / party suspected of having caused the incident – delete as appropriate> at the time of the pollution incident <and continues to be the occupier of the premises – delete as appropriate>.

6. The <insert authority name> <attended the premises on <insert date/s> and – delete if not appropriate> organised for emergency clean up action to be undertaken. The <insert authority name> engaged <name of contractor and ABN> to undertake the clean-up work under section 92 of the POEO Act.

7. <Name of contractor> undertook the following clean-up actions:

    a. <list clean-up action>

    b. <list clean-up action>

    c. <list clean-up action>.

8. The <insert authority name> has incurred costs and expenses in connection with the clean-up action. In particular the <insert authority name> has incurred $<enter costs, inc. GST if possible> in connection with the clean-up action undertaken by <name of contractor>. The costs and expenses are as follows:

Quantity	Description	Unit Price (inc. GST)	Total (inc. GST)
		$	$
		$	$
Total (inc. GST)			$

Requirement to pay reasonable costs and expenses

I, <NoticeAuthorisingOfficer>, sub-delegate of the <insert authority name>, require «AcctPartyName» («AcctPartyACN») to:

9. Pay the following costs and expenses incurred by the <insert authority name>, which the <insert authority name> considers to be reasonable in the circumstances:

    $<total amount inc. GST if applicable> in connection with the clean-up operations undertaken by <name of contractor> to the <insert authority name> by <insert date – specify an exact day/month/year, at least 14 days from date of notice; can be longer for larger payments>.

10. Make payment to the <insert authority name> by either [include as appropriate]:

    a. sending a cheque for the total amount to:

       <insert authority name>

       <insert authority postal address>

       OR

    b. depositing the total amount into the following bank account:

       Account name:

       BSB:

       Account No:

       OR

    c. [specify alternative means of payment].

....

\<NoticeIssuingOfficer\>

\<NoticeIssuingOfficerTitle\>

\<NoticeIssuingOfficerSection\>

(by Delegation)

Information about this notice

This notice is issued under section 104(2) of the *Protection of the Environment Operations Act 1997*.

What you can do if you are not the polluter

If you comply with this compliance cost notice but you are not the person who caused or contributed to the pollution or pollution incident to which the notice relates, you have a right to go to court to recover your costs of complying with the notice from the person who caused or contributed to the pollution or incident.

Non-compliance with this notice

If you do not pay the costs and expenses set out in this notice by the due date specified in the notice, the \<insert authority name\> will consider taking legal action to recover the amount owing.

Registration of the notice in relation to land

The \<insert authority name\> may apply to the Registrar-General to register the notice in relation to any land owned by you. If the Registrar-General registers the notice on any land owned by you, then this will create a charge on the land to secure payment to the \<insert authority name\> for the amount specified in this notice.