Environment Protection (Amendment) Act 2006  
Act No. 61/2006

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No. 61 of 2006

Environment Protection (Amendment) Act 2006

[Assented to 29 August 2006]

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purpose

The purpose of this Act is to amend the Environment Protection Act 1970 to—

(a) reform the provisions relating to scheduled premises to improve the effectiveness and efficiency of the licensing system;
(b) provide for Environment and Resource Efficiency Plans to facilitate environmental resource use efficiency;

(c) establish the Metropolitan Waste Management Group for the area of metropolitan Melbourne and provide for the creation of the Metropolitan Waste and Resource Recovery Strategic Plan;

(d) provide for the regulation of the provision of plastic bags;

(e) reform the prescribed industrial waste landfill levy;

(f) provide for enforceable undertakings;

(g) improve the operation of the Act.

2. Commencement

(1) This Act, other than Parts 2 and 4 and section 54, comes into operation on the day after the day on which this Act receives the Royal Assent.

(2) Part 2 comes into operation on 1 July 2007.

(3) Part 4 and section 54 come into operation on a day or days to be proclaimed.

(4) If a provision of Part 4 or section 54 does not come into operation before 31 December 2007, it comes into operation on that day.
PART 2—SCHEDULED PREMISES

3. Amendment of section 4—Definitions

In section 4(1) of the Environment Protection Act 1970—

(a) for the definition of "accredited licensee" substitute—

"accreditation" means accreditation granted under section 26B;'

(b) insert the following definition—

"scheduled premises" means any premises—

(a) prescribed by regulation; or

(b) which is of a class prescribed by regulation as premises at or from which—

(i) waste is, or is likely to be, discharged, emitted or deposited to the environment; or

(ii) noise is, or is likely to be, emitted; or

(iii) waste is, or substances which are a danger or potential danger to the quality of the environment or any segment of the environment are, reprocessed, treated, stored, contained, disposed of or handled; or
(iv) any activity is conducted which creates a state of potential danger to the quality of the environment or any segment of the environment;

(c) the definitions of "schedule one premises", "schedule two premises", "schedule three premises", "schedule four premises", "schedule five premises" and "schedule six premises" are **repealed**.

4. **Sections 13 and 16A consequentially amended**

   (1) In section 13(1) of the **Environment Protection Act 1970**—

   (a) in paragraph (d)—

   (i) after "section 28B," **insert** "to control the environmental impacts of activities which create a state of potential danger to the environment and";

   (ii) for "of danger" **substitute** "a danger";

   (iii) for "treatment, transport and disposal of industrial waste" **substitute** "reprocessing, treatment, transport, containment and disposal of waste";

   (b) in paragraph (n) for "treating, or disposing" **substitute** "storing, reprocessing, treating, containing or disposing".

   (2) In section 16A(1) of the **Environment Protection Act 1970** for "treatment, transport and" **substitute** "reprocessing, treatment, transport, containment and".
5. **Section 19A substituted—Scheduled premises**

For section 19A of the [Environment Protection Act 1970](https://example.com) substitute—

"**19A. Scheduled premises**

(1) The occupier of a scheduled premises must not do any act or thing, including the commencement of any construction, installation or modification of plant, equipment or process or any subsequent step in relation thereto, which is likely to cause—

(a) an increase or alteration in the waste discharged or emitted from, deposited to, or produced at, the premises; or

(b) an increase or alteration in the waste which is, or substances which are a danger or potential danger to the quality of the environment or any segment of the environment which are, reprocessed, treated, stored, contained, disposed of or handled, at the premises; or

(c) a change in any method or equipment used at the premises for the reprocessing, treatment, storage, containment, disposal or handling of waste, or of substances which are a danger or potential danger to the quality of the environment or any segment of the environment; or

(d) a significant increase in the emission of noise; or
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(e) a state of potential danger to the quality of the environment or any segment of the environment—

except in accordance with a works approval or a licence or a requirement specified in a notice given by the Authority as the case may be unless the act or thing is only in the course of and for the purpose of general maintenance.

(2) The occupier of a scheduled premises must not construct, relocate or reduce the height of any chimney through which waste is, or may be, discharged or emitted to the atmosphere or carry out any work which is the commencement of or any subsequent step in relation thereto, except in accordance with a works approval or a licence or a requirement specified in a notice given by the Authority as the case may be unless the work is only in the course of and for the purpose of general maintenance.

(3) The occupier of any premises must not do any act or thing in relation to those premises that would make those premises a scheduled premises except in accordance with a works approval, a research, development and demonstration approval or a notice issued by the Authority.

(4) The Authority may by notice in writing upon the application of the occupier of a scheduled premises in respect of which a licence is in force under this Act exempt the occupier from compliance with sub-section (1)(a) if the Authority is satisfied that the exemption will not result in a discharge, emission or deposit of waste which by reason of volume, location, constituency or manner—
(a) affects adversely the quality of any segment of the environment; or
(b) affects adversely the interests of any person other than the applicant.

(5) The Authority may by notice in writing upon the application of the occupier of a scheduled premises in respect of which a licence is in force under this Act exempt the occupier from compliance with sub-section (1)(b) or (1)(c) if the Authority is satisfied that the exemption will not result in the reprocessing, treatment, storage, containment, disposal or handling of—

(a) prescribed industrial waste; or
(b) substances which are a danger or a potential danger to the quality of the environment or any segment of the environment—

which by reason of volume, location, constituency or manner is or are likely to cause an environmental hazard or affect adversely the interests of any person other than the applicant.

(6) The Authority may by notice in writing upon the application of the occupier of a scheduled premises in respect of which a licence is in force under this Act exempt the occupier from compliance with sub-section (1)(d) if the Authority is satisfied that the exemption will not result in an emission of noise which by reason of volume, intensity, duration or location—

(a) affects adversely the quality of any segment of the environment; or
(b) affects adversely the interests of any person other than the applicant.
(7) An exemption given under sub-section (4), (5) or (6)—

(a) may be general or limited in operation according to time or any other circumstances; and

(b) may be revoked or amended by a written notice given by the Authority.

(8) Subject to sub-sections (4), (5) and (6), the occupier of any scheduled premises in respect of which there is not applicable an exemption under the regulations who contravenes sub-section (1), (2) or (3) is guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units.

(9) A works approval, licence, requirement specified in a notice given by the Authority or an exemption in force before the commencement of section 5 of the Environment Protection (Amendment) Act 2006 continues to have the same force and effect as it would have had if that section had not come into operation.”.

6. Amendment of section 19C—Power of Authority to amend works approval

(1) In section 19C(2) of the Environment Protection Act 1970 for "(other than a works approval required by section 19A(3A))" substitute "other than a works approval issued in respect of a scheduled premises used for the reprocessing, treatment, storage, containment, disposal or handling of prescribed industrial waste, or of substances which are a danger or potential danger to the quality of the environment or any segment of the environment".
(2) For section 19C(3) of the Environment Protection Act 1970 substitute—

"(3) The Authority may only amend a works approval issued in respect of a scheduled premises used for the reprocessing, treatment, storage, containment, disposal or handling of prescribed industrial waste, or of substances which are a danger or potential danger to the quality of the environment or any segment of the environment under subsection (1) if the Authority is satisfied that the amendment will not result in the reprocessing, treatment, storage, containment, disposal or handling of prescribed industrial waste, or of substances which are a danger or potential danger to the quality of the environment or any segment of the environment, which by reason of volume, location, constituency or manner—

(a) is or are likely to cause an environmental hazard; or

(b) affect adversely to a substantial degree the interests of any person other than the holder of the works approval.

(4) An amendment of a works approval made before the commencement of section 6 of the Environment Protection (Amendment) Act 2006 continues to have the same force and effect as it would have had if that section had not come into operation."
7. Amendment of section 19D—Application for research, development and demonstration approval

(1) In section 19D(1) of the Environment Protection Act 1970, for paragraphs (a) and (b) substitute—
"(a) is a scheduled premises; or

(b) would become a scheduled premises if works were carried out—".

(2) After section 19D(4) of the Environment Protection Act 1970 insert—
"(5) A research, development and demonstration approval in force before the commencement of section 7 of the Environment Protection (Amendment) Act 2006 continues to have the same force and effect as it would have had if that section had not come into operation.".

8. Amendment of section 20—Licensing of certain premises

(1) For sections 20(1), 20(2), 20(3A) and 20(3B) of the Environment Protection Act 1970 substitute—
"(1) The occupier of a scheduled premises must not undertake at those premises—

(a) the discharge, emission or deposit of waste to the environment; or

(b) the reprocessing, treatment, storage, containment, disposal or handling of waste; or

(c) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or potential danger to the quality of the environment or any segment of the environment; or
(d) an activity which creates a state of potential danger to the quality of the environment or any segment of the environment—

unless licensed to do so under this Act.”.

(2) In section 20(8B) of the Environment Protection Act 1970 for "works approval" substitute "licence".

(3) In section 20(9) of the Environment Protection Act 1970—

(a) in paragraph (a) after "suspend the licence" insert "as it relates to a scheduled premises";

(b) for paragraph (a)(iv) substitute—

"(iv) the licence holder has ceased to—

(A) discharge, emit or deposit any waste to the environment; or

(B) use the premises for the reprocessing, treatment, storage, containment, disposal or handling of waste; or

(C) use the premises for the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment; or

(D) undertake any activity which creates a state of potential danger to the quality of the environment or any segment of the environment;".
(4) After section 20(11) of the Environment Protection Act 1970 insert—

"(11A) If a licence holder holds 2 or more licences under this section, the Authority may on the application of the licence holder—

(a) amalgamate the licences into one licence; and

(b) revoke the original licences.".

(5) In section 20(12) of the Environment Protection Act 1970 for "each" substitute "the amalgamated".

9. Amendment of section 20A—Amendment of licence

(1) In section 20A(1) of the Environment Protection Act 1970—

(a) for "to the licence." substitute "to the licence; or";

(b) after paragraph (b) insert—

"(c) the addition of a scheduled premises.".

(2) In section 20A(8) of the Environment Protection Act 1970—

(a) for "issued a works approval" substitute "made an amendment to a licence";

(b) for "issue" (where twice occurring) substitute "amendment".

10. Amendment of section 20C—Consideration of policy

In section 20C(1) of the Environment Protection Act 1970, in the definition of "authorisation" after paragraph (b) insert—

"(ba) an accreditation.".
11. Amendment of section 21—Special conditions

In section 21(1) of the Environment Protection Act 1970—

(a) for "the occupier of the premises in respect of which the works approval or licence relates complying" substitute "compliance, by the occupier of the premises in respect of which the works approval or licence relates";

(b) for paragraph (ba)(i) substitute—

"(i) a scheduled premises prescribed as a scheduled premises requiring a financial assurance; or";

(c) in paragraph (ba)(ii) for "on which" substitute "at which";

(d) in paragraph (e) for "or disposed of on" substitute ", contained, disposed of or handled at".

12. Amendment of section 23A—Surrender of licence

At the end of section 23A of the Environment Protection Act 1970 insert—

"(2) The holder of a licence which applies in respect of more than one scheduled premises may apply in writing to the Authority to be permitted to surrender that part of the licence which relates to the scheduled premises the subject of the application.

(3) If the Authority accepts an application under sub-section (2), the licence ceases to apply to the scheduled premises the subject of the application.".
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13. Amendment of section 24—Fees in respect of licences and works approvals

(1) For sections 24(2) and 24(2A) of the Environment Protection Act 1970 substitute—

"(2) The licence fee prescribed in respect of each licensed scheduled premises must not exceed 42 000 fee units with respect to each element of the environment being the atmosphere, land or waters to which waste is licensed to be discharged, emitted or deposited.

(2A) The licence fee prescribed in respect of a scheduled premises must not exceed 42 000 fee units with respect to each licensed scheduled premises used to reprocess, treat, store, contain, dispose of or handle waste, or substances which are a danger or potential danger to the quality of the environment or any segment of the environment."

(2) For section 24(6) of the Environment Protection Act 1970 substitute—

"(6) If a licence is—

(a) surrendered, or in the case of a licence amalgamated under section 20(11A), partly surrendered; or

(b) revoked, or in the case of a licence amalgamated under section 20(11A), partly revoked, as the result of an exemption by the regulations—

the person who held the licence is, from money lawfully available for the purpose, to be refunded a sum of money calculated from the day the Authority accepted the surrender or the revocation took effect at the rate of one-twelfth of the last annual fee paid in respect of the licence for each remaining whole month of the period in respect of
which the fee was paid but no refund is payable if the sum calculated in accordance with this sub-section is less than one-twelfth of the last annual fee paid.”.

14. Amendment of section 24A—Environment protection levy

(1) For section 24A(1) of the Environment Protection Act 1970 substitute—

"(1) Subject to and in accordance with this section, there is to be charged, levied and collected by the Authority a levy at the rate of 3 per cent of the licence fee payable under section 24 in respect of any scheduled premises prescribed as a scheduled premises in respect of which the levy is required to be paid.”.

(2) In sections 24A(3) and 24A(4) of the Environment Protection Act 1970 before "premises" (wherever occurring) insert "scheduled".

(3) In section 24A(4) of the Environment Protection Act 1970 after "suspend the licence" insert "or the application of the licence to the extent that it applies to those premises".

15. Amendment of section 25—Transfer of works approvals or licences

(1) In section 25(2) of the Environment Protection Act 1970—

(a) in paragraph (b) for "appropriate." substitute "appropriate; or";

(b) after paragraph (b) insert—

"(c) refuse to transfer and issue a new licence in respect of a scheduled premises currently included in a licence amalgamated under section 20(11A); or
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(d) transfer and issue a new licence in respect of a scheduled premises currently included in a licence amalgamated under section 20(11A) subject to any conditions that the Authority considers appropriate.

(2) For sections 25(3) and 25(4) of the Environment Protection Act 1970 substitute—

"(3) If a person who becomes the occupier of any premises in respect of which a licence is in force complies with the conditions of the licence previously in force and within 30 days of becoming the occupier of the premises applies under sub-section (1) for the transfer of the licence or applies for the issue of a new licence, the person is not liable to any penalty under this Act for—

(a) the discharge, emission or deposit of waste to the environment; or

(b) the reprocessing, treatment, storage, containment, disposal or handling of waste; or

(c) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment; or

(d) any activity which creates a state of potential danger to the quality of the environment or any segment of the environment—

without a licence."
(4) If the Authority refuses to transfer a licence or issue a new licence to a person to whom sub-section (3) applies, the person must within 10 days of receiving notice of that refusal cease—

(a) the discharge, emission or deposit of waste to the environment; or

(b) the reprocessing, treatment, storage, containment, disposal or handling of waste; or

(c) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment; or

(d) any activity which creates a state of potential danger to the quality of the environment or any segment of the environment."

16. Amendment of Part III Division 4 heading

In the heading to Division 4 of Part III of the Environment Protection Act 1970 for "Accredited Licences" substitute "Accreditation".

17. Amendment of section 26A—Application for accreditation

For section 26A(1) of the Environment Protection Act 1970 substitute—

"(1) The holder of a licence may apply to the Authority for the accreditation of a licence as it relates to a particular scheduled premises.".
18. **Amendment of section 26B—Grant of accreditation**

(1) In sections 26B(1)(a) and 26B(1)(b) of the **Environment Protection Act 1970** for "occupied by the licence holder" substitute "which is the subject of the application".

(2) In section 26B(3) of the **Environment Protection Act 1970** for "accredited licensee" substitute "licence holder".

19. **Sections 26D and 26E substituted**

For sections 26D and 26E of the **Environment Protection Act 1970** substitute—

'26D. Administrative arrangements'

(1) A licence holder is entitled to pay a reduced licence fee calculated in accordance with the regulations in respect of an accreditation.

(2) Notwithstanding anything to the contrary in this Act, a licence holder may undertake works at a premises to which an accreditation relates and which is occupied by the licence holder without obtaining a works approval or a research, development and demonstration approval as otherwise required by this Act unless the works—

(a) are significant works; or

(b) would result in an increase in the type, amount or concentration of waste above that permitted to be discharged, emitted, deposited, reprocessed, treated, stored, contained, disposed of or handled under the licence or in a breach of any condition to which the licence is subject.
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(3) For the purposes of sub-section (2), "significant works" means works which—

(a) would substantially change the nature of the process being conducted at the premises to which an accreditation relates; or

(b) would result in a major change in the type, amount or concentration of discharges; or

(c) would require a works approval under section 19A(1)(d).

26E. Review of accreditation

(1) The Authority must review an accreditation within 5 years of the grant of accreditation or the last review of accreditation.

(2) The Authority may at any time review an accreditation if the Authority is not satisfied that the licence holder meets the requirements of section 26B.

(3) The Authority must give the licence holder notice of a review under this section.

(4) The licence holder must satisfy the Authority that the requirements of section 26B are met.

(5) If the Authority is not satisfied, the Authority must cancel the accreditation.'.

20. Amendment of section 27—Offences

For sections 27(1) and 27(1A) of the Environment Protection Act 1970 substitute—

"(1) A person who is the occupier of a scheduled premises at or from which waste is discharged, emitted or deposited to the environment—
(a) without a licence where a licence is required by this Act; or

(b) while the licence is suspended—

is guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after conviction or after service by the Authority on the defendant of notice of contravention of this section.

(1A) A person who is the occupier of a scheduled premises at which waste is, or substances which are a danger or potential danger to the quality of the environment or any segment of the environment are, reprocessed, treated, stored, contained, disposed of or handled—

(a) without a licence where a licence is required by this Act; or

(b) while the licence is suspended—

is guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after conviction or after service by the Authority on the defendant of notice of contravention of this section.

(1B) A person who is the occupier of a scheduled premises and undertakes an activity which creates a state of potential danger to the quality of the environment or any segment of the environment—
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(a) without a licence where a licence is required by this Act; or

(b) while the licence is suspended—
is guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after conviction or after service by the Authority on the defendant of notice of contravention of this section."

21. Amendment of section 30—Liability of licence holder

For sections 30(2) and 30(3) of the Environment Protection Act 1970 substitute—

"(2) A licence holder is not liable to a penalty under this Act with respect to the reprocessing, treatment, storage, containment, disposal or handling of waste if the licence holder proves that the licence holder—

(a) complied with the conditions to which the licence is subject with respect to reprocessing, treatment, storage, containment, disposal and handling; and

(b) complied with any requirement contained in a notice served under section 31A or 31B; and

(c) did not discharge or emit odours which are offensive to the senses of human beings in a residential area or in a public open space adjacent to a residential area."
(2A) A licence holder is not liable to a penalty under this Act with respect to the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or potential danger to the quality of the environment or any segment of the environment if the licence holder proves that the licence holder—

(a) complied with the conditions to which the licence is subject with respect to reprocessing, treatment, storage, containment, disposal and handling; and

(b) complied with any requirement contained in a notice served under section 31A or 31B; and

(c) did not discharge or emit odours which are offensive to the senses of human beings in a residential area or in a public open space adjacent to a residential area.

(2B) A licence holder is not liable to a penalty under this Act with respect to an activity which creates a state of potential danger to the quality of the environment or any segment of the environment if the licence holder proves that the licence holder—

(a) complied with the conditions to which the licence is subject with respect to that activity; and

(b) complied with any requirement contained in a notice served under section 31A or 31B; and
(c) did not discharge or emit odours which are offensive to the senses of human beings in a residential area or in a public open space adjacent to a residential area.

(3) If a licence holder intends to prove any of the matters in sub-section (1), (2), (2A) or (2B), the licence holder must within 21 days of the day on which the information alleging the offence is served on that person cause to be served on the informant a written statement specifying—

(a) any details, documents or other information upon which the licence holder intends to rely to establish those matters during the relevant period; and

(b) details in respect of the relevant period of—

(i) the discharge, emission or deposit of waste to the environment; or

(ii) the reprocessing, treatment, storage, containment, disposal or handling of waste; or

(iii) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment; or

(iv) any activity which creates a state of potential danger to the quality of the environment or any segment of the environment; and
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(c) details of documents relating to the matters specified in paragraphs (a) and (b).

22. Consequential amendment of sections 31A and 31C

(1) In section 31A of the Environment Protection Act 1970—

(a) for sub-section (2A)(a) substitute—

"(a) a scheduled premises prescribed as a scheduled premises requiring a financial assurance; or";

(b) in sub-section (2B) for "is a schedule 3 premises" substitute "emits noise";

(c) in sub-section (2B) for "the premises" substitute "the noise emitted from that premises".

(2) In section 31C(4) of the Environment Protection Act 1970 for "schedule one premises, schedule two premises, schedule three premises, schedule four premises or schedule five premises" substitute "scheduled premises".

23. New section 31D inserted—Annual performance statement

After section 31C of the Environment Protection Act 1970 insert—

"31D. Annual performance statement

(1) A licence holder must submit a statement in the form approved by the Authority to the Authority.

(2) A statement under this section must be submitted by the date specified in the licence under which the statement is required."
(3) A statement under this section must—
   (a) include an analysis of performance against the provisions of the licence for the previous calendar year;
   (b) be accompanied by any other information required under the licence;
   (c) be signed by the licence holder or, with the approval of the Authority, a delegate of the licence holder.

(4) A licence holder who fails to comply with sub-section (1), (2) or (3) is guilty of an offence.
   Penalty: 600 penalty units.

(5) A licence holder must not in a statement under this section—
   (a) give false or misleading information to the Authority; or
   (b) include information in the statement which is false or misleading; or
   (c) conceal any relevant information or document from the Authority.

(6) A licence holder who contravenes sub-section (5) is guilty of an indictable offence.
   Penalty: 2400 penalty units or imprisonment for 2 years or both.

(7) Any information provided to the Authority in a statement submitted under sub-section (1) is not admissible in evidence in any proceedings for an offence against this Act other than an offence against sub-section (5).

(8) A statement submitted to the Authority under this section is a public document.
(9) This section does not limit the power of the Authority to impose conditions on a licence holder requiring other reports or information in respect of performance or compliance from the licence holder.

24. **Consequential amendments on insertion of new section 31D**

(1) Section 26C of the *Environment Protection Act 1970* is repealed.

(2) In Schedule A to the *Environment Protection Act 1970*, before the item relating to "Any offence against the regulations" insert—

"Any offence against section 31D(4) 50 penalty units (in the case of a body corporate) 12 penalty units (in any other case)"

25. **Amendment of section 33A—Reviews with respect to licences**

(1) In section 33A(4) of the *Environment Protection Act 1970* after "the licence" (where twice occurring) insert "or part of a licence as it relates to a particular scheduled premises".

(2) After section 33A(7) of the *Environment Protection Act 1970* insert—

"(7A) In the case of a suspension, sub-section (7) has effect in relation to a licence amalgamated under section 20(11A) to the extent of the suspension."
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26. Amendment of section 33B—Applications for reviews by third parties

(1) For sections 33B(2), 33B(2A), 33B(2B) and 33B(2C) of the Environment Protection Act 1970 substitute—

"(2) An application for review under sub-section (1)(a) is to be based on either or both of the following grounds—

(a) that if the works are completed in accordance with the works approval, the use of the works will result in—

(i) a discharge, emission or deposit of waste to the environment; or

(ii) the reprocessing, treatment, storage, containment, disposal or handling of waste; or

(iii) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment—

which will unreasonably and adversely affect the interests, whether wholly or partly of that person;

(b) that if the works are completed in accordance with the works approval, the use of the works will result in—

(i) a discharge, emission or deposit of waste to the environment; or

(ii) the reprocessing, treatment, storage, containment, disposal or handling of waste; or
(iii) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment—

in the area which will be inconsistent with any relevant Order declared under section 16, 16A or 17A for the area, or if no relevant Orders have been declared under any of those sections for that area, would cause pollution or an environmental hazard.

(2A) An application for review under sub-section (1)(b), (1)(c) or (1)(d) is to be based on either or both of the following grounds as may be relevant to the issue of the licence—

(a) that the provisions of the licence will result in—

(i) a discharge, emission or deposit of waste to the environment; or

(ii) the reprocessing, treatment, storage, containment, disposal or handling of waste; or

(iii) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment—

which will unreasonably and adversely affect the interests, whether wholly or partly of that person;
(b) that the provisions of the licence will result in—

(i) a discharge, emission or deposit of waste to the environment; or

(ii) the reprocessing, treatment, storage, containment, disposal or handling of waste; or

(iii) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment—

in the area which will be inconsistent with any relevant Order declared under section 16, 16A or 17A for the area, or if no relevant Orders have been declared under any of those sections for that area, would cause pollution or an environmental hazard.”.

(2) After sections 33B(4) of the Environment Protection Act 1970 insert—

"(5) This section as in force before the commencement of section 26 of the Environment Protection (Amendment) Act 2006 continues to apply in respect of an application for a review in respect of a works approval or licence which is the subject of a decision specified in sub-section (1) made before that commencement."
(6) This section as in force after the commencement of section 26 of the Environment Protection (Amendment) Act 2006 applies in respect of an application for a review in respect of a works approval or licence which is the subject of a decision specified in sub-section (1) made after that commencement.”.

27. Amendment of section 50S—Landfill levy—amount payable

(1) In section 50S(1) of the Environment Protection Act 1970 for "schedule two premises" substitute "scheduled premises prescribed as a scheduled premises required to pay the landfill levy".

(2) For section 50S(2) of the Environment Protection Act 1970 substitute—

"(2) The holder of a licence in respect of a scheduled premises which is—

(a) prescribed as a scheduled premises required to pay the landfill levy; and

(b) licensed for the discharge or deposit to land of wastes that are prescribed industrial waste—

must pay to the Authority a landfill levy for each tonne of waste that is deposited on to land at the premises.".

28. Amendment of section 50SA—Rebate for recycled waste

In section 50SA(1) of the Environment Protection Act 1970 for "schedule two premises" substitute "scheduled premises prescribed as a scheduled premises required to pay the landfill levy".
29. Amendment of section 50SB—Payment of the levy

In section 50SB(1) of the Environment Protection Act 1970 for "in respect of a schedule two premises or premises licensed to discharge or deposit wastes to land" substitute "who is liable to pay a landfill levy under section 50S(1) or 50S(2)".

30. Amendment of section 50XB—Rights and powers of the Authority if levy not paid

In section 50XB(1) of the Environment Protection Act 1970 for "in respect of the premises" substitute "or part of the licence as it relates to a scheduled premises".

31. Amendment of section 53D—Obligation of producers of waste

For section 53D(1) of the Environment Protection Act 1970 substitute—

"(1) A producer of prescribed industrial waste must take reasonable steps to ensure that prescribed industrial waste that is transported from any premises or place occupied by that producer is consigned to and received by—

(a) an occupier of scheduled premises licensed to reprocess, treat, store, contain, dispose of or handle that prescribed industrial waste; or

(b) an occupier of premises exempted by the Authority from requiring a licence to reprocess, treat, store, contain, dispose of or handle that prescribed industrial waste at the premises.".
32. Amendment of section 71—Regulations

For sections 71(1)(ad) and 71(1)(ada) of the Environment Protection Act 1970 substitute—

"(ad) prescribing any premises or class of premises as a scheduled premises;

(ada) specifying scheduled premises or a class of scheduled premises in respect of which the Authority may require a financial assurance;

(adb) specifying scheduled premises or a class of scheduled premises in respect of which the landfill levy is payable;

(adc) specifying scheduled premises or a class of scheduled premises in respect of which the environment protection levy is payable;

(add) prescribing reduced scales of licence fees payable by licence holders in respect of accreditation on the anniversary of the issue of the licence;".
PART 3—ENVIRONMENT AND RESOURCE EFFICIENCY PLANS

33. New Division 4A inserted into Part III

After Division 4 of Part III of the Environment Protection Act 1970 insert—

"Division 4A—Environment and Resource Efficiency Plans

26F. Registration of scheduled activity

(1) A person who undertakes the scheduled activity must register with the Authority within the prescribed period in a form approved by the Authority.

Penalty: 60 penalty units.

(2) A person must notify the Authority within the prescribed period in a form approved by the Authority if—

(a) the person ceases to undertake the scheduled activity; or

(b) the activity undertaken by the person ceases to be a scheduled activity.

Penalty: 60 penalty units.

(3) A person must notify the Authority within the prescribed period in a form approved by the Authority if the undertaking of the scheduled activity has been transferred to the person.

Penalty: 60 penalty units.
26G. **Register of scheduled activities**

(1) If a person has registered under section 26F, the Authority must enter the relevant details in the register of scheduled activities.

(2) If the Authority is notified in accordance with section 26F(2), the Authority must remove the relevant details from the register of scheduled activities.

(3) If the Authority is notified in accordance with section 26F(3), the Authority must change the relevant details in the register of scheduled activities.

26H. **Preparation of Environment and Resource Efficiency Plan**

Unless a whole exemption is in force under section 26N, a person who undertakes the scheduled activity must prepare an Environment and Resource Efficiency Plan—

(a) in a form approved by the Authority; and
(b) in accordance with the prescribed criteria; and
(c) containing the matters specified in section 26I; and
(d) if a partial exemption is in force under section 26N, in accordance with the terms and conditions applying to the exemption to the extent that they are relevant to the preparation of the Environment and Resource Efficiency Plan.

Penalty: 300 penalty units.
26I. Matters to be included in an Environment and Resource Efficiency Plan

(1) An Environment and Resource Efficiency Plan must include—

(a) a description of the relevant environmental resource use and disposal of waste off-site of the scheduled activity;

(b) a plan of actions to achieve environmental resource efficiency gains and waste disposal reductions;

(c) timeframes within which the actions are to be implemented;

(d) a description of how the implementation of the Environment and Resource Efficiency Plan is to be monitored;

(e) the period of time for which the Environment and Resource Efficiency Plan is to be in operation;

(f) any other matters prescribed for the purposes of this section.

(2) An Environment and Resource Efficiency Plan may include any other matters that may be relevant to enable the Environment and Resource Efficiency Plan to be implemented.

26J. Submission of Environment and Resource Efficiency Plan for approval

A person who undertakes the scheduled activity must within the prescribed period submit to the Authority for approval the Environment and Resource Efficiency Plan prepared under section 26H together with the prescribed supporting material to enable the
Authority to make a determination under section 26L.

Penalty: 300 penalty units.

26K. Power of Authority to require further information

(1) The Authority may by notice in writing served on a person who undertakes the scheduled activity require that person to provide to the Authority within a reasonable time specified in the notice any information in the notice which the Authority considers necessary to enable the Authority to determine whether to approve the Environment and Resource Efficiency Plan.

(2) If a person fails to comply with a notice served on the person under sub-section (1) within 28 days after the period of time specified in the notice or within any further period of time as may be agreed between the Authority and that person, the Authority must refuse to approve the Environment and Resource Efficiency Plan.

(3) If a notice is served on a person under sub-section (1), the time within which the Authority is required to decide whether to approve the Environment and Resource Efficiency Plan under section 26L is extended for a period of time equivalent to—

(a) the time specified in the notice for the provision of the information; and

(b) if the person fails to comply with the notice, the period of 28 days after the period of time specified in the notice; and
Part 3—Environment and Resource Efficiency Plans

(c) if any further period of time is agreed between the Authority and that person, that further period.

26L. Consideration of approval of Environment and Resource Efficiency Plan

(1) The Authority must decide whether to approve an Environment and Resource Efficiency Plan within the prescribed period and advise the person who submitted the Environment and Resource Efficiency Plan in writing of the decision within 14 days after making the decision.

(2) The Authority must approve the Environment and Resource Efficiency Plan if the Authority is satisfied that the Environment and Resource Efficiency Plan has been—

(a) prepared in accordance with section 26H; and

(b) submitted in accordance with section 26J.

(3) If the Authority is not satisfied as to the matters referred to in sub-section (2), the Authority must—

(a) refuse to approve the Environment and Resource Efficiency Plan; and

(b) specify the reasons for refusing to approve the Environment and Resource Efficiency Plan in the advice under sub-section (1).
(4) If the Authority refuses to approve the Environment and Resource Efficiency Plan, the Authority may by notice in writing advise the person who submitted the Environment and Resource Efficiency Plan for approval—

(a) to re-submit the Environment and Resource Efficiency Plan for approval within a reasonable period of time as specified in the notice; and

(b) as to the nature of the changes that should be made to the Environment and Resource Efficiency Plan.

(5) If the Authority fails to comply with subsection (1), the Authority is to be taken to have approved the Environment and Resource Efficiency Plan.

26M. Implementation of Environment and Resource Efficiency Plan

If an Environment and Resource Efficiency Plan has been approved under section 26L, the person who undertakes the scheduled activity in respect of which the Environment and Resource Efficiency Plan has been developed must implement the Environment and Resource Efficiency Plan in accordance with the timeframes specified in the Environment and Resource Efficiency Plan.

Penalty: 300 penalty units.

26N. Exemption

(1) A person who undertakes the scheduled activity may apply to the Authority in the form approved by the Authority for an exemption wholly or partly from the requirement to prepare an Environment and Resource Efficiency Plan under section 26H.
(2) The Authority must within the prescribed period grant an exemption under this section if the Authority is satisfied that the criteria and considerations prescribed for the purposes of this section apply.

(3) The Authority must within the prescribed period advise the applicant in writing—
   (a) as to the decision of the Authority;
   (b) if the Authority grants the exemption, as to the terms and conditions applying to the exemption;
   (c) if the Authority refuses to grant the exemption, of the reasons for refusing to grant the exemption.

(4) If any of the criteria and considerations prescribed for the purposes of this section ceases to apply, the Authority—
   (a) may by notice in writing to the holder of the exemption revoke the exemption granted under this section;
   (b) must specify in the notice—
      (i) the reason for revoking the exemption; and
      (ii) a reasonable period of time within which the person must comply with this Division.

(5) If an exemption is revoked under sub-section (4), the person who held the exemption must comply with this Division within the period specified in the notice under sub-section (4).
26O. Reports

A person who undertakes the scheduled activity must submit to the Authority at the prescribed times the prescribed reports containing the prescribed details.

Penalty: 300 penalty units.

26P. Operation of Environment and Resource Efficiency Plan

(1) Subject to this section, if an Environment and Resource Efficiency Plan has been approved under section 26L, the Environment and Resource Efficiency Plan continues in operation for the period of time specified in the Environment and Resource Efficiency Plan.

(2) Before the expiry of the Environment and Resource Efficiency Plan, the person who undertakes the scheduled activity must—

(a) prepare a new Environment and Resource Efficiency Plan in accordance with section 26H for approval under section 26L; or

(b) apply for an exemption under section 26N.

(3) While an Environment and Resource Efficiency Plan is in operation, the person who undertakes the scheduled activity and the Authority may agree in accordance with the prescribed process to—

(a) a new Environment and Resource Efficiency Plan being substituted; or

(b) the Environment and Resource Efficiency Plan being revoked.
26Q. Transfer of Environment and Resource Efficiency Plan

(1) This section applies if while an Environment and Resource Efficiency Plan is in operation, the person who undertakes the scheduled activity transfers the undertaking of the scheduled activity to another person.

(2) The person to whom the undertaking of the scheduled activity is transferred becomes responsible by virtue of this section for the implementation of the Environment and Resource Efficiency Plan as from the day on which the transfer of the undertaking takes effect.

34. Consequential amendment of section 4—Definitions

In section 4(1) of the Environment Protection Act 1970 insert the following definitions—

' "Environment and Resource Efficiency Plan" means a Plan prepared under section 26H;

"person who undertakes the scheduled activity" means the occupier of the premises at which a scheduled activity is being undertaken;

"register of scheduled activities" means the register kept under section 26G;

"scheduled activity" means—

(a) the use at a premises of environmental resources in excess of the threshold prescribed for resources of a kind prescribed for the purposes of this definition; or
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(b) the disposal of waste off-site from a premises in excess of the threshold prescribed for wastes of a kind prescribed for the purposes of this definition;'

35. Consequential amendment of section 13—Powers, duties and functions of the Authority

After section 13(1)(cd) of the Environment Protection Act 1970 insert—

"(ce) to facilitate increased environmental resource use efficiency or decreased disposal of waste off-site by requiring persons who undertake certain activities which impact on the environment or any segment of the environment as a result of high and potentially inefficient use of environmental resources (including water and energy) or disposal of waste off-site to—

(i) make an assessment of opportunities to improve environmental resource use efficiency and to reduce the disposal of waste off-site;

(ii) develop and implement an Environment and Resource Efficiency Plan which includes financially viable actions to improve environmental resource use efficiency and reduce the disposal of waste off-site;

(iii) report on environmental resource use and the disposal of waste off-site and implementation of Environment and Resource Efficiency Plans;".
36. Consequential amendment of section 31A—Pollution abatement notice

(1) After section 31A(1A) of the Environment Protection Act 1970 insert—

"(1B) If the Authority is satisfied that there has been or is likely to be a failure to comply with any requirement of Division 4A of Part III, the Authority may serve a pollution abatement notice on a person who undertakes the scheduled activity specifying the reason for which the pollution abatement notice is served.".

(2) After section 31A(2)(e)(ii) of the Environment Protection Act 1970 insert—

"(ia) any requirement imposed by Division 4A of Part III;".

37. Consequential amendment of section 55—Powers of authorized officers

(1) In section 55(1)(a) of the Environment Protection Act 1970 after "carried on" insert "or any premises at which a scheduled activity is being undertaken".

(2) After section 55(3)(a) of the Environment Protection Act 1970 insert—

"(aa) the person who undertakes the scheduled activity or an activity which an authorized officer considers is likely to be a scheduled activity to produce to the authorized officer any reports, books, plans, maps or documents relating to that scheduled activity; or
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(3) After section 55(3D) of the Environment Protection Act 1970 insert—

"(3DA) An authorized officer may by notice in writing require any person who appears to the authorized officer to be, or to have been, the person who undertakes the scheduled activity to furnish to the authorized officer orally, or where specified in the notice, in writing, the name and address of any person who at a date specified in the notice, was the person undertaking the scheduled activity specified in the notice.

(3DB) An authorized officer may by notice in writing require any person who appears to the authorized officer to be, or to have been, the person who is—

(a) in relation to a process or activity carried on or proposed to be carried on which is the subject of any regulation or an Order declaring policy—

(i) responsible for the process or activity being carried on or proposed to be carried on; or

(ii) the occupier of the premises at which the process or activity is being carried on or proposed to be carried on; or
(b) in relation to a use, or a proposed use, of any premises, which is the subject of any regulation or an Order declaring policy—

(i) responsible for the use or proposed use; or

(ii) the occupier of the premises at which the use is being carried on or proposed to be carried on—

to furnish to the authorized officer orally, or where specified in the notice, in writing, the name and address of any person who at a date specified in the notice, was the person referred to in this sub-section.

(4) In section 55(3E) of the Environment Protection Act 1970 after "sub-section (3D)" insert ", (3DA) or (3DB)".

38. Consequential amendment of section 63B—Infringement notices

In sections 63B(1) and 63B(4) of the Environment Protection Act 1970 for "the Schedule" substitute "Schedule A".

39. Consequential amendment of section 71—Regulations

After section 71(1)(ca) of the Environment Protection Act 1970 insert—

'(cb) prescribing kinds of resources, wastes and thresholds for the purposes of the definition of "scheduled activity" and prescribing requirements in respect of the registration and reporting of scheduled activities;
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(cc) regulating the development and implementation of Environment and Resource Efficiency Plans and prescribing any matter required to be prescribed or necessary to be prescribed to give effect to Division 4A of Part III;'

40. Consequential amendment of Schedule A—Infringements

In Schedule A to the Environment Protection Act 1970, after the item relating to "Any offence against the regulations" insert—

"Any offence against section 26F(1), 26F(2) or 26F(3) 10 penalty units (in the case of a body corporate) 5 penalty units (in any other case)

Any offence against section 26J, 26M or 26O 50 penalty units (in the case of a body corporate) 12 penalty units (in any other case)".
PART 4—METROPOLITAN WASTE MANAGEMENT

41. New Division 2AB inserted into Part IX

After Division 2AA of Part IX of the Environment Protection Act 1970 insert—

"Division 2AB—Metropolitan Local Governments' Waste Forum

49T. Metropolitan Local Governments' Waste Forum

(1) There is to be a Metropolitan Local Governments' Waste Forum consisting of the representatives of metropolitan councils.

(2) Each metropolitan council may nominate a representative to the Metropolitan Local Governments' Waste Forum.

(3) The functions of the Metropolitan Local Governments' Waste Forum are to—

(a) nominate the 4 persons who are to be the representatives of the metropolitan councils for the purposes of section 50AG(2)(a);

(b) if there is a vacancy in the office of a director nominated under section 50AG(2)(a), nominate a person to fill that vacancy;

(c) advise the Board of directors of the Metropolitan Waste Management Group on matters and issues affecting the role of councils in waste management and resource recovery;
(d) act as a conduit for consultation between the Metropolitan Waste Management Group and the metropolitan councils.

(4) The Metropolitan Local Governments' Waste Forum must develop procedures for the purposes of sub-sections (3)(a) and (3)(b) with the metropolitan councils.".

42. New Divisions 2AC and 2AD inserted into Part IX

After Division 2AB of Part IX of the Environment Protection Act 1970 insert—

"Division 2AC—Metropolitan Waste Management Group

50. The Metropolitan Waste Management Group

(1) There is established a body corporate called the Metropolitan Waste Management Group.

(2) The Metropolitan Waste Management Group—

(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) has a common seal;
(e) subject to this Act, may do and suffer all acts and things that a body corporate may by law do and suffer.

(3) The common seal of the Metropolitan Waste Management Group can only be used in a way approved by the Metropolitan Waste Management Group.
(4) All courts and people acting judicially must take judicial notice of the common seal of the Metropolitan Waste Management Group.

50A. Metropolitan Waste Management Group does not represent the Crown

The Metropolitan Waste Management Group is not, and is not to be taken to represent, the Crown.

50AB. Metropolitan Waste Management Group is a public body and a public entity

Despite section 50A, the Metropolitan Waste Management Group is—

(a) a public body to which Part 7 of the Financial Management Act 1994 applies; and

(b) a public entity for the purposes of the Public Administration Act 2004.

50AC. Objectives

(1) The objectives of the Metropolitan Waste Management Group are to—

(a) plan, coordinate and facilitate metropolitan councils' procurement of waste management and resource recovery services; and

(b) assist metropolitan councils to undertake collective and joint efforts to—

(i) reduce the generation of waste; and

(ii) maximise the sustainable recovery of materials from waste for reuse, recycling and reprocessing and energy recovery; and
(iii) minimise the damage to the environment caused by waste disposal.

(2) In seeking to achieve its objectives, the Metropolitan Waste Management Group must collaborate with metropolitan councils, Sustainability Victoria, the Authority, industry, business and the community.

50AD. Functions

The functions of the Metropolitan Waste Management Group are to—

(a) facilitate the provision of waste management services and facilities by metropolitan councils;

(b) enter into contracts and arrangements to develop and facilitate waste management services and facilities contracts for metropolitan councils;

(c) manage contracts and arrangements between metropolitan councils and the providers of waste management services and facilities to those metropolitan councils;

(d) promote, commission and undertake research into municipal waste management and resource efficiency on behalf of metropolitan councils;

(e) advise metropolitan councils on best practices in municipal waste management and resource efficiency;

(f) promote improved waste management and resource efficiency technologies;
(g) coordinate and support community education programs relating to waste management and avoidance in metropolitan Melbourne;

(h) assess the need for, and plan for, municipal waste management infrastructure and landfills in metropolitan Melbourne;

(i) generally provide support to the Metropolitan Waste Management Forum to enable it to perform its functions.

50AE. Powers

(1) Subject to sub-section (2), the Metropolitan Waste Management Group may do all things that are necessary or convenient to enable it to carry out its functions and achieve its objective.

(2) The Metropolitan Waste Management Group cannot own or operate a waste management facility.

50AF. Board of directors

(1) There is to be a Board of directors of the Metropolitan Waste Management Group consisting of 8 directors appointed in accordance with section 50AG.

(2) The Board of directors—

(a) is responsible for the management of the affairs of the Metropolitan Waste Management Group; and

(b) may exercise all the powers of the Metropolitan Waste Management Group.
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Part 4—Metropolitan Waste Management

50AG. The directors

(1) The directors are to be appointed by the Governor in Council on the recommendation of the Minister.

(2) Of the directors—

(a) 4 are to be nominated in accordance with section 49T by the Metropolitan Local Governments' Waste Forum to the Minister for recommendation under sub-section (1); and

(b) 4 are to be recommended by the Minister who—

(i) may only recommend a person who, in the opinion of the Minister, has skills, experience or knowledge that will assist the Metropolitan Waste Management Group to carry out its functions and achieve its objectives; and

(ii) must attempt to ensure that collectively the directors of the Metropolitan Waste Management Group have skills, experience or knowledge relating to local government, financial management, contract management, risk management, environmental policy, waste management and resource efficiency.

(3) A person cannot be nominated or recommended for appointment as a director if the person—

(a) is an insolvent under administration within the meaning of the Corporations Act; or
(b) has been convicted of an indictable offence or has been imprisoned for any offence within the preceding period of 7 years.

(4) The Minister must appoint one of the directors nominated under sub-section (2)(a) to be the Chairperson of the Board of directors.

(5) The Board of directors may appoint one of the directors to be the Deputy Chairperson of the Board of directors.

(6) If the Metropolitan Local Governments' Waste Forum fails to make any nominations under section 49T(3)(a) or 49T(3)(b) within 2 months of being requested in writing by the Minister to do so, the Minister may make any nominations required for the purposes of those sections.

50AH. Conditions of appointment of directors

(1) A director—

(a) holds office for the period specified in the instrument of appointment, which must be a period of not more than 4 years;

(b) holds office on the terms and conditions determined by the Governor in Council;

(c) may be re-appointed;

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

(e) may be removed from office at any time by the Governor in Council.
(2) The Governor in Council must remove a director from office if the director—
   (a) becomes an insolvent under administration within the meaning of the Corporations Act; or
   (b) is convicted of an indictable offence or is imprisoned for any offence; or
   (c) fails to comply with section 50AJ.

50AI. Meetings

(1) A meeting of the Metropolitan Waste Management Group is to be presided over by—
   (a) the Chairperson; or
   (b) in the absence of the Chairperson, the Deputy Chairperson; or
   (c) in the absence of both the Chairperson and Deputy Chairperson, a director elected by the directors present at the meeting.

(2) A matter cannot be decided at a meeting unless at least a majority of the directors are present.

(3) For the purposes of sub-section (2), for the period of 2 months commencing on the commencement of section 42 of the Environment Protection (Amendment) Act 2006, if 3 of the 4 directors recommended by the Minister under section 50AG(2)(b) are present at a meeting, a majority of the directors are deemed to be present.
(4) The decision on a question of the majority of the directors present and voting on the question is the decision of the Metropolitan Waste Management Group.

(5) The person presiding at a meeting has—
   (a) a deliberative vote; and
   (b) in the event of an equality of votes on any question, a second or casting vote.

(6) The Metropolitan Waste Management Group may conduct all or any part of a meeting by using telephones, video links or any other system of telecommunication.

(7) Subject to this Act, the Metropolitan Waste Management Group may otherwise regulate its own procedure.

50AJ. Disclosure of interests of directors

(1) A director who has a direct or an indirect pecuniary interest in any matter being considered, or about to be considered, by the Metropolitan Waste Management Group must disclose the nature of that interest at a meeting of the Metropolitan Waste Management Group as soon as possible after becoming aware of the relevant facts.

(2) A director who holds an office or possesses property as a result of which, directly or indirectly, duties or interests may be created in conflict with his or her duties as a director, must disclose that fact at a meeting of the Metropolitan Waste Management Group as soon as possible after becoming aware of the potential conflict.
(3) The person presiding at a meeting at which a disclosure under this section is made must ensure that the disclosure is recorded in the minutes of the meeting, and that the minutes also record full details of who voted on any matter in respect of which the disclosure was made.

(4) A person who has made a disclosure under this section must not take any further part in the discussion of, or vote on, the contract or other matter to which the disclosure relates.

(5) If a director votes on a matter in contravention of sub-section (4), the vote of the director must be disallowed.

(6) A director is not to be regarded as having a pecuniary interest—

(a) in a matter relating to the supply of goods or services to or by the director if the goods or services are, or are to be, available to members of the public on the same terms and conditions; or

(b) in a contract or arrangement only because that contract or arrangement may benefit a company or other body in which the director has a beneficial interest that does not exceed 1 percent of the total nominal value of beneficial interests in that company or body.

50AK. Validity of decisions

(1) An act or decision of the Metropolitan Waste Management Group is not invalid merely because of—

(a) a vacancy in the membership of the Metropolitan Waste Management Group; or
(b) a defect or irregularity in, or in connection with, the appointment of a director.

(2) Anything done by or in relation to a person purporting to act as a director is not invalid merely because—

(a) the occasion for the appointment had not arisen; or

(b) there was a defect or irregularity in relation to the appointment; or

(c) the appointment had ceased to have effect; or

(d) the occasion for the person to act had not arisen or had ceased.

50AL. Power of delegation

The Metropolitan Waste Management Group may, by an instrument under its common seal, delegate to the Chairperson, a director, the Chief Executive Officer or any employee referred to in section 50AN any function, duty or power of the Metropolitan Waste Management Group under this Act or the regulations or under any other Act or regulations, other than this power of delegation.

50AM. Chief Executive Officer

(1) The Metropolitan Waste Management Group must, with the approval of the Minister, appoint a person as Chief Executive Officer of the Metropolitan Waste Management Group.

(2) The Chief Executive Officer holds office for the period, not exceeding 5 years, specified in the instrument of his or her appointment.
(3) The Chief Executive Officer is responsible to the Metropolitan Waste Management Group for the carrying out of the Metropolitan Waste Management Group's functions.

(4) The Chief Executive Officer must comply with the directions of the Metropolitan Waste Management Group.

(5) The Chief Executive Officer may, by instrument, delegate to any employee referred to in section 50AN, any responsibility, power, authority, duty or function conferred on the Chief Executive Officer under this Act or the regulations, except this power of delegation.

50AN. Staff

(1) The Metropolitan Waste Management Group may employ any employees that are necessary to enable the Metropolitan Waste Management Group to perform its functions.

(2) The Metropolitan Waste Management Group is to determine the pay and conditions of employment of its employees, subject to the approval of the Minister.

50AO. Minister may give directions to the Metropolitan Waste Management Group

(1) The Minister may issue written directions to the Metropolitan Waste Management Group.

(2) The Metropolitan Waste Management Group must comply with a written direction of the Minister.
50AP. Procurement directions and guidelines

The Metropolitan Waste Management Group must comply with any procurement directions or guidelines issued by the Treasurer in consultation with the Minister in carrying out its functions.

50AQ. Annual business plan

(1) Each year the Metropolitan Waste Management Group must submit to the Minister for approval, on or before the date required by the Minister, a draft business plan—

(a) that sets out—

(i) its objectives and priorities for the next 3 financial years;

(ii) financial projections for that period;

(iii) its budget for the next financial year;

(iv) what it intends to do over the next financial year;

(v) any other matters that the Minister requires in writing; and

(b) that is consistent with—

(i) the Metropolitan Waste and Resource Recovery Strategic Plan;

(ii) any relevant waste management or resource efficiency policy approved and published by the Government of Victoria or on behalf of the Government of Victoria.
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(2) After amending its draft business plan in any way required by the Minister, the Metropolitan Waste Management Group must submit a final business plan to the Minister for approval on or before the date required by the Minister.

(3) The Metropolitan Waste Management Group must not depart significantly from its budget without first obtaining the approval of the Minister.

(4) The Metropolitan Waste Management Group must have regard to its current business plan in carrying out its functions.

(5) The Metropolitan Waste Management Group must ensure that a copy of its current business plan is—

(a) available for inspection by members of the public at its principal place of business whenever that place is open to the public; and

(b) published on the Internet.

50AR. Application of Local Government Act 1989

(1) If a metropolitan council enters into a contract, arrangement or agreement with the Metropolitan Waste Management Group, the metropolitan council is exempt from the requirements of section 186 of the Local Government Act 1989.

(2) Section 193 of the Local Government Act 1989 does not apply in respect of the participation of a metropolitan council in the Metropolitan Local Governments' Waste Forum.
(3) If a metropolitan council engages in procurement activities of the Metropolitan Waste Management Group which comply with any procurement directions or guidelines issued under section 50AP, the metropolitan council is exempt from the requirements of section 193 of the Local Government Act 1989.

50AS. Dissolution of metropolitan regional waste management groups

On the commencement of section 42 of the Environment Protection (Amendment) Act 2006—

(a) the Eastern Regional Waste Management Group, the Northern Regional Waste Management Group, the South Eastern Regional Waste Management Group and the Western Regional Waste Management Group are dissolved;

(b) the Metropolitan Waste Management Group is the successor in law to the Eastern Regional Waste Management Group, the Northern Regional Waste Management Group, the South Eastern Regional Waste Management Group and the Western Regional Waste Management Group;

(c) a person who, immediately before that commencement, was an employee of the Eastern Regional Waste Management Group, the Northern Regional Waste Management Group, the South Eastern Regional Waste Management Group or the Western Regional Waste Management Group is to be regarded as having been
employed under section 50AN with effect from that commencement on the same terms and conditions as those that applied to him or her immediately before that commencement and with accrued entitlements equivalent to the entitlements that he or she had accrued immediately before that commencement;

(d) a reference in any Act (other than this Act), regulation, subordinate instrument or other document whatsoever to the Eastern Regional Waste Management Group, the Northern Regional Waste Management Group, the South Eastern Regional Waste Management Group or the Western Regional Waste Management Group is to be construed as a reference to the Metropolitan Waste Management Group, unless the contrary intention appears.

**Division 2AD—Metropolitan Waste and Resource Recovery Strategic Plan**

**50B. The Metropolitan Waste and Resource Recovery Strategic Plan**

(1) There is to be a Metropolitan Waste and Resource Recovery Strategic Plan.

(2) The objective of the Metropolitan Waste and Resource Recovery Strategic Plan is to—

(a) provide a long term vision for the management and reduction of waste in metropolitan Melbourne; and
(b) identify short term and long term waste infrastructure needs and schedule the development of landfill sites.

(3) The Metropolitan Waste and Resource Recovery Strategic Plan is to consist of—

(a) Part 1—The Metropolitan Plan;
(b) Part 2—The Municipal Solid Waste Infrastructure Schedule;
(c) Part 3—The Metropolitan Landfill Schedule.

(4) The Minister must appoint a person or body to be responsible for ensuring that the Metropolitan Waste and Resource Recovery Strategic Plan is prepared.

(5) The Minister must nominate a person or body to develop Part 1—The Metropolitan Plan.

(6) The Metropolitan Waste Management Group must develop Part 2—The Municipal Solid Waste Infrastructure Schedule.

(7) The Metropolitan Waste Management Group must develop Part 3—The Metropolitan Landfill Schedule.

50BA. Part 1—The Metropolitan Plan

(1) The purpose of Part 1—The Metropolitan Plan is to set the strategic framework for the management of all solid waste in metropolitan Melbourne.
(2) Without limiting the generality of sub-section (1), Part 1—The Metropolitan Plan must—

(a) include an analysis of the long term trends for the generation, management and reduction of municipal solid waste, construction and demolition waste and commercial and industrial waste;

(b) identify future waste volumes and processing needs;

(c) include a strategic analysis of existing infrastructure and services for waste management and resource recovery of materials and energy;

(d) identify options for waste minimisation and resource recovery, waste collection and transport and waste disposal and provide a social and economic assessment of the options identified;

(e) identify programs for infrastructure and services development to ensure that projected needs for waste management, resource recovery and resource efficiency can be met;

(f) specify measures for litter prevention and control within metropolitan Melbourne.

(3) Part 1—The Metropolitan Plan must not be inconsistent with the solid industrial waste management plan.
(4) The person or body nominated under section 50B(5) to prepare Part 1—The Metropolitan Plan must—

(a) consult with the Metropolitan Waste Management Group, metropolitan councils, industry and other relevant stakeholders; and

(b) advertise in a newspaper circulating generally throughout metropolitan Melbourne that a draft Metropolitan Plan has been prepared; and

(c) include in the advertisement—

(i) an outline of the draft Metropolitan Plan; and

(ii) advice as to where a copy of the draft Metropolitan Plan can be obtained or examined; and

(iii) a statement inviting anyone with an interest in the draft Metropolitan Plan to make comments within 28 days after the date of publication of the advertisement; and

(d) consider any comments that are made in response to the invitation.

(5) Consultation under this section may be conducted jointly with, or separately from, consultation conducted under sections 50BB and 50BC.

50BB. Part 2—The Municipal Solid Waste Infrastructure Schedule

(1) The purpose of Part 2—The Municipal Solid Waste Infrastructure Schedule is to set out a schedule of existing and required infrastructure for municipal solid waste.
(2) Without limiting the generality of sub-section (1), Part 2—The Municipal Solid Waste Infrastructure Schedule must—

(a) include an assessment of the need, priorities and general preferred locations for municipal waste management facilities (other than landfill) within metropolitan Melbourne;

(b) contain a detailed description of existing municipal waste and resource recovery infrastructure within metropolitan Melbourne;

(c) identify the type, timeframe and general location of new municipal waste and resource recovery infrastructure within metropolitan Melbourne.

(3) The Metropolitan Waste Management Group must—

(a) consult with relevant stakeholders; and

(b) advertise in a newspaper circulating generally throughout metropolitan Melbourne that a draft Municipal Solid Waste Infrastructure Schedule has been prepared; and

(c) include in the advertisement—

(i) an outline of the draft Municipal Solid Waste Infrastructure Schedule; and

(ii) advice as to where a copy of the draft Municipal Solid Waste Infrastructure Schedule can be obtained or examined; and
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(iii) a statement inviting anyone with an interest in the draft Municipal Solid Waste Infrastructure Schedule to make comments within 28 days after the date of publication of the advertisement; and

(d) consider any comments that are made in response to the invitation.

(4) Consultation under this section may be conducted jointly with, or separately from, consultation conducted under sections 50BA and 50BC.

(5) After complying with sub-section (3), the Metropolitan Waste Management Group must provide a copy of the draft Municipal Solid Waste Infrastructure Schedule to the Secretary to the Department of Sustainability and Environment for approval.

(6) The Secretary to the Department of Sustainability and Environment may—

(a) approve the draft Municipal Solid Waste Infrastructure Schedule; or

(b) approve the draft Municipal Solid Waste Infrastructure Schedule subject to specified changes being made.

(7) If the draft Municipal Solid Waste Infrastructure Schedule is approved under sub-section (6), it forms part of the Metropolitan Waste and Resource Recovery Strategic Plan.
50BC. Part 3—The Metropolitan Landfill Schedule

(1) The purpose of Part 3—The Metropolitan Landfill Schedule is to set out a schedule identifying the location and sequence for the filling and operation of landfill sites.

(2) Without limiting the generality of subsection (1), Part 3—The Metropolitan Landfill Schedule must—

(a) specify the proposed sequence for the filling of available landfill sites for at least the next 10 years;

(b) include a program for replacing and rehabilitating existing landfill sites;

(c) list the intended or likely date of closure of each landfill site;

(d) identify options for future landfill capacity.

(3) Part 3—The Metropolitan Landfill Schedule must not be inconsistent with any relevant—

(a) State environment protection policy; or

(b) waste management policy; or

(c) waste management strategy published by Sustainability Victoria; or

(d) solid industrial waste management plan.
(4) The Metropolitan Waste Management Group must—

(a) consult with relevant stakeholders; and

(b) advertise in a newspaper circulating generally throughout metropolitan Melbourne that a draft Metropolitan Landfill Schedule has been prepared; and

(c) must include in the advertisement—

(i) an outline of the draft Metropolitan Landfill Schedule; and

(ii) advice as to where a copy of the draft Metropolitan Landfill Schedule can be obtained or examined; and

(iii) a statement inviting anyone with an interest in the draft Metropolitan Landfill Schedule to make comments within 28 days after the date of publication of the advertisement; and

(d) must consider any comments that are made in response to the invitation.

(5) Consultation under this section may be conducted jointly with, or separately from, consultation conducted under sections 50BA and 50BB.

(6) After complying with sub-section (4), the Metropolitan Waste Management Group must provide a copy of the draft Metropolitan Landfill Schedule to the Authority for approval.
(7) The Authority may—

(a) approve the draft Metropolitan Landfill Schedule; or

(b) approve the draft Metropolitan Landfill Schedule subject to specified changes being made.

(8) If the draft Metropolitan Landfill Schedule is approved under sub-section (7), it forms part of the Metropolitan Waste and Resource Recovery Strategic Plan.

50BD. **When is the Metropolitan Waste and Resource Recovery Strategic Plan in force?**

(1) The Metropolitan Waste and Resource Recovery Strategic Plan takes effect on the date on which the Minister publishes a notice in the Government Gazette stating that the Minister has endorsed the Metropolitan Waste and Resource Recovery Strategic Plan.

(2) The Metropolitan Waste and Resource Recovery Strategic Plan continues in force until the Minister publishes a notice in the Government Gazette stating that the Minister has endorsed a new Metropolitan Waste and Resource Recovery Strategic Plan.

50BE. **Amendment of the Metropolitan Waste and Resource Recovery Strategic Plan**

(1) The person or body nominated under section 50B(5) to prepare Part 1—The Metropolitan Plan may amend Part 1—The Metropolitan Plan at any time if the amendment is not of a substantive matter.
(2) The Metropolitan Waste Management Group may amend—

(a) Part 2—The Municipal Solid Waste Infrastructure Schedule; or

(b) Part 3—The Metropolitan Landfill Schedule—

at any time in accordance with sub-section (3).

(3) Subject to sub-section (4)—

(a) sections 50BB(3), 50BB(5), 50BB(6) and 50BB(7) apply to an amendment to Part 2—The Municipal Solid Waste Infrastructure Schedule;

(b) sections 50BC(4), 50BC(5), 50BC(6), 50BC(7) and 50BC(8) apply to an amendment to Part 3—The Metropolitan Landfill Schedule.

(4) If an amendment to Part 2—The Municipal Solid Waste Infrastructure Schedule or Part 3—The Metropolitan Landfill Schedule is of a fundamentally declaratory, machinery or administrative nature, sub-section (3) does not apply.

(5) An amendment to—

(a) Part 1—The Metropolitan Plan to which sub-section (1) applies, takes effect on the date on which the Minister publishes a notice in the Government Gazette stating that the Minister has endorsed the amendment;
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(b) Part 2—The Municipal Solid Waste Infrastructure Schedule takes effect on the date on which the Secretary to the Department of Sustainability and Environment publishes a notice in the Government Gazette stating that the Secretary to the Department of Sustainability and Environment has approved the amendment;

(c) Part 3—The Metropolitan Landfill Schedule takes effect on the date on which the Authority publishes a notice in the Government Gazette stating that the Authority has approved the amendment.

50BF. Transitional provision

The regional waste management plans in force under Division 2B as at the commencement of section 42 of the Environment Protection (Amendment) Act 2006 and applying in metropolitan Melbourne continue in effect until the first Metropolitan Waste and Resource Recovery Strategic Plan takes effect under section 50BD.

50BG. Review of Metropolitan Waste and Resource Recovery Strategic Plan

(1) The Metropolitan Waste and Resource Recovery Strategic Plan must be reviewed within 4 years of the date that the current Metropolitan Waste and Resource Recovery Strategic Plan took effect under section 50BD.
Part 4—Metropolitan Waste Management

(2) The Minister may require that the Metropolitan Waste and Resource Recovery Strategic Plan or a specified part of the Metropolitan Waste and Resource Recovery Strategic Plan must be reviewed within the period specified by the Minister.

(3) Sections 50BA, 50BB and 50BC apply in respect of a review.

50BH. Consistency with the Metropolitan Waste and Resource Recovery Strategic Plan and regional waste management plans

(1) A metropolitan council must perform its waste management functions in a manner which is consistent with the Metropolitan Waste and Resource Recovery Strategic Plan.

(2) A metropolitan council that disposes of waste outside the metropolitan Melbourne region must dispose of that waste in a manner which is consistent with the regional waste management plan of the group in whose waste management region the waste is being disposed.

(3) A council which is not a metropolitan council and disposes of waste within the metropolitan Melbourne region must not do anything that is inconsistent with the Metropolitan Waste and Resource Recovery Strategic Plan in relation to that disposal of waste.
(4) Any person involved in the generation, management or transport of waste within the metropolitan Melbourne region must not do anything that is inconsistent with the Metropolitan Waste and Resource Recovery Strategic Plan in relation to that waste while the waste is in that region.

50BI. **Authority may refuse applications for certain facilities if Metropolitan Waste and Resource Recovery Strategic Plan not observed**

(1) The Authority may refuse to consider any application from a person for works approval, the issue of a licence or the amendment of a licence in relation to a landfill in metropolitan Melbourne if the person is in breach of any relevant requirement of Part 3—The Metropolitan Landfill Schedule.

(2) Subject to sub-section (3), the Authority must refuse to issue a works approval for a new landfill in metropolitan Melbourne if the landfill is not provided for in the proposed sequence for the filling of available landfill sites in Part 3—The Metropolitan Landfill Schedule.

(3) The Authority cannot refuse, on the ground referred to in sub-section (2), to issue a works approval to a landfill that is privately owned and that will only receive wastes that consist of substances that were owned by the owner of the site before they became wastes.

(4) The Authority must give any person whose application is refused under this section a written notice setting out the reason for the refusal.".
43. Consequential amendment of section 4—Definitions

In section 4(1) of the Environment Protection Act 1970 insert the following definitions—

"council" means a Council within the meaning of section 3(1) of the Local Government Act 1989;

"metropolitan council" means—

(a) Banyule City Council;
(b) Bayside City Council;
(c) Boroondara City Council;
(d) Brimbank City Council;
(e) Cardinia Shire Council;
(f) Casey City Council;
(g) Darebin City Council;
(h) Frankston City Council;
(i) Glen Eira City Council;
(j) Greater Dandenong City Council;
(k) Hobsons Bay City Council;
(l) Hume City Council;
(m) Kingston City Council;
(n) Knox City Council;
(o) Manningham City Council;
(p) Maribyrnong City Council;
(q) Maroondah City Council;
(r) Melbourne City Council;
(s) Melton Shire Council;
(t) Monash City Council;
(u) Moonee Valley City Council;
(v) Moreland City Council;
(w) Nillumbik Shire Council;
(x) Port Phillip City Council;
(y) Stonnington City Council;
(z) Whitehorse City Council;
(za) Whittlesea City Council;
(zb) Wyndham City Council;
(zc) Yarra City Council;
(zd) Yarra Ranges Shire Council;

"Metropolitan Local Governments' Waste Forum" means the body established by section 49T;

"metropolitan Melbourne" means the region constituted by the municipal districts of the metropolitan councils;

"Metropolitan Waste and Resource Recovery Strategic Plan" means the Plan required by section 50B;

"Metropolitan Waste Management Group" means the body corporate established by section 50;

44. New section 50D inserted—Application of Division

Before section 50E of the Environment Protection Act 1970 insert—

"50D. Application of Division

This Division does not apply to, or in respect of, metropolitan councils.".
PART 5—REGULATION OF THE PROVISION OF PLASTIC BAGS

45. Amendment of section 71—Regulations

After section 71(1)(k) of the Environment Protection Act 1970 insert—

'(ka) prescribing design criteria for the purposes of the definition of "plastic bag";

(kb) prohibiting, unless an exemption applies, the provision of a plastic bag by a retailer in the course of a retail transaction without an amount being charged for the provision of the plastic bag which is not less than the prescribed amount;

(kc) providing exemptions for the purposes of paragraph (kb) where—

(i) a plastic bag is provided for a purpose which is prescribed as an approved purpose; or

(ii) a retailer has an annual retail sales turnover that is less than a prescribed amount; or

(iii) a retailer has entered into a plastic bag management scheme accredited by the Authority which contains prescribed requirements with respect to plastic bag reduction standards or targets, milestones for the reductions and monitoring and reporting;

(kd) prescribing the manner in which a charge for the provision of a plastic bag is to be recorded in the retail transaction;
(ke) prescribing the records to be kept in relation to plastic bags provided in the course of retail transactions and the charging of an amount for the provision of the plastic bags and providing for information from those records to be provided to the Authority when requested by the Authority;

(kf) prescribing the process for applying for the accreditation of a plastic bag management scheme by the Authority and for the accreditation and on-going administration of a plastic bag management scheme;

(kg) prescribing criteria to be considered by the Authority in the accreditation of a plastic bag management scheme and in the review and revocation of that accreditation;'

46. Consequential amendment of section 4—Definitions

In section 4(1) of the Environment Protection Act 1970 insert the following definition—

"plastic bag" means a carry bag, the body of which comprises polymers in whole or part, provided by a retailer for the carrying or transporting of goods, but does not include a carry bag which complies with prescribed design criteria;'

47. Consequential amendment of section 31A—Pollution abatement notice

(1) After section 31A(1)(b)(i) of the Environment Protection Act 1970 insert—

"any requirement imposed by a regulation made under section 71(1)(kb), 71(1)(kd) or 71(1)(ke);".
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Part 5—Regulation of the Provision of Plastic Bags

(2) After section 31A(2)(e)(i) of the Environment Protection Act 1970 insert—

"(ia) any requirement imposed by a regulation made under section 71(1)(kb), 71(1)(kd) or 71(1)(ke);".
PART 6—GENERAL AMENDMENTS

48. Amendment of section 27A—Offences relating to industrial waste

In section 27A(2) of the Environment Protection Act 1970—

(a) after "dumps" insert ", deposits, discards";

(b) after "dumped" insert ", deposited, discarded".

49. Amendment of sections 31A and 31B

(1) In section 31A of the Environment Protection Act 1970—

(a) in sub-section (1) for "at any premises or the" substitute ", or any";

(b) in sub-section (1) after "those premises" insert ", or on the person responsible for the process or activity carried on or proposed to be carried on, or on the person responsible for the use or proposed use of the premises,";

(c) in sub-section (2) for "occupier of any premises" substitute "person";

(d) in sub-section (2A) for "occupier of any premises" substitute "person";

(e) in sub-section (5) for "occupier of any premises" substitute "person";

(f) in sub-section (7) for "An occupier of any premises" substitute "A person".
(2) In section 31B of the Environment Protection Act 1970—

(a) in sub-section (1) after "premises" insert "or on the person responsible for the process or activity carried on or proposed to be carried on, or on the person responsible for the use or proposed use of the premises";

(b) in sub-section (2) for "occupier of any premises" substitute "person";

(c) in sub-section (5) for "occupier of any premises" substitute "person";

(d) in sub-section (6) for "An occupier of any premises" substitute "A person".

50. Amendment of section 32—Jurisdiction of Tribunal

In section 32(1)(eb) of the Environment Protection Act 1970 for "section 45ZBA" substitute "section 45ZB".

51. Amendment of section 45J—Notice to accompany charges using section 45G

In section 45J(1) of the Environment Protection Act 1970 after "section 45G(1)" insert "or 45G(2)".

52. Amendment of section 45ZK—Reports of offences

In section 45ZK(2) of the Environment Protection Act 1970 for "sub-section (2)" substitute "sub-section (1)".
53. Amendment of section 49AE—Procedure to be followed before recommendation made

After section 49AE(2) of the Environment Protection Act 1970 insert—

"(2A) Sub-section (1) does not apply in respect of a declaration proposed to be made under section 49AD if the Minister certifies in writing that in the opinion of the Minister a process equivalent to that required by sub-section (1) has already been undertaken in the development of a national environment protection measure, a State environment protection policy or a waste management policy.".

54. Amendment of section 50S and consequential amendments

(1) In section 50S(2A) of the Environment Protection Act 1970 after "levy" insert "payable under sub-section (1)".

(2) After section 50S(2A) of the Environment Protection Act 1970 insert—

"(2AA) The amount of the levy payable under sub-section (2) is the amount specified in Schedule E for the relevant category of prescribed industrial waste.".

(3) After section 71(1)(j) of the Environment Protection Act 1970 insert—

"(ja) prescribing the following types of prescribed industrial wastes—

(i) category A waste;
(ii) category B waste;
(iii) category C waste, including packaged waste asbestos;
(iv) any other category;".
(4) In Schedule D of the Environment Protection Act 1970 the column headed "Premises Licensed for the Discharge or Deposit to Land of Prescribed Industrial Waste" is repealed.

(5) After Schedule D of the Environment Protection Act 1970 insert—

"SCHEDULE E

AMOUNT PAYABLE AS PRESCRIBED INDUSTRIAL WASTE LANDFILL LEVY FOR EACH TONNE DEPOSITED TO LAND (IN DOLLARS)

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category B waste</td>
<td>130</td>
</tr>
<tr>
<td>Category C waste not being packaged waste asbestos</td>
<td>50</td>
</tr>
<tr>
<td>Category C waste which is packaged waste asbestos</td>
<td>30</td>
</tr>
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55. Amendment of section 55—Powers of authorized officers

(1) After section 55(2) of the Environment Protection Act 1970 insert—

"(2A) An authorized officer may—

(a) by notice in writing, require a corporation to which section 62A(1AA) applies to produce to the authorized officer any reports, books, plans, maps, or documents relating to the relevant conduct under section 62A(1); and

(b) take copies of those reports, books, plans, maps or documents.".

(2) In section 55(3CA) of the Environment Protection Act 1970 after "police force" insert "or an officer authorised under section 13 of the Road Safety Act 1986".
56. Amendment of section 57A—Reports and certificates

In section 57A(5) of the Environment Protection Act 1970—

(a) after "A member of the police force" insert "or an officer authorised under section 13 of the Road Safety Act 1986";

(b) after "the member of the police force" insert "or the officer".

57. Amendment of section 59AC—Appearance in proceedings for an offence

In section 59AC(d) of the Environment Protection Act 1970 for "Act; or" substitute "Act."

58. New section 59AD inserted—Summary jurisdiction in indictable offences

After section 59AC of the Environment Protection Act 1970 insert—

"59AD. Summary jurisdiction in indictable offences

(1) Subdivision 3 of Division 2 of Part 4 of the Magistrates' Court Act 1989 enabling the hearing of a charge for certain indictable offences in a summary way has effect with respect to indictable offences under this Act, subject to this section.

(2) Any consent required by Subdivision 3 of Division 2 of Part 4 of the Magistrates' Court Act 1989 to be given by the person charged may, in the absence of that person, be given on that person's behalf by—

(a) an Australian legal practitioner (within the meaning of the Legal Profession Act 2004); or
(b) the agent of the ship within the meaning of section 61(3) in respect of which the offence is alleged to have occurred.

(3) The court may hear and determine that charge in a summary way if it considers, of its own motion at any time during or immediately after the hearing of the evidence for the prosecution and whether or not the person charged is present in court or represented in court, that it is fitting for the charge to be disposed of summarily.

(4) If the person charged is for the time being out of the jurisdiction, service of any documents relating to the offence is sufficiently served on that person by being served on the agent of the ship within the meaning of section 61(3) in respect of which the offence is alleged to have occurred.

(5) Despite the provisions of any Act, law or usage to the contrary, a person who has been directed to be tried for an indictable offence under this Act may be proceeded against, tried and convicted of the offence in the person's absence."

59. Amendment of section 60C—Payment of notice fee

(1) In section 60C(3) of the Environment Protection Act 1970 for "an appeal to" substitute "a review by".

(2) In section 60C(4) of the Environment Protection Act 1970 for "an appeal" substitute "a review".
60. Amendment of section 62A—Notice to take clean up and on-going management measures

(1) **Insert** the following heading to section 62A of the **Environment Protection Act 1970**—

"Notice to take clean up and on-going management measures".

(2) In sections 62A(1), 62A(1A) and 62A(1B) of the **Environment Protection Act 1970** after "clean up" (wherever occurring) **insert** "and on-going management".

(3) After section 62A(1) of the **Environment Protection Act 1970 insert**—

"(1AA) Notwithstanding anything to the contrary in this Act, the Authority may by notice in writing direct a corporation to take the clean up and on-going management measures as specified in the notice if—

(a) a person referred to in sub-section (1)(b) or (1)(c) was a subsidiary, related entity or associated entity over which the corporation had control at the time that the conduct referred to in that sub-section occurred; and

(b) having regard to the nature and extent of the control by the corporation over the subsidiary, related entity or associated entity and any other relevant circumstances, either sub-paragraph (i) or (ii) applies—

(i) the corporation or one or more of the directors of the corporation were aware of the conduct of the subsidiary, related entity or associated entity; or
(ii) it is reasonable to expect that a corporation in the corporation's circumstances or one or more of the directors of the corporation would have been aware of the conduct of the subsidiary, related entity or associated entity; and

(c) the Authority is not reasonably satisfied that the corporation or one or more of the directors of the corporation took all reasonable steps to prevent the conduct of the subsidiary, related entity or associated entity."

(4) In sections 62A(3) and 62A(4) of the Environment Protection Act 1970 after "sub-section (1)" insert "or (1AA)".

(5) After section 62A(6) of the Environment Protection Act 1970 insert—

'(7) In this section, "associated entity", "control", "related entity" and "subsidiary" have the same meanings respectively as they have in the Corporations Act.'.

61. Section 63A repealed—Time within which proceedings for certain offences may be brought

Section 63A of the Environment Protection Act 1970 is repealed.

62. Amendment of section 66B—Offences by corporations and partnerships

Sections 66B(1A)(a) and 66B(4B)(a) of the Environment Protection Act 1970 are repealed.
63. New sections 67D to 67G inserted

After section 67C of the Environment Protection Act 1970 insert—

"67D. Enforceable undertakings

(1) This section applies if a person has contravened or allegedly contravened a provision of any Act or regulation in respect of which—

(a) the Authority may take proceedings for an offence against the provision; and

(b) the Authority considers that having regard to the criteria specified in guidelines made under section 67F, an undertaking under this section is an appropriate enforcement mechanism for an offence against the provision.

(2) If this section applies, the Authority may enter into a written undertaking with a person referred to in sub-section (1).

(3) A person may with the consent of the Authority withdraw or vary an undertaking.

(4) While an undertaking is in force, proceedings may not be brought for an offence constituted by the contravention or alleged contravention in respect of which the undertaking is given.

(5) If a person withdraws an undertaking before the undertaking has been fulfilled, proceedings may be brought for the offence constituted by the contravention or alleged contravention in respect of which the undertaking was given.
(6) If a person complies with the requirements of an undertaking, no further proceedings may be brought for an offence constituted by the contravention or alleged contravention in respect of which the undertaking was given.

67E. Enforcement of undertakings

(1) If the Authority considers that the person who gave an undertaking under section 67D has breached any of its terms, the Authority may apply to the Magistrates' Court for an order under sub-section (2).

(2) If the Magistrates' Court is satisfied that the person has breached a term of the undertaking, the Magistrates' Court may make any of the following orders—

(a) an order directing the person to comply with that term of the undertaking;

(b) an order that the person take any specified action for the purpose of complying with the undertaking;

(c) any other order that the Magistrates' Court considers appropriate in the circumstances.

(3) If a person fails to comply with an order made under sub-section (2), the Authority may give the person a written notice advising the person that the Authority intends to carry out specified actions that remain to be done under the order unless the person can, within 14 days after being given the notice, satisfy the Authority that the person will carry out those actions within a period of time acceptable to the Authority.
(4) If a person who has been given a notice under sub-section (3) fails to give the Authority a satisfactory response within the 14 days, or fails to comply with any undertaking given to the Authority in response to the notice, the Authority—

(a) may do anything that is necessary or expedient to carry out any action that remains to be done under the order and that it is still practicable to do; and

(b) may publicise the failure of the person to comply with the order.

(5) Sub-sections (3) and (4) do not prevent contempt of court proceedings from being started or continued against a person who has failed to comply with an order made under sub-section (2).

(6) If a person is found in contempt of court for failing to comply with an order made under sub-section (2), the Authority—

(a) may do anything that is necessary or expedient to carry out any action that remains to be done under the order and that it is still practicable to do; and

(b) may publicise the failure of the person to comply with the order.

(7) The Authority may recover any reasonable cost it incurs in taking action under sub-section (4) or (6) as a debt due and payable by the person against whom the order was made under sub-section (2).
67F. Guidelines

(1) The Authority may make guidelines for the purposes of section 67D.

(2) The Authority must publish guidelines made under sub-section (1) in the Government Gazette.

(3) The Authority must publish a notice of the making of guidelines under sub-section (1) in a newspaper generally circulating throughout Victoria.

(4) Guidelines made under sub-section (1) come into operation—
   (a) on the date the guidelines are published in the Government Gazette; or
   (b) on a later date as may be specified in the guidelines.

(5) The Authority may by a notice amend, vary or revoke guidelines made under sub-section (1).

(6) The Authority must publish a notice under sub-section (5) in—
   (a) the Government Gazette; and
   (b) a newspaper generally circulating throughout Victoria.

67G. Register of undertakings

(1) The Authority must maintain a register of undertakings given under section 67D.

(2) The Authority must enter details of each undertaking given under section 67D in the register of undertakings.
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(3) The register of undertakings must include—
   (a) the date the undertaking was given; and
   (b) a copy of the undertaking.

(4) A person may inspect the register of undertakings at any reasonable time without charge.”.

64. Amendment of section 71—Regulations

After section 71(1)(ba) of the Environment Protection Act 1970 insert—

"(bb) a national environment protection measure;".

65. Amendment of section 72—Provision for matter by reference

In section 72(1) of the Environment Protection Act 1970 after "management policy" insert "or of a national environment protection measure".
ENDNOTES

† Minister's second reading speech—
Legislative Assembly: 20 July 2006
Legislative Council: 22 August 2006

The long title for the Bill for this Act was "to amend the Environment Protection Act 1970 to make further provision for the protection of the environment and for other purposes."