

Environment Protection (Amendment) Bill

EXPLANATORY MEMORANDUM

The primary object of this Bill is to replace the Environment Council with a new body, the Environment Protection Board, and to merge the Recycling and Resource Recovery Council (RRRC) and Waste Management Council (WMC) to form a new body, EcoRecycle Victoria.

The new Environment Protection Board is a skills based Board whose role is to maintain an overview of the administration and policies of the Authority without having direct management responsibility or a regulatory role. The functions of the Board are to advise both the Minister and the Chairman of the Authority on broad strategic management issues.

The proposed merger of RRRC and WMC fulfils the Government's 1996 election commitment to create a new body focused on integrated statewide waste management. This institutional change will remove the perceived overlap in functions which currently exists between the RRRC and WMC and the attendant confusion which this tended to create. It will improve program delivery and provide a sharper image to the community.

Notes on Clauses

- Clause 1 sets out the purposes of the Bill.
- Clause 2 identifies the dates on which various sections of the Bill will commence.
- Clause 3 replaces sections 8, 9 and 10 of the **Environment Protection Act 1970** (the Principal Act), which relate to the Environment Council. Clause 3 provides for the establishment of a new body, the Environment Protection Board together with the functions, appointment of members, conditions of office of members and the procedure and meetings of the Board.
- Clause 4 provides for the payment of fees to persons or bodies co-opted to form expert advisory panels determined either within guidelines produced for such purposes from time to time by the Office of the Public Service Commissioner or by Order of the Governor in Council.
- Clause 5 extends the Authority's current powers to approve, subject to conditions, the discharge or deposit of waste from any premises into the environment in emergency situations or situations involving temporary nuisance to include approval for the storage, treatment, handling or disposal of waste in such situations.

- Clause 6 replaces Divisions 1 and 2 of Part IX of the Principal Act, which provide for the establishment of RRRC and the WMC together with the functions, membership, conditions of appointment of members and the procedure and meetings of the respective Councils. This clause provides for the establishment of a new corporate body—EcoRecycle Victoria to replace RRRC and the WMC. The role of EcoRecycle Victoria is to develop integrated statewide implementation strategies for Government waste management policies. EcoRecycle Victoria's functions are to facilitate achievement of Government waste policy objectives and to encourage best practice approaches to waste management through a wide range of activities provided for in this clause.
- Clause 7 provides for the formation of regional waste management groups at the initiative of the Minister where within 6 months of a regional waste management region being declared under the Principal Act no regional waste management groups have been formed for the region. This clause will help ensure the extension of regional waste management groups across the State.
- Clause 8 aims to strengthen the ability of regional waste management groups to fulfil their statutory purpose by redefining their statutory functions in sharper terms which make explicit their responsibilities to prepare and implement a regional waste management plan.
- Clause 9 provides for the preparation and adoption of an annual budget in the constitutions of regional waste management groups to help ensure that the expenditure of regional waste management groups will not occur without proper consideration and forward planning.
- Clause 10 requires that all money received from member councils only be used for the purposes and in the way set out in the budget of a regional waste management group.
- Clause 11 broadens the reporting obligations of regional waste management groups by requiring groups to provide an annual report to the Minister on all activities undertaken by them which were funded from the landfill levy.
- Clause 12(1) extends the application of an existing requirement that regional waste management groups prepare and submit a draft regional waste management plan to the Minister to include groups declared at the initiative of the Minister under clause 7.

Clause 12(2) requires the forecasting of dates of closure of landfill sites likely to close during the life of a regional waste management plan to be included in regional waste management plans.

Clause 12(3) provides that regional waste management plans must not conflict with any State environment protection policy, industrial waste management policy or waste management strategies prepared by EcoRecycle Victoria.

Clause 12(4) extends an existing discretion exercisable by the Authority to refuse an application for works approval or the issue or amendment of a licence for use in a regional waste management region to include circumstances where there is no regional waste management plan for the region.

Clause 13 provides for the following:

Landfill Levy

Proposed section 50S replaces the landfill levy differential between municipal and non-municipal waste with a differential based on metropolitan and major provincial centres and other municipalities. The levy is set at \$3 per tonne of waste for metropolitan areas and introduces a concessional levy rate of \$2 per tonne of waste for non-metropolitan areas.

Landfill Levy Rebate

Proposed section 50SA introduces a rebate on recyclables recovered from landfills to those liable to pay the landfill levy.

Quarterly Instalments of the Landfill Levy

Proposed section 50SB introduces an instalment system for payment of the landfill levy on a quarterly basis payable 3 months in arrears. In the fourth quarter the existing annual reckoning of the levy liability will be determined by the Authority for the financial year and any outstanding levy must be paid to the Authority.

Refunds by the Authority

Where there has been an overpayment of the levy to the Authority the Authority must refund the amount of the overpayment within a certain time.

Clause 14 provides for minor and consequential amendments. Clause 14 provides for the following:

Premises that may be levied

Sub-clause (1) provides for a consequential amendment necessary to introduce the revised landfill levy system based on metropolitan and non-metropolitan areas under clause 13.

Provision of information to the Authority concerning the levy

Sub-clause (2) expands the information required to be provided to the Authority to enable it to determine the amount of levy liability payable in respect of premises to include details of waste in respect of which a rebate is payable under the rebate system introduced under clause 13.

Prepayment of levy

Sub-clause (3) provides for a consequential amendment repealing the section of the Principal Act providing for prepayment of the levy which will be rendered obsolete upon the introduction of the quarterly payment system under clause 13.

- Clause 15 extends the entitlement to estimate the weight of waste for the calculation of the landfill levy where weight is not known to the calculation of quarterly instalment levy payments. This clause also expands the requirements to keep sufficient records to enable the calculation of the amount of levy liability to include in those records the amount of any rebate entitlement together with details as to categories of waste deposited at premises.
- Clause 16 requires that information regarding categories of waste required to be recorded under clause 15 be provided to the Authority.
- Clause 17 confers a discretion upon the Authority to increase an estimate on which a levy payment is based where in the opinion of the Authority the estimate is too low. A licence holder affected under this clause may appeal to the Administrative Appeals Tribunal (AAT) to have an estimate substituted by the Authority decreased. This clause also empowers the AAT to reduce the Authority's estimate and requires the Authority to refund to the licence holder any overpaid money. This clause widens the Authority's powers where a levy liability is not paid to empower it to recover any amount due in the Magistrates' Court.
- Clause 18 provides for minor housekeeping and consequential changes regarding industrial waste reduction agreements.

- Clause 19 provides for the substitution of Division 5 of Part IX of the Principal Act by way of a consequential amendment in view of the changes in section 50S under clause 13 of this Bill. This clause provides for amendments to the new Schedule C.
- Clause 20 provides for a consequential amendment to enable the Authority to pay any amount out of the Resource Recovery Fund which it is required to pay under Part IX of the Principal Act.
- Clause 21 provides for a revised system for payment of the Authority's costs and distribution of the landfill levy.
- Clause 22 provides for a housekeeping amendment to the Authority's regulation-making powers.
- Clause 23 substitutes Schedules C and D under the Principal Act with a new Schedule C which lists municipal districts within metropolitan areas and major provincial centres necessary as consequential amendments in view of changes under clause 13.
- Clause 24 provides for minor and consequential amendments as follows:
- Sub-clause (1) repeals the definition of "Council" in view of the establishment of the Environment Protection Board under clause 3 of this Bill.
- Sub-clause (2)(a) repeals Division 6 of Part IX of the Principal Act relating to the publication by the Authority of certain guidelines and codes of practice.
- Sub-clause (2)(b) repeals sections 52D and 52E of the Principal Act by way of consequential amendments in view of the substitution of sections 52B and 52C of the Principal Act with a new section 52B which provides for a revised system for the distribution of the landfill levy under clause 21 of this Bill.
- Sub-clause (2)(c) provides for a consequential amendment to section 60 of the Principal Act which makes disclosure of certain information an offence. This clause substitutes a reference in sub-section (4) to the WMC with EcoRecycle Victoria.
- Sub-clause (2)(d) repeals the headings to Schedules C and D of the Principal Act as a consequential amendment in view of changes under clause 13.

Sub-clause (2)(e) repeals the sub-headings in Schedules C and D of the Principal Act as a consequential amendment in view of changes under clause 13.

- Clause 25 provides for the abolition of the Environment Council as a consequential amendment due to changes under clause 3. Clause 25 provides that the Environment Protection Board is the successor in law of the Environment Council.
- Clauses 26 and 27 provide for the abolition of the RRRC and the WMC respectively and provide that EcoRecycle Victoria is the successor in law of RRRC and the WMC respectively.
- Clause 28 requires that the constitutions of regional waste management groups in existence immediately prior to the commencement of this Bill be made consistent with Division 2A of Part IX of the Principal Act which relates to regional waste management groups generally.
- Clause 29 provides that the first quarterly payment of the landfill levy under clause 13 is due on 31 December 1997.
- Clause 30 provides for statute law revision amendments.