

# **Environment Protection (Resource Recovery) Act 1992**

No. 53/1992

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Victoria

No. 53 of 1992

## **Environment Protection (Resource Recovery) Act 1992**

[Assented to 30 June 1992]

### **Preamble**

It is recognised that the current level of disposal of solid wastes produced by the community should not continue unabated because of serious environmental problems including—

- (a) the wastage of natural resources used in producing the materials being disposed of; and

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- (b) the need to conserve existing and potential landfill air space; and
- (c) the problems and costs incurred in managing suitable landfill sites for the disposal of wastes; and
- (d) the litter problems created by the careless disposal of wastes; and
- (e) the wastage of energy and the production of Greenhouse gases.

It has therefore been resolved to discourage the production of waste and to encourage recycling with a view to reducing by 50% the amount of waste going to landfills by the year 2000 and to develop and implement education programs to advise the community of ways to recycle and minimise wastes.

**The Parliament of Victoria therefore enacts as follows:**

**1. *Purpose***

The purpose of this Act is to generally amend the **Environment Protection Act 1970**, and in particular to create a framework to enable the effective implementation of viable measures to encourage recycling and reduce waste.

**2. *Commencement***

This Act comes into operation on a day or days to be proclaimed.

**3. *Principal Act***

In this Act the **Environment Protection Act 1970** is called the **Principal Act**.

Act No. 8056.  
Reprinted to  
87/1989.  
Subsequently  
amended by  
Nos 66/1990  
and  
92/1990.

**4. Substitution of Part IX**

After Part VIII of the Principal Act insert—

**“PART IX—RESOURCE RECOVERY**

**Division 1—Recycling and Resource Recovery Council**

**49. Creation of Recycling and Resource Recovery Council**

- (1) There is established a body corporate called the Recycling and Resource Recovery Council.
- (2) The Council—
  - (a) has perpetual succession;
  - (b) is capable of acquiring, holding and disposing of property;
  - (c) may sue and be sued in its corporate name;
  - (d) is to have a common seal;
  - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) The common seal of the Council can only be used in a way approved by the Council.
- (4) All courts and people acting judicially must take judicial notice of the seal of the Council.
- (5) The Council does not represent the Crown.

**49A. Functions of Council**

The functions of the Council are—

- (a) to advise on, promote, support and facilitate the reduction, avoidance and recycling of wastes;
- (b) to monitor and report on targets and performance measures for recycling and waste reduction;
- (c) to promote and support programs to reduce litter;
- (d) to support the development and implementation of programs and

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infrastructure to recover resources from waste collected by municipal councils and waste collection agencies;

(e) to support research into waste reduction, waste avoidance and the recycling of wastes;

(f) to support the development of viable markets for recycled products.

**49B. Powers of Council**

The Council may do all things that are necessary or convenient to enable it to perform its functions.

**49C. Members of Council**

- (1) The Council is to have 14 members.
- (2) The executive members are to be appointed by the Governor in Council on the recommendation of the Minister.
- (3) The 14 members of the Council must include—
  - (a) a Chairperson who, in the opinion of the Minister, is independent and has appropriate skills, experience or knowledge;
  - (b) a representative of the Victorian Government chosen by the Minister;
  - (c) 4 municipal councillors chosen by the Minister from lists of at least 3 names submitted by the Municipal Association of Victoria and the Metropolitan Municipal Association;
  - (d) 3 representatives of community, employee, conservation or consumer interests chosen by the Minister;
  - (e) a representative of the recycling industry chosen by the Minister from a list of at

least 3 names submitted by groups invited to do so by the Minister;

(f) 4 representatives of industry chosen by the Minister from lists of at least 3 names submitted by groups invited to do so by the Minister.

(4) An act or decision of the Council is not invalid by reason only of vacancies in the executive membership of members of the Council or of defects in the appointment of the Council.

**49D. *Conditions of appointment of members***

(1) A member of the Council—

(a) is to hold office for 3 years;

(b) is to hold office on the terms and conditions determined by the Governor in Council;

(c) may be re-appointed;

(d) is not, in respect of his or her office as a member, subject to the **Public Service Act 1974**;

(e) may resign from office by delivering a signed letter of resignation to the Governor in Council;

(f) is to be paid, and is to be paid from the Council's funds.

(2) The Governor in Council must remove a member from office if—

(a) the member becomes bankrupt or takes the benefit of any law relating to bankruptcy; or

(b) the member is convicted of an indictable offence or is imprisoned for any offence.

(3) The Governor in Council may remove a member from office at any time.

**49E. *Alternate members***

- (1) The Governor in Council may, on the recommendation of the Minister, appoint a person to act as an alternate to a member (other than the Chairperson).
- (2) With the approval of the Chairperson, an alternate may act in place of the member during any absence of the member.
- (3) The Minister may only recommend that a person be appointed as an alternate for a member if the person is eligible to be appointed as that member.
- (4) Sub-section (3) does not require the Minister to ask for a new list of names unless the Minister does not wish to recommend as an alternate any person on the last list or lists supplied to the Minister.
- (5) An alternate holds office only for so long as the member for whom he or she is the alternate continues in office.
- (6) Section 49D (other than sub-section (1) (a)) applies to alternates as if a reference to a member was a reference to an alternate.

**49F. *Meetings of the members***

- (1) The members of the Council must meet at least 6 times each year.
- (2) A matter cannot be decided at a meeting unless at least 9 members (or their alternates) are present.
- (3) Subject to sub-section (8), the decision on a question of the majority of the members present and voting on the question is the decision of the Council.
- (4) If the Chairperson is not present, the meeting is to be chaired by the Victorian Government's representative.



- (5) If neither the Chairperson nor the representative is present, the meeting is to be chaired by a member elected by the members present at the meeting.
- (6) The person chairing a meeting has both a deliberative vote and a casting vote.
- (7) The Chairperson may put any matter to a postal vote of all the members if not all the members (or their alternates) appear at a meeting at which the matter was to be decided.
- (8) If a matter is validly put to a postal vote and at least 9 members return their votes to the Chairperson in writing within 15 days of the day the voting papers are sent to them, then the decision of the majority of those members is the decision of the Council.
- (9) If a member fails, without the prior consent of the Chairperson, to attend (or to arrange for the member's alternate to attend) 3 consecutive meetings for which he or she received notice, the Governor in Council may revoke the member's appointment.
- (10) The Council may otherwise regulate its own procedure.

**49G. *Pecuniary interests of members***

- (1) A member who has a direct pecuniary interest in a matter being considered, or about to be considered, by the Council must declare that interest to a meeting of the Council as soon as practicable after he or she becomes aware of the relevant facts.
- (2) The person presiding at a meeting at which a declaration is made must ensure that a record of the declaration is made in the minutes of the meeting.

**49I. Staff**

- (1) The Council may appoint employees to assist it to perform its functions.
- (2) The Council is to determine the pay and conditions of employment of its employees, subject to the approval of the Minister.

**49H. Finance Committee**

- (1) There is to be a Finance Committee of the Council consisting of the following members of the Council—
  - (a) the Chairperson;
  - (b) 2 members appointed under section 49C (3) (c);
  - (c) a member appointed under section 49C (3) (d);
  - (d) 2 members appointed under section 49C (3) (f).
- (2) The members of the Finance Committee are to be appointed on an annual basis by the Minister.
- (3) For each member of the Finance Committee other than the Chairperson, the Minister must also appoint an alternate member from the members appointed under the same paragraph of section 49C (3) as the member.
- (4) The member appointed under section 49C (3) (b) is the alternate for the Chairperson on the Finance Committee.
- (5) An alternate member may act in place of the Finance Committee member for whom he or she is the alternate during any absence of that member.
- (6) A matter cannot be decided at a meeting of the Finance Committee unless the Chairperson (or his or her alternate) and at least 3 other members (or their alternates) are present.

- (7) The decision on a question of the majority of the members present and voting on the question is the decision of the Finance Committee.
- (8) The Chairperson (or his or her alternate) has both a deliberative vote and casting vote.
- (9) The Finance Committee may otherwise regulate its own procedure.

**49i. *Financial provisions***

- (1) The Council may only open and operate accounts approved by the Treasurer.
- (2) All money received by the Council must be paid into such accounts.
- (3) No money may be paid out of such accounts without the approval of the Finance Committee.
- (4) The Finance Committee may, in writing, delegate to an employee of the Council (either by name or by reference to the employee's position) the power to approve any expenditure of an administrative nature by the Council other than grants.
- (5) The Council's budget must be approved by the Finance Committee.

**49j. *Finance Committee must advise Minister of the Council's budget***

- (1) Each year on or before 31 May, the Finance Committee must advise the Minister of the Council's proposed budget for the next financial year.
- (2) The Finance Committee must also advise the Minister if the Council departs, or intends to depart, significantly from its budget during the financial year as soon as possible after the Finance Committee becomes aware of, or approves, the departure (as the case may be).

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**49K. Accounts and records**

- (1) The Council must ensure that there are kept proper accounts and records of the transactions and affairs of the Council and such other records as will sufficiently explain its financial operations and position.
- (2) The Council must do all things necessary to do each of the following—
  - (a) ensure that all money payable to it is properly collected;
  - (b) ensure that all money expended by it is properly expended and properly authorized;
  - (c) ensure that adequate control is maintained over assets owned by it, or in its custody;
  - (d) ensure that all liabilities incurred by it are properly authorized;
  - (e) ensure that efficiency and economy of operations are achieved and that waste and extravagance are avoided;
  - (f) develop and maintain an adequate budgeting and accounting system;
  - (g) develop and maintain an adequate internal audit system.

**49L. Annual Report**

- (1) The Council must, in respect of each financial year, prepare an annual report containing—
  - (a) a report of its operations during the financial year; and
  - (b) financial statements for the financial year—and submit the report to the Minister not later than 3 months after the end of the financial year.
- (2) The report of operations must—

- (a) be prepared in a form and contain information determined by the Council to be appropriate; and
  - (b) contain any further information required by the Minister.
- (3) The financial statements must—
  - (a) contain information determined by the Treasurer to be appropriate; and
  - (b) be prepared in a manner and form approved by the Treasurer; and
  - (c) present fairly the results of the financial transactions of the Council during the financial year to which they relate and the financial position of the Council as at the end of that year; and
  - (d) be signed by the principal accounting officer (by whatever name called) of the Council and by the Chairperson and another member who must state—
    - (i) whether, in their opinion, the financial statements present fairly the results of the financial transactions of the Council during the financial year to which they relate and whether they sufficiently explain the financial position of the Council as at the end of the financial year; and
    - (ii) whether, at the date of signing the financial statements, they were aware of any circumstances that render any details included in the statement misleading or inaccurate and, if so, details of the circumstances; and
  - (e) be audited as required by section 49M.
- (4) The Minister must cause each annual report to be laid before each House of Parliament before the expiration of the seventh sitting day of that House after the report is received by the Minister.

- (5) If the Council fails to submit an annual report to the Minister within 3 months after the end of the financial year the Minister must advise each House of Parliament of that failure and the reasons for it, or must cause each House to be so advised.
- (6) This section does not apply to the Council if, because of an Order under the **Annual Reporting Act 1983**, the Council is required to submit an annual report under that Act.

**49M. Audit**

- (1) The financial statements referred to in section 49K must be audited by the Auditor-General.
- (2) The Auditor-General has, in respect of the audit of the financial statements, all the powers conferred on the Auditor-General by any law relating to the audit of the public accounts.
- (3) Without limiting sub-section (2), the Auditor-General and each officer of the Auditor-General—
  - (a) have a right of access at all times to the books of the Council; and
  - (b) may require from an officer or employee of the Council any information, assistance and explanations necessary for the performance of the duties of the Auditor-General in relation to the audit.
- (4) The Council must pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of any audit by the Auditor-General under this section.

**Division 2—Waste Management Council**

**50A. *Creation of the Council***

- (1) On a date specified by the Minister, there is established a body corporate called the Waste Management Council.
- (2) The Minister must not specify a date until he or she has approved the constitution of the Council.
- (3) The Council—
  - (a) has perpetual succession;
  - (b) is capable of acquiring, holding and disposing of property;
  - (c) may sue and be sued in its corporate name;
  - (d) is to have a common seal;
  - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (4) The common seal of the Council can only be used in a way approved by the Board members of the Council.
- (5) All courts and people acting judicially must take judicial notice of the seal of the Council.
- (6) The Council does not represent the Crown.
- (7) The constitution of the Council binds the Council according to its tenor.

**50B. *Constitution of the Council***

- (1) The chairpersons of Groups listed in Schedule C must prepare a draft constitution for the Waste Management Council.
- (2) If the draft constitution has the approval of a majority of the chairpersons, it must be submitted to the Minister for his or her approval.
- (3) The Minister may approve the constitution if he or she is satisfied that it makes adequate provision for—

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- (a) the proceedings of the Council and the Board of the Council;
  - (b) the amendment of the constitution;
  - (c) the election of the Council's Chairperson by all members of the Waste Management Council;
  - (d) the resolution of disputes on waste management issues between members of the Council;
  - (e) the resolution of disputes between the Council and its members;
  - (f) ensuring that the Council can fulfil its functions;
  - (g) the distribution of grants to recycling, waste reduction and waste management projects;
  - (h) the establishment of special purpose committees and reference panels;
  - (i) the reporting of estimates of the Council's proposed expenditure to the members of the Council;
  - (j) the handling of money, the keeping of accounts and the audit of those accounts;
  - (k) the appointment, conditions and remuneration of staff;
  - (l) the use of the Council's corporate seal;
  - (m) the annual reporting of the Council's activities, achievements and accounts after the reports have been approved by the majority of the members of the Council.
- (4) On the date the Minister approves the constitution, all Regional Waste Management Groups and councils listed in Schedule C on that date become bound by the constitution according to its tenor.
- (5) All Regional Waste Management Groups and their member councils added to Schedule C after



that date are also bound by the constitution according to its tenor.

- (6) If a draft constitution has not been submitted for the Minister's approval by 31 December 1992, the Minister may fix a constitution for the Council.
- (7) The Minister must ensure that such a constitution makes adequate provision for the matters set out in sub-section (3).
- (8) The Minister must not fix a constitution unless he or she has first consulted the Regional Waste Management Groups listed in Schedule C.
- (9) The fixing of a constitution by the Minister is to be regarded as if it were the approval of the constitution by the Minister under sub-section (4).

**50c. *Functions and powers of the Council***

- (1) The functions of the Council are—
  - (a) to develop, support and promote waste reduction and recycling programs;
  - (b) to support and encourage the co-ordination of waste collection and to promote conformity of standards for waste management between members of the Council;
  - (c) to encourage municipal councils to—
    - (i) adopt schemes for composting domestic waste, mulching garden waste and recycling rubble;
    - (ii) collect recyclable items wherever practicable;
    - (iii) set performance targets for municipal waste reduction programs;
  - (d) to co-ordinate the activities of members of the Council and to liaise with the

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Recycling and Resource Recovery Council;

- (e) to maintain an overview and ensure consistency between Regional Waste Management Plans;
- (f) to develop emergency procedures, codes of practice and performance indicators on municipal waste management, especially in relation to compliance with appropriate State environment protection policies;
- (g) to mediate on disputes between members of the Council;
- (h) to collect and disseminate information to members of the Council and to consider matters referred to it by any or all of those members;
- (i) to provide a forum for discussion and enquiry into waste management;
- (j) to promote research into waste management, including to develop and maintain a data bank for emerging technology and initiate research and experimentation in consultation with other relevant bodies in areas of municipal waste sorting, transport and disposal;
- (k) to advise on the introduction of new or specialised technologies for waste management and to promote the introduction of such technology where benefits to the community or the environment can be demonstrated;
- (l) to develop and implement a program for the education and training of staff involved in waste management operations;
- (m) to develop community education programs on issues relevant to waste management in consultation with the

Recycling and Resource Recovery Council  
and the Authority;

- (n) to promote research into landfill disposal costs and charges.
- (2) The Council may do all things that are necessary or convenient to enable it to perform its functions.

**50D. *Members of the Council and Board of the Council***

- (1) The Council is to have an initial membership of the Regional Waste Management Groups listed in Schedule C on the date Schedule C came into operation.
- (2) The initial membership of the Board of the Council is to consist of—
  - (a) 2 representatives from each of the initial members of the Council; and
  - (b) a person nominated by the Minister; and
  - (c) a person, who is to be the Council's chairperson, elected in accordance with the Council's constitution; and
  - (d) 1 representative from any new member of the Council.
- (3) Any Regional Waste Management Group added to Schedule C after the date Schedule C came into operation becomes a member of the Council.

**Division 3—Landfill Levy**

**50S. *Landfill levy***

- (1) The holder of a licence in respect of a prescribed schedule two premises must pay to the Authority a levy of—
  - (a) \$2 for each tonne of waste collected at origin and deposited by, or on behalf of, a municipal council;

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(b) \$3 for each tonne of waste deposited by anyone else—

for disposal on to land at the premises.

- (2) The holder must pay the levy on 1 October each year in respect of waste deposited at the premises for disposal on to land between 1 July of the previous year and 30 June of the current year.
- (3) If the levy is not paid when it is due, the Authority may suspend the licence until the levy and any accrued interest is paid.
- (4) Interest is to accrue on any unpaid levy from the date it falls due at the annual rate fixed from time to time under section 2 of the **Penalty Interest Rates Act 1983**.
- (5) The levy does not apply to clean soil, sand or other material used to cover waste.
- (6) After 1 January 1994, the Governor in Council may make regulations once each year increasing the amount of the levy by up to 10%.
- (7) The Governor in Council, on the advice of the Minister after the Minister has considered any submissions made after 1 January 1995 concerning the amount of the levy, may make regulations from time to time reducing the amount of the levy.

**50T. Premises that may be levied**

- (1) Only schedule two premises that are within, or that receive waste from a premises within, a municipal district that is listed in Schedule C or D may be prescribed for the purposes of section 50s.
- (2) The following schedule two premises may not be prescribed for the purposes of section 50s—
  - (a) any privately owned landfill that only receives wastes that consist of substances

- that were owned by the owner of the landfill before they became wastes;
- (b) any landfill that only receives the municipal wastes of an area with a population of less than 5000 people and that is owned by a municipal council.

**50u. *Calculation of levy where weight is not known***

- (1) If the holder of a licence in respect of a schedule two premises is not able to weigh the waste which is deposited for disposal on to land at the premises, the levy is payable on the weight of the waste the holder estimates was deposited for disposal on to land at the premises in any relevant period.
- (2) The holder may only make an estimate using a method of calculation approved by the Authority.

**50v. *Requirement to keep appropriate records***

A person to whom section 50s applies must keep records sufficient to enable the person to calculate the amount of the levy the person is liable to pay under that section.

Penalty: 100 penalty units.

**50w. *Requirement to provide Authority with information concerning levy***

- (1) On or before 1 September each year, each person to whom section 50s applies must give to the Authority, in a form approved by the Authority, a written statement containing—
- (a) details of the amount of waste (in tonnes) that was deposited (or that the person estimates was deposited) at the premises for disposal on to land between 1 July of the previous year and 30 June of the current year;

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- (b) any other information the Authority requires to enable it to determine the amount of the levy the person is liable for under section 50s.

Penalty: 100 penalty units.

- (2) A person must not include any false or misleading information in a written statement made under this section.

Penalty: 200 penalty units.

**50x. Authority may apply to A.A.T. to have estimate increased**

- (1) If the Authority is of the opinion that an estimate on which a levy payment is based is too low, the Authority may apply to the Administrative Appeals Tribunal to have the estimate increased.
- (2) The Authority must lodge the application within 21 days of receiving the written statement containing the estimate under section 50w.
- (3) The Administrative Appeals Tribunal may increase an estimate if it is of the opinion that the estimate is too low.
- (4) If the Tribunal increases an estimate, the person who is liable to pay the levy must pay any additional levy that becomes payable as a result of the increase within 30 days of receiving notice of the Tribunal's decision.

**50y. Prepayment of levy**

- (1) The Authority may enter into an agreement with any person who is, or will be, liable to pay a levy under section 50s under which the person agrees to pay some or all of the levy before the date the levy becomes payable under section 50s.
- (2) Despite section 50s, if a person enters such an agreement and prepays some or all of the levy, the person is only liable to pay the levy on the

wastes in respect of which the prepayment has been made at the rate specified in the agreement.

- (3) The agreement may specify a rate up to 10% less than the relevant rate specified in section 50s.

#### **Division 4—Industry Waste Reduction Agreements**

##### **51. *Application of this Division***

- (1) This Division applies to any person or industry that creates, manages or disposes of or first sells items in Victoria that could result in wastes being deposited in Victoria.
- (2) For the purposes of this Division, if a person is a body corporate, a reference to that person includes a reference to any subsidiary of that person within the meaning of the Corporations Law.
- (3) In this Division a reference to an industry may be read as a reference to a sector of an industry.

##### **51A. *Industry waste reduction agreements***

- (1) The Authority may enter into an industry waste reduction agreement with any person or with any association representing an industry.
- (2) Such an agreement must, in accordance with the regulations—
  - (a) identify the solid wastes that are likely to arise as a result of the activities of the person or industry; and
  - (b) set out what steps the person or industry will take to do all or any of the following—
    - (i) to reduce those wastes or to keep those wastes to a minimum; or
    - (ii) to recover, recycle or re-use those wastes; or
    - (iii) to reduce litter; or

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- (iv) to safely dispose of the wastes that cannot be recovered, recycled or re-used; and
  - (c) specify targets to be achieved by the person or industry with respect to those steps; and
  - (d) provide an economic assessment of the market for the wastes that can be recovered (if applicable); and
  - (e) set out the steps that the person or association proposes to take to ensure a stable and viable collection system for those wastes in the light of the assessment made under paragraph (d) (if applicable); and
  - (f) provide for the person or association to give the Authority and the Recycling and Resource Recovery Council a report every 6 months on the progress made with respect to the implementation of the agreement; and
  - (g) specify the period or periods for which it is to be in force.
- (3) The agreement may provide for any other incidental matter.

**51B. *Criteria to be satisfied before Authority may enter agreement***

The Authority must enter into an industry waste reduction agreement with any person, or with any association representing an industry, to whom this Division applies who has submitted a draft industry waste reduction agreement which deals with the matters listed in section 51A (2) after the Authority—

- (a) has consulted the Recycling and Resource Recovery Council with regard to the agreement and any targets and



performance measures in the agreement;  
and

- (b) is satisfied that the agreement is generally consistent with any national strategy or industry plan that has been endorsed by that Council.

**51C. *Monitoring by the Authority***

- (1) The Authority must monitor industry waste reduction agreements.
- (2) The monitoring must take into account the environmental, economic, commercial and social issues involved in the agreement and must seek, and take into account, the views of the public generally, local government and industry.
- (3) The Authority must keep a record of products or materials for which there are no industry waste reduction agreements.

**51D. *Amendments to agreements***

The Authority must agree to amend an industry waste reduction agreement at any time if—

- (a) it is of the opinion that the amended agreement would satisfy section 51B were it a new agreement; and
- (b) it has consulted the Recycling and Resource Recovery Council with regard to the amendment; and
- (c) the amendment does not deal with a matter that is subject to a notice under section 51F.

**51E. *Authority may require a person to enter agreement***

- (1) The Authority may require any person or industry to whom this Division applies and who is not a party to an industry waste reduction agreement to submit to the Authority a draft

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industry waste reduction agreement that complies with section 51A (2).

- (2) Notice of the requirement must be in writing and must specify the date by which the draft agreement must be submitted.
- (3) The date specified must be at least 6 months after the date of the notice.
- (4) The Authority may withdraw the notice at any time.
- (5) A person who fails to comply with a requirement under this section is guilty of an offence.

Penalty: 100 penalty units.

**51F. Notice of breach of agreement**

- (1) If at any time the Authority, acting reasonably, believes a person or an industry is in breach of an industry waste reduction agreement, the Authority may give the person, or the association representing the industry, a notice of breach.
- (2) The notice must—
  - (a) be in writing; and
  - (b) specify the breach; and
  - (c) specify the date by which the Authority requires the breach to be rectified.
- (3) The date specified must be at least 3 months after the date of the notice.
- (4) A person to whom a notice is given under this section must rectify the breach in accordance with the requirement in the notice.

Penalty: 100 penalty units.

**51G. Reports to Parliament**

- (1) The Authority may, from time to time, submit to the Minister—

- (a) a report on industry waste reduction agreements;
  - (b) a report identifying any person or industry to whom this Division applies and who is not a party to an industry waste reduction agreement;
  - (c) a report identifying any person or industry who has failed to submit a draft industry waste reduction agreement under section 51E;
  - (d) a report identifying any person or industry who has failed to provide a satisfactory explanation for any variation of performance from that set out in their industry waste reduction agreement.
- (2) Amongst other matters, any such report must—
- (a) include an economic assessment of the market for the wastes that can be recovered by the person or industry (if relevant); and
  - (b) take into account relevant environmental, economic, commercial and social issues.
- (3) The Minister must cause any such report to be laid before each House of Parliament before the end of the seventh sitting day of that House after the report is received by the Minister.
- (4) The Authority must not name any person, or any association representing an industry, in a report under sub-section (1) (b), (c) or (d) unless, at least 28 days before the report is submitted to the Minister, it has given that person or association a notice in writing advising that it intends to take that action.
- (5) The notice must also specify the reasons why the Authority intends to name the person or association.

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**Division 5—Amendment of Schedules B, C and D**

**51R. Governor in Council may amend Schedules C and D**

- (1) The Governor in Council, on the recommendation of the Authority, may by Order published in the Government Gazette, add, delete or amend an item in Schedule C or D.
- (2) The Authority may only recommend that a regional waste management group be added to Schedule C or D if it is satisfied—
  - (a) that the group is a corporation formed under section 193 or 196 of the Local Government Act 1989; and
  - (b) that the constitution of the group includes the objective of waste reduction.
- (3) In adding a regional waste management group to Schedule C or D, the Order must specify the name of the group and list the names of the municipal districts of the councils that are members of the group.
- (4) The names of individual municipal districts may be listed on their own in Schedule D.
- (5) The names of municipal districts that are not members of a regional waste management group may also be listed in Schedule D in a geographical grouping.

**Division 6—Guidelines and Codes of Practice**

**52. Authority may establish container collection guidelines etc.**

The Recycling and Resource Recovery Council, after consultation with the Authority and the Waste Management Council and with the relevant regional waste management groups and industry groups, may publish guidelines and codes of

practice for the collection of recyclable containers, packaging and materials.

**Division 7—Resource Recovery Fund**

**52A. *Resource Recovery Fund***

- (1) The Authority must keep a fund called the Resource Recovery Fund.
- (2) The Authority must ensure that all money received by it, or on its behalf, under this Part is paid into the Fund.
- (3) The Authority may pay money out of the Fund to refund any money paid into the Fund as a result of a miscalculation or other error.

**52B. *Authority's costs to come out of Fund***

- (1) The Authority may draw out of the Fund an amount specified by the Minister to cover the costs incurred by it under this Part.
- (2) The Minister must not specify an amount in respect of costs in any period in excess of 10% of the money paid into the Fund in that period.
- (3) For the purposes of this Part, it must be assumed that any deduction for costs made from an amount under this section applies to that amount uniformly.

**52C. *How landfill levy to be distributed***

- (1) The Authority must pay out of the Fund the money received by it under section 50s (less any amount transferred under section 52b) and must pay the money in the following manner—
  - (a) in respect of the levy received on a tonne of waste deposited by or on behalf of a municipal council that is listed in Schedule C or D it must pay—

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- (i) 45% of the levy received to—
    - (A) the Regional Waste Management Group (if any) of which that council is a member, if that council is listed in Schedule D; or
    - (B) to a nominated representative municipal council, if that council is listed as a member of a geographical grouping in Schedule D and the councils in that grouping have nominated a council to act as their representative to receive payments made under this section; or
    - (C) to the Waste Management Council, if that council is listed in Schedule C or is not a member of any Regional Management Group or geographical grouping that has nominated a representative under sub-sub-paragraph (B); and
  - (ii) 45% of the levy received to the Recycling and Resource Recovery Council;
- (b) in respect of the levy received on a tonne of waste deposited by anyone else, it must pay—
- (i) 60% of the levy received to—
    - (A) the Regional Waste Management Group (if any) of which the municipal council responsible for the municipal district in which the premises where the waste was deposited is located is a member, if that council is listed in Schedule D; or

- (B) to a nominated representative municipal council, if that council is listed as a member of a geographical grouping in Schedule D and the councils in that grouping have nominated a council to act as their representative to receive payments made under this section; or
  - (C) to the Waste Management Council, if that council is listed in Schedule C or is not a member of any Regional Management Group or geographical grouping that has nominated a representative under sub-sub-paragraph (B); and
- (ii) 30% of the levy received to the Recycling and Resource Recovery Council;
- (c) in respect of any money remaining, it must pay the money to the Recycling and Resource Recovery Council.
- (2) In paying the Recycling and Resource Recovery Council any amount under this section, the Authority must advise the Council of what proportion of the amount was received from premises in metropolitan districts and what proportion of the amount was received from premises in non-metropolitan districts.
  - (3) The Authority must comply with sub-section (1) not more than 60 days after receiving any money under section 50s.

**52D: *How all other money to be distributed***

Subject to sections 52B and 52C, the Authority must pay out of the Fund to the Recycling and

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Resource Recovery Council all other money  
received by it under this Part.

**52E. *Restrictions on how money received from landfill  
levy to be spent***

In expending money paid to it under section 52C, the Recycling and Resource Recovery Council must ensure—

- (a) that the money is only applied towards the benefit of municipal districts listed in Schedules C and D; and
- (b) that over any 3 year period, the proportion of that money that it applies towards the waste management activities of municipal councils and waste collection agencies in non-metropolitan districts is at least equal to the proportion of that money that was paid by premises in non-metropolitan districts over the same period.”.

**5. *Definitions***

In section 4 (1) of the Principal Act, after the definition of “licence” insert—

“metropolitan districts” are the municipal districts listed in Schedule C on the date section 9 of the **Environment Protection (Resource Recovery) Act 1992** came into operation;”.

**6. *Widening of scope of waste management policy***

(1) After section 16 (1A) of the Principal Act insert—

“(1B) The Governor in Council may, by Order, declare State environment protection policy with respect to the removal, disposal or reduction of litter in the environment.”.

(2) Section 49 of the Principal Act is repealed.



**7. Substitution of section 60**

For section 60 of the Principal Act substitute—

**“60. Disclosure of information an offence**

- (1) A person must not disclose any trade secret, or information about another person’s method of operation, manufacturing process, profits or financial position, or any other commercially sensitive information, obtained during the course of the person’s duties under this Act.

Penalty: 200 penalty units or imprisonment for 2 years or both.

- (2) A person must not use any such information or trade secret to obtain directly or indirectly any pecuniary or other advantage for himself or herself or for any other person.

Penalty: 200 penalty units or imprisonment for 2 years or both.

- (3) However, the person may disclose or use such information if—

(a) the disclosure or use is made in the performance of a duty under, or in connection with, this Act; or

(b) the person has the consent of the person entitled to the trade secret or to whom the information relates; or

(c) the disclosure or use is made in legal proceedings at the direction of a court; or

(d) the information is in the public domain at the time it is disclosed or used.

- (4) For the purpose of removing any doubt, this section applies to any person who is a member of, or is employed by, the Waste Management Council.”.

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**8. Addition to regulation making powers**

After section 71 (1) (ba) of the Principal Act insert—

“(bb) prescribing schedule two premises for the purposes of section 50s;”.

**9. Insertion of Schedules C and D**

In the Schedule to the Principal Act—

(a) for “SCHEDULE” substitute “SCHEDULE A”;

(b) after the Schedule insert—

**“SCHEDULE C**

**MEMBERS OF THE WASTE MANAGEMENT COUNCIL**

**Eastern Regional Waste Management Group**

Member Councils:

Berwick	Knox	Ringwood
Croydon	Lillydale	Sherbrooke
Dandenong	Nunawading	Upper Yarra
Healesville	Pakenham	

**Northern Regional Waste Management Group**

Member Councils:

Broadmeadows	Eltham	Northcote
Bulla	Fitzroy	Preston
Brunswick	Heidelberg	Whittlesea
Coburg	Kew	
Collingwood		
Diamond Valley		
Doncaster & Templestowe		

**South Eastern Regional Waste Management Group**

Member Councils:

Box Hill	Hawthorn	St Kilda
Brighton	Malvern	Sandringham
Camberwell	Moorabbin	Springvale
Caulfield	Mordialloc	Waverley
Chelsea	Mornington	
Cranbourne	Oakleigh	
Frankston	Prahran	

**Western Regional Waste Management Group**

Member Councils:

Altona	Melbourne	South Melbourne
Essendon	Melton	Sunshine
Footscray	Port Melbourne	Werribee
Keilor	Richmond	Williamstown

**SCHEDULE D**

**COUNCILS THAT ARE NOT MEMBERS OF THE WASTE  
MANAGEMENT COUNCIL BUT THAT ARE LIABLE TO PAY THE  
LANDFILL LEVY**

**Bendigo Regional Waste Management Group**

**Member Councils:**

Bendigo	Marong
Eaglehawk	Strathfieldsaye
Huntly	

**Councils in the Ballarat area**

Ballaarat	Buninyong
Ballarat	Sebastopol
Bungaree	Grenville

**Councils in the Geelong area**

Bannockburn	Corio	Newtown
Barrabool	Geelong	Queenscliffe
Bellarine	Geelong West	South Barwon".

**10. Statute Law Revision**

Section 13 (2) of the **Environment Protection (Fees and Penalties) Act 1990** is deemed to have come into operation on 5 December 1989.

**11. Transitional provision—landfill levy**

Despite section 50s (2) of the Principal Act (as inserted by section 4), the holder of a licence in respect of a schedule two premises is only liable to pay the levy imposed by section 50s in respect of waste deposited at the premises on or after 1 October 1992.

**12. Transitional provision—Regional Refuse Disposal Groups**

For the purposes of Part IX and Schedules C and D of the Principal Act (as inserted by sections 4 and 9), a reference to a Regional Waste Management Group is to be treated as a reference to a Regional Refuse Disposal Group.

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NOTES

1. *Minister's second reading speech—*  
*Legislative Assembly: 23 October 1991*  
*Legislative Council: 14 November 1991*
2. The long title for the Bill for this Act was "A Bill to amend the **Environment Protection Act 1970** and for other purposes."
3. Section headings appear in bold italics and are not part of the Act. (See **Interpretation of Legislation Act 1984**.)