Environment Protection (General Amendment) Bill

EXPLANATORY MEMORANDUM

The aims of this Bill are to more effectively integrate environmental and economic factors in government decision making, and to foster a more collaborative approach between industry, the community and government in achieving ecologically sustainable development.

The Bill will achieve these aims through a series of amendments to the **Environment Protection Act 1970**. The key elements of these amendments are reforms to project approval processes, improved development processes for statutory environmental policies, and clarification of lenders' environmental liabilities.

Notes on Clauses

Clause 1 sets out the purpose of the Bill.

Clause 2 identifies the date when the Bill will commence.

Clause 3 adds a definition of "financial institution" to the Act and clarifies the circumstances in which such institutions will be considered occupiers and therefore liable to the provisions of the Act. It also makes clear that where the costs of clean up cannot be recovered from an occupier, those costs can become a charge placed on the land of which the occupiers' premises formed a part.

Clause 4 establishes intellectual property rights for the Authority and gives it power to enter into commercial agreements related to such intellectual property.

Clause 5 repeals section 17 (2) of the Act, which made contravention of a State environment protection policy or industrial waste management policy an offence.

Clause 6 adds new sections 18A–D to the Act and revises the existing section 19. These amendments establish a revised process for the preparation of State environment protection policies and industrial waste management policies. Under the revised process, the Authority must:

advertise the intention to make or vary a policy and invite comment;

- prepare a draft policy;

  prepare a policy impact assessment outlining the key social, environmental and financial impacts of the proposed policy and principal alternatives;

  advertise a draft policy and draft impact assessment for public comment for a period of at least 3 months;

- consider and respond to all submissions received;

  if required by the Minister, submit a recommended policy and impact assessment to a review panel for advice on the adequacy of the impact assessment;

  recommend the policy and impact assessment to the Governor in Council, together with any advice received from the review panel;

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- table th policy before both Houses of Parliament and submit copies of the policy, policy impact assessment, summary of submissions received, the Author ity's evaluation of the submissions and any advice received from the review panel to the Scrutiny of Acts and Regulations Committee;
- review a policy every 10 years and publish the result of the review in its Annu. Report.

Policies that the Authority certifies are fundamentally declaratory, machinery or administrative in nature under section 18A, or industrial waste management policies that the Minister certifies need to be declared for special reasons without delay under section 18B, will not require a policy impact assessment or public comment. Such policies will be required to be submitted to the Governor in Council, the Scrutiny of Acts and Regulations Committee and both Houses of Parliament.

Clause 7 makes the review of policies a function of the Scrutiny of Acts and Regulations Committee through a consequential amendment to the **Parliamentary Committees Act 1968.**

Clause 8 amends section 19B (7) of the Act to require the Authority to refuse or issue a works approval within 4 months of the receipt of an application.

The clause also inserts a new section 19 (3B) which provides that where a works approval application has been advertised jointly with an Environment Effects Statement (EES) required under the **Environment Effects Act 1978**, any submissions on the works approval application must be made together with any submissions on the EES.

Clause 9 introduces new sections 19D–G which establish an approvals process for research, development and demonstration (RD&D) projects. Firms wishing to undertake RD&D projects that would otherwise be subject to works approval can apply for RD&D approval with an application fee of 60 fee units. The Authority will determine whether the proposal constitutes RD&D and should be granted subject to whatever conditions it considers necessary within 30 days of the receipt of a complete application. The Authority will be able to amend, revoke or attach new conditions to an RD&D approval. Firms contravening RD&D approval conditions will be guilty of an offence under the Act.

Clause 10 adds a definition of "research, development and demonstration approval" into section 4 of the Act. It also gives such approvals prima facie evidentiary status through amendment of section 59A of the Act.

Clause 11 amends section 24 (1) of the Act to allow the Authority to grant applications for payment of licence fees in instalments on the grounds of financial hardship, and to charge an additional interest fee to cover foregone revenue.

Clause 12 inserts new sections 26A–E into the Act to establish accredited licensees. Licensees will be able to apply to the Authority for accreditation as an accredited licensee for a particular premises under section 26A. The Authority will be able to grant an application for accreditation if it is satisfied that the licensee has a high level of environmental performance and the capacity to maintain and improve environmental performance, as outlined under section 26B. The Authority will have to advertise its decision to grant accreditation in the Victoria Government Gazette.

Section 26C requires accredited licensees to submit annual performance reports to the Authority in a form agreed between the Authority and the accredited licensee. Provision of false, misleading or incomplete reports will be an offence.

Under section 26D, accredited licensees will have reduced licence fees and will not be required to obtain a works approval for works occurring within their licence conditions except for significant works as defined. Section 26E allows the Authority to review the accreditation of an accredited licensee at any time if it is not satisfied that the accredited licensee is meeting requirements. The Authority must review the accreditation of an accredited licensee at least once every 5 years.

Clause 13 inserts definitions of "accredited licensee" and "environmental management system" into section 4 of the Act, prescribes a fee of 85 fee units for accreditation applications, and allows the Governor in Council to prescribe reduced fees for accredited licensees through regulations.

Clause 14 inserts a new section 33B (1B) which provides that a works approval which has been issued on an application, which has been jointly advertised with an EES and which is substantially in accordance with the EES assessment, will not be subject to third party appeal. (See clause 8).

Clause 15 restricts the lead content of petrol to a maximum of:

0·25 grams per litre for the period from the commencement of the **Environment Protection (General Amendment) Act 1994** to 31 December 1994; and

0·2 grams per litre, or whatever lower level is prescribed subsequently through regulations, from 1 January 1995 onwards.

The Governor in Council is empowered to make regulations under section 71 (1) prescribing maximum and minimum amounts of petrol constituents, including further reduced levels for lead.

A consequential amendment is made to section 42A (5) to allow petrol purchasers to obtain a warranty from vendors certifying that petrol purchased meets these requirements.

Clause 16 allows environmental auditors who cannot issue a certificate of environmental audit that any beneficial use in an identified segment of the environment is protected to issue a "statement of environmental audit". Defined in section 4, statements of environmental audit can specify the particular beneficial uses which are protected in an identified segment of the environment.

Clause 17 corrects typographic and other minor errors in the Act.

By Authority L. V. North, Government Printer Melbourne