

# **Environment Protection (Liveable Neighbourhoods) Bill**

## **Circulation Print**

### **EXPLANATORY MEMORANDUM**

#### **General**

The purpose of this Bill is intended to introduce principles of environment protection into the **Environment Protection Act 1970** (the Principal Act), to provide for the development of economic measures for environment protection, to introduce neighbourhood environment improvement plans as a mechanism for protecting local environments and improving the liveability of neighbourhoods and to provide a comprehensive statutory framework for the conduct of environmental audits. This Bill will also make various other minor amendments to the Principal Act to improve its operation.

#### **Clause Notes**

- Clause 1 sets out the purpose of the Bill.
- Clause 2 identifies the dates on which various provisions of the Bill will commence. Parts 1, 2 and 5 of the Bill will commence on the day after the day on which it receives Royal Assent. Clause 23 will be deemed to have commenced on 1 October 2000. The remaining provisions will commence on a day or days to be proclaimed, or, if any provision has not commenced before 1 July 2001, that provision comes into operation on that day.
- Clause 3 inserts new sections 1A to 1L into the Principal Act. These sections state the purpose of the Principal Act and introduce several principles of environment protection.
- Clause 4 amends section 13 of the Principal Act to empower the Environment Protection Authority (the Authority) to develop economic measures for the purpose of providing an economic incentive to avoid or minimise harm to the environment.

- Clause 5 amends section 17 of the Principal Act to provide that the Governor in Council may specify requirements for developing economic measures in any Order made under section 16(1) or 16(1A).
- Clause 6 inserts a new Division 1A into the Principal Act to—
- provide that the Authority may develop economic measures, including tradeable permit systems, as a means of achieving cost effective environmental protection or regulation; and
  - make it an indictable offence for a holder of a tradeable emission permit to discharge or emit waste to the environment at a level that exceeds the holder's entitlement.
- Clause 7 amends section 71 of the Principal Act to enable the Governor in Council to make regulations to implement economic measures.
- Clause 8 inserts a new Division 1B into the Principal Act. This Division provides for the development and approval of neighbourhood environment improvement plans. Terms relevant to neighbourhood environment improvement plans are defined. Under the Division, proposals for the development of neighbourhood environment improvement plans are submitted to the Authority by a protection agency. Authority endorsement of such proposals is required before the preparation of a neighbourhood environment improvement plan. The contents of a neighbourhood environment improvement plan are specified. The Authority may approve plans that meet the specified requirements. The Division also provides that a protection agency or any person may request the Authority to conduct a specified environmental audit or investigation of a segment of the environment to determine whether the beneficial uses of that segment of the environment are being protected. A protection agency may, following a review of a neighbourhood environment improvement plan, submit a proposal for amending the plan to the Authority for approval.
- Clause 9 amends section 31 of the Principal Act to provide that pollution abatement notices may be issued in relation to requirements in neighbourhood environment improvement plans that are prepared as a result of the Authority directing a protection

agency to submit a proposal to develop a neighbourhood environment improvement plan.

Clause 10 amends section 31C of the Principal Act to ensure than any environment improvement plan developed under that section is consistent with any relevant neighbourhood environment improvement plan.

Clause 11 amends section 32 of the Principal Act to provide that a person whose interests are affected by a direction by the Authority to submit a proposal to develop a neighbourhood environment improvement plan may seek review of the direction by the Victorian Civil and Administrative Tribunal.

Clause 12 inserts a new Part IXD into the Principal Act that deals with environmental audits—

- section 53S provides for the appointment, suspension and revocation of environmental auditors by the Authority and defines the functions of an environmental auditor;
- section 53T provides for the payment of prescribed fees by an environmental auditor to the Authority;
- section 53U provides that an environmental auditor appointed under the Principal Act may be engaged to conduct an environmental audit;
- section 53V specifies the contents of an environmental audit report for an environmental audit undertaken in relation to the risk to a segment of the environment caused by any industrial process or activity, waste, substance or noise;
- sections 53W and 53X specify the contents of an environmental audit report for an environmental audit undertaken in relation to the condition of a segment of the environment, and provide that such a report must be completed before a certificate of environmental audit or statement of environmental audit may be issued;
- section 53Y specifies what factors an environmental auditor must have regard to in determining whether to issue a certificate of environmental audit;
- section 53Z specifies the contents of a statement of environmental audit;

- section 53ZA provides for the withdrawal or amendment of incorrect certificates of environmental audit or statements of environmental audit;
- section 53ZB contains certain notification requirements for an environmental auditor in the conduct of an environmental audit, including the requirement to notify the Authority as soon as practicable as to any imminent environmental hazard the auditor becomes aware of while undertaking the audit. It also establishes new offences for failing to meet such notification requirements;
- section 53ZC establishes a new indictable offence relating to the provision of false or misleading information by an environmental auditor;
- section 53ZD requires the Authority to revoke the appointment of an environmental auditor if the auditor is convicted of such an offence;
- section 53ZE provides that an occupier of premises (in respect of which a statement of environmental audit has been issued) must notify prospective occupiers of that statement of environmental audit and the conditions attached to it.

Clause 13 makes consequential amendments to Part X of the Principal Act to—

- omit all references to "environmental auditor" in section 57;
- repeal section 57AA;
- provide that the fee prescribed in respect of an environmental audit is to be paid into the Environment Protection Fund and may be applied for the purposes of Part IXD;
- provide that the Governor in Council may make regulations prescribing a fee with respect to a completed environmental audit.

Clause 14 makes a consequential amendment to Schedule A to the Principal Act. The reference to the repealed offence against section 57AA(5) is substituted by references to new offences against sections 53ZB(1), (2) and (3).

- Clause 15 amends section 4 of the Principal Act to include "hydrochlorofluorocarbon" in the definition of an "ozone-depleting substance".
- Clause 16 amends section 13 of the Principal Act to provide that the Authority may pay panel members such fees and allowances that are determined in accordance with guidelines of the Office of Public Employment.
- Clause 17 amends sections 24 and 71 of the Principal Act to provide that the Authority may fix a date on which prescribed licence fees are due.
- Clause 18 amends section 27A(2) of the Principal Act to clarify the scope of the offence for dumping or abandoning industrial waste. A licensed industrial waste disposal site must not accept wastes of particular kinds for which it is not licensed.
- Clause 19 amends section 39 of the Principal Act to clarify that the offence of pollution of waters covers situations where a person leaves waste in any position where it may reasonably be expected to gain access to waters and pollute them.
- Clause 20 amends section 55 of the Principal Act to clarify the powers of authorized officers to take films and to make recordings of land or premises under investigation.
- Clause 21 amends section 59AB of the Principal Act to provide that a transport certificate relating to the transport of prescribed industrial waste is prima facie evidence of the matters contained therein in any proceedings under the Act.
- Clause 22 makes a minor amendment to section 63B of the Principal Act.
- Clause 23 makes a minor amendment to section 67B of the Principal Act.

