

Authorised Version

Environment Protection Amendment Act 2019

No. 27 of 2019

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Authorised Version



Victoria

Environment Protection Amendment Act 2019[†]

No. 27 of 2019

[Assented to 10 September 2019]

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The main purposes of this Act are—

- (a) to amend the **Environment Protection Act 1970** to prohibit the provision of certain plastic bags by retailers; and

- (b) to amend the **Environment Protection Act 1970** to prohibit the provision of false or misleading information relating to plastic bags by retailers, wholesalers and manufacturers; and
- (c) to make technical and consequential amendments to the **Environment Protection Amendment Act 2018**.

2 Commencement

- (1) Subject to subsections (2), (3) and (4), this Act comes into operation on a day or days to be proclaimed.
- (2) This Part and Part 3 come into operation on the day after the day on which this Act receives the Royal Assent.
- (3) If a provision of Part 2 does not come into operation before 1 November 2019, it comes into operation on that day.
- (4) If a provision of Part 4 does not come into operation before 1 December 2020, it comes into operation on that day.

Part 2—Amendments to the Environment Protection Act 1970

3 Principal Act

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

4 Definitions

(1) In section 4(1) of the Principal Act **insert** the following definitions—

"banned plastic bag means—

- (a) a bag, other than an exempt plastic bag—
 - (i) with handles; and
 - (ii) that comprises, either wholly or partly, plastic, whether or not that plastic is biodegradable, degradable or compostable; and
 - (iii) that has a thickness of 35 micrometres or less at any part of the bag; or
- (b) a prescribed banned plastic bag;

barrier bag means a bag that—

- (a) comprises, either wholly or partly, plastic; and
- (b) does not have handles; and
- (c) is used to carry unpackaged perishable food;

exempt plastic bag means a bag that comprises, either wholly or partly, plastic that—

- (a) is a barrier bag; or

(b) is an integral part of the packaging in which goods are sealed or provided for sale; or

(c) is a prescribed exempt plastic bag;".

(2) In section 4(1) of the Principal Act, the definition of *plastic bag* is **repealed**.

5 Pollution abatement notice

(1) For section 31A(1)(b)(ia) of the Principal Act **substitute**—

"(ia) section 45ZM;".

(2) Section 31A(2)(e)(ia) of the Principal Act is **repealed**.

6 New Division 8 of Part VIIA inserted

After Division 7 of Part VIIA of the Principal Act **insert**—

"Division 8—Banned plastic bags

45ZM Retailer must not provide banned plastic bags

A retailer must not sell or provide a banned plastic bag to a person to carry or transport goods sold or provided by the retailer from the retail premises.

Penalty: In the case of a natural person,
60 penalty units;

In the case of a body corporate,
300 penalty units.

45ZN Provision of false or misleading information relating to banned plastic bags

A retailer or wholesaler, or a manufacturer of plastic bags, must not, whether by act or omission, provide to any other person

information that the retailer, wholesaler or manufacturer knows, or should reasonably know, is false or misleading about—

- (a) the composition of a banned plastic bag; or
- (b) whether or not a bag is a banned plastic bag; or
- (c) whether or not a bag is an exempt plastic bag.

Penalty: In the case of a natural person,
60 penalty units;
In the case of a body corporate,
300 penalty units."

7 Powers etc. of authorized officers

After section 55(1)(a) of the Principal Act
insert—

"(ab) at any reasonable time, any retail premises;
or".

8 Regulations

(1) For section 71(1)(ka) of the Principal Act
substitute—

"(ka) prescribing banned plastic bags;"

(2) For section 71(1)(kb) of the Principal Act
substitute—

"(kb) prescribing exempt plastic bags;"

(3) Section 71(1)(kc), (kd), (ke), (kf) and (kg) of the
Principal Act are **repealed**.

9 Infringements

In Schedule A to the Principal Act, after
"section 45ZB(3) 8 penalty units" **insert—**

"An offence under section 45ZM 10 penalty units
(in the case of a body corporate) 2 penalty units
(in any other case)".

Part 3—Amendments to the Environment Protection Amendment Act 2018

10 Principal Act

In this Part, the **Environment Protection Amendment Act 2018** is called the Principal Act.

11 Definitions

In section 6(9) of the Principal Act, in the proposed definition of *resource recovery* in section 3(1) of the **Environment Protection Act 2017** omit "any".

12 Amendment of licence or permit on application

In section 7 of the Principal Act, for proposed section 57(5) of the **Environment Protection Act 2017** substitute—

- "(5) A decision under subsection (4) must be made within—
- (a) in the case of an application to amend a licence, 42 business days after receiving the application; or
 - (b) in the case of an application to amend a permit made to the Authority—
 - (i) any prescribed period not exceeding 42 business days after receiving the application; or
 - (ii) if no period is prescribed, 15 business days after receiving the application; or
 - (c) in the case of an application to amend a permit made to a council, the prescribed period."

13 Revocation of permission on Authority or council's initiative

- (1) In section 7 of the Principal Act, proposed section 61(1)(e) of the **Environment Protection Act 2017** is **repealed**.
- (2) In section 7 of the Principal Act, in proposed section 61(1)(f) of the **Environment Protection Act 2017**, for "(f)" **substitute** "(e)".
- (3) In section 7 of the Principal Act, for proposed section 61(2) of the **Environment Protection Act 2017 substitute**—
 - "(2) The Authority or a council may revoke a permission issued or granted by it if the Authority or council considers that the holder of the permission—
 - (a) is no longer required to hold the permission; or
 - (b) no longer engages in the permission activity."

14 Priority waste and landfill facilities

In section 7 of the Principal Act, in proposed section 67 of the **Environment Protection Act 2017**, for "deposit of" **substitute** "receiving".

15 Joint publication

In section 7 of the Principal Act, in proposed section 70(a) of the **Environment Protection Act 2017**, for "public works" (where twice occurring) **substitute** "works".

16 Renewal of registrations

- (1) In section 7 of the Principal Act, for proposed section 86(4) of the **Environment Protection Act 2017 substitute**—

"(4) On receiving an application for the renewal of a registration that complies with this section, the Authority is taken to have renewed the registration subject to the standard conditions to which the registration was subject before the renewal.

(5) Within 10 business days after receiving an application for the renewal of a registration that complies with this section, the Authority must notify the applicant—

(a) that the registration has been renewed;
and

(b) of the standard conditions to which the renewed registration is subject."

(2) In section 7 of the Principal Act, in proposed section 86 of the **Environment Protection Act 2017**—

(a) for "(5)" **substitute** "(6)";

(b) for "(6)" **substitute** "(7)".

17 Additional or alternative penalties for prohibited persons

In section 7 of the Principal Act, in proposed section 89(2) of the **Environment Protection Act 2017**, for "section Part 11.8" **substitute** "Part 11.8".

18 Environment reference standards

(1) In section 7 of the Principal Act, in proposed section 93(2) of the **Environment Protection Act 2017** **omit** "that specify the environmental condition and uses of the environment".

(2) In section 7 of the Principal Act, in proposed section 93(3) of the **Environment Protection Act 2017**—

- (a) in paragraph (d), for "applies; and"
substitute "applies.";
- (b) paragraph (e) is **repealed**.
- (3) In section 7 of the Principal Act, after proposed section 93(3) of the **Environment Protection Act 2017** insert—
 - "(4) An environment reference standard may specify indicators and objectives to be used to measure whether an environmental value specified in the environment reference standard is being achieved or maintained."
- (4) In section 7 of the Principal Act, in proposed section 93(4) of the **Environment Protection Act 2017**—
 - (a) for "(4)" **substitute** "(5)";
 - (b) for "subsection (3)(e)" **substitute** "subsection (4)".

19 Written statement

In section 7 of the Principal Act, in proposed section 118(2)(b)(ii) of the **Environment Protection Act 2017**, for "saw another person who" **substitute** "reasonably believes that another person".

20 Litter enforcement officer may ask person's name and address

- (1) In section 7 of the Principal Act, in proposed section 125(3) of the **Environment Protection Act 2017**—
 - (a) for "A person" **substitute** "A natural person";
 - (b) **omit** "In the case of a natural person,".

- (2) In section 7 of the Principal Act, in proposed section 125(4) of the **Environment Protection Act 2017**—
- (a) for "A person" **substitute** "A natural person";
 - (b) **omit** "In the case of a natural person,".
- (3) In section 7 of the Principal Act, in proposed section 125(6) of the **Environment Protection Act 2017**—
- (a) for "A person" **substitute** "A natural person";
 - (b) **omit** "In the case of a natural person,".

21 Requirement to pay waste levy

- (1) In section 7 of the Principal Act, in proposed section 145(1) and (2) of the **Environment Protection Act 2017**, for "deposited on to land" **substitute** "received".
- (2) In section 7 of the Principal Act, in proposed section 145(4)(b) of the **Environment Protection Act 2017**, for "deposited" **substitute** "received".

22 Appointment fee

- (1) In section 7 of the Principal Act, in the heading to proposed section 196 of the **Environment Protection Act 2017**, for "Appointment" **substitute** "Application".
- (2) In section 7 of the Principal Act, in proposed section 196 of the **Environment Protection Act 2017**, for "appointment" (where twice occurring) **substitute** "application".

23 Authority may review financial assurance

In section 7 of the Principal Act, in proposed section 225(2)(f) of the **Environment Protection Act 2017**, after "review of the" **insert** "form or".

24 Enforcement of financial assurance

In section 7 of the Principal Act, in proposed section 234(2)(a) of the **Environment Protection Act 2017**, after "permission" (where first occurring) **insert** "issued or".

25 Authorised officers

- (1) In section 7 of the Principal Act, in proposed section 242(1) of the **Environment Protection Act 2017**, for "officer of employee" **substitute** "officer or employee".
- (2) In section 7 of the Principal Act, in proposed section 242(2) of the **Environment Protection Act 2017** **omit** "in writing".

26 Authorised officer may ask person's name and address

In section 7 of the Principal Act, in proposed section 259(3) of the **Environment Protection Act 2017**—

- (a) for "a person" **substitute** "a natural person";
- (b) **omit** "In the case of a natural person,".

27 Improvement notices

In section 7 of the Principal Act, in proposed section 271(1)(b) of the **Environment Protection Act 2017**, after "permission" **insert** "issued or".

28 Environmental action notice

In section 7 of the Principal Act, in proposed section 274(4) of the **Environment Protection Act 2017**—

- (a) after "The Authority" **insert** "or an authorised officer";
- (b) for "it" (where first occurring) **substitute** "the Authority or the authorised officer".

29 Non-compliance with non-disturbance notice

In section 7 of the Principal Act, in the Note at the foot of proposed section 293(1) of the **Environment Protection Act 2017**, for "section subsection (1)" **substitute** "subsection (1)".

30 Court orders

In section 7 of the Principal Act, in proposed section 309(1)(a) of the **Environment Protection Act 2017**, after "permission" **insert** "issued or".

31 Functions of the Authority

In section 12 of the Principal Act, in proposed section 358(e) of the **Environment Protection Act 2017**, for "the human" **substitute** "human".

32 Decisions reviewable by VCAT

- (1) In section 18 of the Principal Act, in item 5 of the Table to proposed section 430(4) of the **Environment Protection Act 2017**, for "(6)" **substitute** "(7)".
- (2) In section 18 of the Principal Act, after item 18 of the Table to proposed section 430(4) of the **Environment Protection Act 2017 insert**—
"18A. 121(6) Person to whom notice under section 121(6) issued".
- (3) In section 18 of the Principal Act, in item 23 of the Table to proposed section 430(4) of the **Environment Protection Act 2017**, after "200(1)" **insert** ", (2)".

33 Applications for review by VCAT

In section 18 of the Principal Act, in proposed section 431(3)(a) of the **Environment Protection Act 2017**, for "public works" (where twice occurring) **substitute** "works".

34 Application for review by third parties

In section 18 of the Principal Act, in proposed section 434(5)(a) of the **Environment Protection Act 2017**, for "public works" (where twice occurring) **substitute** "works".

35 Delegation

In section 18 of the Principal Act, in proposed section 437(1) of the **Environment Protection Act 2017** **omit** "in writing".

36 Payments out of the Environment Protection Fund

In section 18 of the Principal Act, in proposed section 445(1)(a) of the **Environment Protection Act 2017**, for "used" **substitute** "applied".

37 Restorative Project Account

In section 18 of the Principal Act, in proposed section 447(3) of the **Environment Protection Act 2017**, for "used" (where twice occurring) **substitute** "applied".

38 Sustainability Fund Account

- (1) In section 18 of the Principal Act, in proposed section 449(3) of the **Environment Protection Act 2017**, for "used" **substitute** "applied".
- (2) In section 18 of the Principal Act, in proposed section 449(4) of the **Environment Protection Act 2017**, for "use" **substitute** "application".

39 Regulations

In section 18 of the Principal Act, in proposed section 465(2)(c)(i) of the **Environment Protection Act 2017**, for "the doing" **substitute** "doing".

40 General transitional provisions

In section 18 of the Principal Act, in proposed section 469 of the **Environment Protection Act 2017**, for "Part" (wherever occurring) **substitute** "Chapter".

41 Schedule 1—Regulations

In section 23 of the Principal Act, after item 6.11 of proposed Schedule 1 to the **Environment Protection Act 2017** insert—

"6.11A Prohibiting the provision of false or misleading information relating to plastic products, plastic packaging or plastic bags."

42 Schedule 2—Amount payable as waste levy

- (1) In section 23 of the Principal Act, in Table 1 in proposed Schedule 2 to the **Environment Protection Act 2017**, for "*deposited*" **substitute** "*received*".
- (2) In section 23 of the Principal Act, in the Note at the foot of Table 1 in proposed Schedule 2 to the **Environment Protection Act 2017**, for "deposited" **substitute** "received".
- (3) In section 23 of the Principal Act, in Table 2 in proposed Schedule 2 to the **Environment Protection Act 2017**, for "*deposited*" **substitute** "*received*".
- (4) In section 23 of the Principal Act, in the Note at the foot of Table 2 in proposed Schedule 2 to the **Environment Protection Act 2017**—
 - (a) for "the deposit of" **substitute** "receiving";
 - (b) for "the deposit to landfill of Category A waste" **substitute** "receiving Category A waste at a landfill";
 - (c) for "deposited" **substitute** "received".

43 Catchment and Land Protection Act 1994

For section 32(2) of the Principal Act
substitute—

(2) For section 48B(c) of the **Catchment and Land Protection Act 1994 substitute—**

"(c) take account of any relevant environment reference standard within the meaning of the **Environment Protection Act 2017** or any Order made by the Governor in Council under section 156 of the **Environment Protection Act 2017**.".

44 Flora and Fauna Guarantee Act 1988

In section 37 of the Principal Act—

(a) for "section 38(c)" **substitute** "section 41B(c)";

(b) in proposed section 41B(c) of the **Flora and Fauna Guarantee Act 1988 omit** "and give effect to".

45 New section 42A inserted

After section 42 of the Principal Act **insert—**

'42A Marine and Coastal Act 2018

(1) **Insert** the following definitions in section 3 of the **Marine and Coastal Act 2018—**

"environment reference standard has the same meaning as in the **Environment Protection Act 2017**;

environmental value has the same meaning as in the **Environment Protection Act 2017**;".

- (2) In paragraph (c) of the definition of *applicable Act* in section 3 of the **Marine and Coastal Act 2018**, for "**Protection Act 1970**" substitute "**Protection Act 2017**".
- (3) In section 50 of the **Marine and Coastal Act 2018**—
 - (a) in paragraph (a), for "beneficial uses" substitute "environmental values";
 - (b) in paragraph (b), for "State environment protection policy" substitute "environment reference standard".

46 Subdivision Act 1988

In section 54 of the Principal Act, in proposed section 41B(c) of the **Subdivision Act 1988**—

- (a) **omit** "and give effect to";
- (b) for "environmental" substitute "environment".

47 Water Act 1989

For section 61 of the Principal Act substitute—

'61 Water Act 1989

- (1) After section 33J(2)(h) of the **Water Act 1989** insert—
 - "(ha) any environment reference standard within the meaning of the **Environment Protection Act 2017** and any Order made by the Governor in Council under section 156 of the **Environment Protection Act 2017**; and".

- (2) After section 40(1)(j) of the **Water Act 1989** insert—

"(jaa) any environment reference standard within the meaning of the **Environment Protection Act 2017** and any Order made by the Governor in Council under section 156 of the **Environment Protection Act 2017**;"

- (3) After section 48F(1)(d) of the **Water Act 1989** insert—

"(da) any environment reference standard within the meaning of the **Environment Protection Act 2017** and any Order made by the Governor in Council under section 156 of the **Environment Protection Act 2017**;"

- (4) In section 305B of the **Water Act 1989**, for "and give effect to any relevant State environment protection policy declared in any Order made by the Governor in Council under section 16 of the **Environment Protection Act 1970**" substitute "any environment reference standard within the meaning of the **Environment Protection Act 2017** and any Order made by the Governor in Council under section 156 of the **Environment Protection Act 2017**".

Part 4—Repeal of amending Act

48 Repeal of amending Act

This Act is **repealed** on 1 December 2021.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the

Interpretation of Legislation Act 1984).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

[†] *Minister's second reading speech—*

Legislative Assembly: 20 June 2019

Legislative Council: 15 August 2019

The long title for the Bill for this Act was "A Bill for an Act to amend the **Environment Protection Act 1970** to prohibit the provision of certain plastic bags and to prevent the provision of misleading information relating to plastic bags and to make technical and consequential amendments to the **Environment Protection Amendment Act 2018** and for other purposes."